

SUPREME COURT OF VICTORIA

AT MELBOURNE

TRANSCRIPT OF SPEECHES DELIVERED BY:

1. MS KRISTEN WALKER QC
(Solicitor General for the State of Victoria)

2. MR SIMON MARKS QC
(On behalf of the Victorian Bar)

3. MR SAM PANDYA
(On behalf of the Law Institute of Victoria)

4. A SPEECH IN REPLY BY HIS HONOUR

AT A GATHERING IN THE BANCO COURT

on

THURSDAY 12 MARCH 2020

of

BARRISTERS, SOLICITORS, LAW OFFICIALS AND OTHERS

TO FAREWELL THE HONOURABLE JUSTICE BELL

ON HIS RETIREMENT AS A JUSTICE OF THE SUPREME COURT OF VICTORIA

HIS HONOUR: Yes, Mr Marks. You first, yes.

MS WALKER: Thank you, Your Honour. May it please the court, I appear on behalf of the Government and the people of Victoria to express their appreciation for Your Honour's many years of distinguished service to this court and to the administration of justice in this State.

HIS HONOUR: Thank you, Ms Walker.

MS WALKER: I acknowledge the traditional owners of the land on which we meet and I pay my respects to their elders past, present and emerging and any elders who might be with us today. Your Honour has had a long and distinguished career in the law. Your Honour signed the Bar roll in 1985 and read with Peter Heerey, later a judge of the Federal Court. Your Honour quickly developed a strong practice in public law including in migration law, industrial law and Native title law. Your Honour also had several readers, a number of whom are here in court today and one of whom was Richard Niall, now a justice of the Court of Appeal. Your Honour took Silk in 1997.

Among the notable cases in which Your Honour was involved as counsel are *Sykes v Cleary*, which concerned the now infamous s.44 of the Commonwealth Constitution; *Shergold v Tanner*, in which Your Honour successfully argued for a narrow reading of the effect of a conclusive evidence certificate on the availability of judicial review; and *Rubibi Community v Western Australia*, in which Your Honour acted for a successful native title claimant group in Western Australia.

Prior to joining the Bar, Your Honour was influential in the establishment of the Footscray Community Legal Centre, the Essendon Community Legal Centre and the Tenants Union Legal Service. Your Honour's commitment to social justice was also evidenced by Your Honour having served on the Bar's Human Rights Committee for several years prior to your appointment to the Bench, and that commitment to social justice has carried

through to Your Honour's judicial service.

Your Honour was appointed to the Trial Division of the Supreme Court on 10 February 2005 and during your judicial service Your Honour also served as President of the Victorian Civil and Administrative Tribunal between 2008 and 2010. In recognition of Your Honour's significant service to the law, to the judiciary, to Native title and human rights and to the community, in 2017 Your Honour was appointed a Member of the Order of Australia.

On the court, Your Honour is perhaps best known for your influential judgments concerning the interpretation and application of the Charter of Human Rights and Responsibilities Act 2006 of Victoria, particularly in the context of mental health legislation. I will mention just some of the most notable of Your Honour's Charter decisions. The first was *re Kracke v Mental Health Review Board*, concerning the lawfulness of orders made under the Mental Health Act of 1986 for the compulsory medical treatment of a man without his consent. I appeared in that case as a relatively junior barrister and that was I think, the first time that I encountered Your Honour.

I was to be led by the then Solicitor General Pamela Tate, as Her Honour then was, but at the last minute she was called away to other duties and I was left to run the matter with another junior, Joanna Davidson. I was struck at that time by the calm and respectful way in which Your Honour approached your role sitting on the Tribunal. In particular, you were respectful of the individual involved in the case and solicitous of his dignity and welfare. On a more personal note, you were also unfailingly polite and pleasant to counsel, including those of us who were relatively inexperienced. I have observed that Your Honour's manner in that regard has continued in various other cases in which I have appeared before Your Honour, and I am happy to say that it has continued as counsel has become more senior.

Another significant case on which Your Honour sat was *PJB v*

Melbourne Health also known as Patrick's Case. In that case Your Honour held that certain orders made under the Guardianship and Administration Act, appointing an administrator for a person with a disability unjustifiably interfered with a range of Charter rights.

A third case was PBU v Mental Health Tribunal, an important case that used the Charter to clarify the scope of the power to order compulsory electroconvulsive therapy. One particularly important feature of Your Honour's Charter judgments is the extent to which they engage with comparative jurisprudence as a means of elucidating the content of Charter rights. At this point, I wish to borrow an anecdote from a speech by one of your judicial brethren, Justice Beach at the 2010 Bar dinner. His Honour observed that barristers had been reading, analysing and assessing individual judgments for a long time. In particular, he noted that Ross Gillies QC regularly reads, analyses and assesses judgments and scores them out of 10. Justice Beach said that Gillies frequently scored Justice Beach's judgments in the range to four and a half to five and a half out of 10. However, Justice Beach had heard that Gillies had scored one of Your Honour's judgments a nine and a half out of 10.

Justice Beach went on as follows, 'Always interested in seeking ways to improve customer satisfaction, I approached Gillies and asked how Bell J had come to score nine and a half, while I only ever scored four and a half to five and a half. Gillies answer was immediate. He said, "Because this judgment is a masterpiece of learning with fabulous attention to detail. It is thorough. It refers to the Magna Carta, it refers to the Petition of Rights, it refers to the Bill of Rights, it refers to the Habeas Corpus Act of 1640, the Habeas Corpus Act of 1679, the Habeas Corpus Act of 1816, it even refers to Mabo"'.

More recent readers of your judgments can confirm that Your Honour has continued to be fabulously thorough. Your judgments now refer to comparative jurisprudence from the United Kingdom, Europe, Canada, South Africa, New Zealand, the United Nations and occasionally the United States, as

well as academic work. The thoroughness and clarity of Your Honour's reasoning has meant that Your Honour's judgments have contributed greatly to the law of the Victorian Charter and they will continue to be consulted for the depth of their learning for many years to come. And this of course is to say nothing of the many other important judgments that Your Honour has delivered in areas such as criminal law and planning and environmental law.

Your Honour has also carried out significant extra judicial activities. Your Honour has served as President of the Forensic Leave Panel since 2015. During your time on the court, Your Honour also found time to graduate with a Master of Studies in International Human Rights Law from the University of Oxford in 2017, and you have published book reviews in one of Australia's leading literary magazines, the Australian Book Review.

If that were not enough, Your Honour also moonlights as a very successful vintner. This includes completing an Applied Science of Wine Science degree at the Charles Sturt University. One measure of the quality of the wines produced by Your Honour's and your wife's winery, the Hurley Vineyard, is that one is unable to purchase any of your wine. All stock is sold out and has been since November 2019. However, one of Your Honour's brethren has informed me with considerable gratitude, of your generosity in providing substantial quantities of the Hurley Vineyard wine at a recent court dinner.

I am told that the Garamond Pinot Noir you provided was a single vineyard release named after the type setting font, Garamond. I understand that Garamond is the preferred font of Justice Gageler, so Your Honour is in good company. The Garamond Pinot Noir has been described in reviews as, 'Impressive, having layers of complexity and wonderful purity and being powerful and firmly structured and supremely elegant and refined'. Perhaps resembling Your Honour's judgments.

Finally, I must note that Your Honour's human rights work will not end upon your retirement from judicial office. I understand that Your Honour is shortly to commence as a professor at Monash University where you will also be appointed as Director of the Castan Centre for Human Rights Law. I can personally attest to the satisfaction that academic work can bring and I am sure that Your Honour will enjoy this new phase of your career. And of course, you will bring a great deal of practical experience and learning to the work of the Castan Centre.

By way of closing, Victoria is greatly indebted to Your Honour for your contribution to this court and to the administration of justice. You have earned great respect and admiration both within and outside the legal profession. On behalf of the State of Victoria, may I extend to Your Honour the very best wishes for your retirement, if that is what one can call it. May it please the court.

HIS HONOUR: Thank you, Ms Walker. Now, Mr Marks.

MR MARKS: May it please the court. Your Honour, I appear on behalf of the Victorian Bar to farewell you as a judge of this court. I also acknowledge the traditional owners and custodians of the land on which we meet the people of the Kulin Nation and I pay my respects to their Elders past and present.

Your Honour's service to this court, as has already been intimated, be remembered as one of remarkable achievement, of dedication, of commitment and a focus. You were educated at St Bede's College in Mentone and then eventually at Monash University where you undertook a double degree; a Bachelor of Arts major in Economics, and a Bachelor of Laws which you took out with Honours.

You secured articles at McPherson & Kelly in Dandenong and then you spent the first two years as a solicitor working in public interest law, at the Tenants Advice Service, Tenants Union Legal Service and the newly established

as it then was, Poverty Law Practice in Footscray which was sponsored by the Brotherhood of St Lawrence and later of course went on to become the Footscray Community Legal Service.

Concurrently you are on a tutored part-time in administrative law at the Monash Law School. Now it should be noted that at this time, that these early sort of beginnings in a career were to lay the foundations, I think, that important themes which occur and which have already been mentioned, public interest law, human rights, and of course legal education.

You went on to work as a solicitor with GW Legg & Co at St Auburns before taking up an academic position as a lecturer in Legal Studies at La Trobe University with half time duty as supervising solicitor for the West Heidelberg Community Legal Centre. Somehow you also found time to take up a part time appointment as member of the Small Claims Tribunal and a member of the Residential Tenancies Tribunal.

In May '85 as has been mentioned, you signed the Bar roll and your contribution to the Bar was significant. It included apart from your practice, serving on the Human Rights Committee, the Federal Court Migration List Users Group, and as a founding member of the Indonesian Legal Aid Committee.

In terms of your practice as a barrister, as again has been mentioned, quickly established yourself as an expert in industrial law, administrative law, human rights law and of course in native title law. You took silk in '95. You continued to work in those broad areas of law but always with that emphasis which became your hallmark and concern for the plight of people demonstrated by your very considerable work acting for migrants, for refugees and of course for indigenous people in native title law.

You were described among the Bar of your time there as impeccably fair, as being very energetic, possessing a drive and energy which at the time was

hard to match. Your friends and colleagues even now speak of your time at the Bar with warmth and admiration. They emphasise your sense of community amongst those with whom you shared chambers and with whom you worked.

They emphasise your generosity of spirit. For example your willingness to provide advice as barristers often do with their colleagues, but not just any colleagues who you knew. Colleagues who you didn't. Colleagues who you'd hardly even met. Rachel Doyle recounts a story of generosity to her when she first started at the Bar in Melbourne.

Coming from South Australia, she says she really knew no one at the Melbourne Bar. She'd asked her father for some insights. He said he didn't really know any barristers at the private Bar in Melbourne but he did recall sharing a cab with you once on a High Court appearance in Canberra. He didn't know you that well, didn't know you at all in fact but he thought you were a good person. He was sure you would give her advice.

Well you can imagine she worried about whether even a good person would want to give her advice on such a flimsy connection. But she rang you in any event. She shouldn't have been concerned. You agreed to meet her to have a coffee, to hear her story which you did and you gave her advice and direction with all the interest and enthusiasm that has to her marked a gratitude to you to this day. That's just an example of the sorts of stories that I came across.

You are known and were known then at the Bar with your clients as possessing a courage in the pursuit of the dignity of the individual through the provision of well-informed and ethical advice to all you represented. It might have been small, it might have been large. Government, unions, companies, institutions, it didn't matter. Although the importance of the individual and in their social context was always high on your radar.

More generally you were also known at the Bar for your strong sense of

duty and compassion towards the law but for that counterbalancing passion for the other interests in your life. Your family, your wife of course, your friends and your wine making.

Now these qualities that I've outlined only briefly here are fine ones. They are ones which we as a Bar would be commending to young barristers commencing their life as advocates. They're ones that we as barristers look for in our leaders and we try to emulate. So they're not to be passed over, especially in this context.

But whilst Your Honour had a very successful career at the Bar and more could be said of that, I wanted to say something briefly about your time on the court. Appointed as you were, and we've just had mentioned in February 2005, you threw yourself into the new life on the court by embracing the challenges of sitting as a trial judge, but in the criminal division. It wasn't an area in which you had practiced. As so it was a testament to your dedication to the law that you became very good at it and quickly, gaining the respect of the criminal Bar and I might say the profession generally.

You are described as a meticulous and focused jurist with many of your peers describing their appearances before you as one who was fair. So fair indeed that a bystander looking through the window just wouldn't be able to tell who might have been your colleagues once and who were not.

But that said, your ability to put people at ease when they appeared before you is unrivalled. One friend for example, I better not say the name this time, recalls the time when most unfortunately their mobile phone rang during the opposing counsel's arguments. Now rather than blasting them from the Bench, Your Honour steadily reassured them, 'Don't be concerned, don't worry. My mobile phone recently went off when I was in the middle of charging a jury'. Now of course these things happen but when I read about this I did think it might be wiser if I didn't bring mine this afternoon.

In 2008 as we have heard, you were appointed as President of the Victorian Civil and Administrative Tribunal. You served there, as we heard, for two years. During that time, you were tasked with undertaking a substantial review of the tribunal. The context of that review was that it was the 10th anniversary of the tribunal. There had been a gradual expansion in its jurisdiction and there was, it was thought, a need to investigate certain criticisms in the performance of the body.

Your Honour completed what can only be described as a comprehensive review. You provided some 78 recommendations to government, an enormous undertaking, and it was one of long lasting legacy as it's turned out. But one of several of the major things that you identified, indeed a couple of them, were reflective of Your Honour's own character.

That the tribunal needed to improve, that quality and consistency and accountability of its decision making. It needed to assist self-represented persons. There needed to be a statutory duty on the part of members and staff to assist all parties to foster a culture of respect, both the processes and for human rights.

Your vision of the future as you articulated it then was in these terms, and you'll forgive me if I quote you. 'A modern, flexible and unified tribunal of justice which is accessible to the whole Victorian community. Resolve civil and administrative disputes respectfully, fairly and cost efficiently, by appropriate means and in a timely way'.

Your Honour's described as dedicated to the law and to its developments by being creative and dynamic, being genuinely curious. You are focused on achieving a just and right answer for a discipline and commitment, as you would have put it, be just and fear not.

As a demonstration of the dedication much can be said and already has been about your work in relation to the Charter of Human Rights and

responsibilities of 2006, but it is important to understand that you came to the Bench at a critical time in the evolution of that pioneering piece of legislation. You had a keen interest in human rights yourself and it did in a sense seem a natural fit that you'd be able to plough the unfallowed earth at least in the state jurisdiction of this novel new area of jurisprudence, and your knowledge and commitment to the area is, as we have heard, incomparable.

Some of the notable cases have already been mentioned. These cases have had quite significant consequences, real life consequences, for those experiencing mental ill health and for the more vulnerable in our community. Demonstrating in their writing, a deep awareness of the effect that the law has in that broader sense.

You have as mentioned, been a member of the Forensic Leave Panel back since 2014 and I think President since 2015. That is an independent statutory body of course which supports the rehabilitation of forensic patients and residents, and assists with their reintegration into the community.

It's no doubt challenging work, it's a testament to your commitment to the more vulnerable members of the community. Again, you are known to speak sometimes directly without propense and all with a view, to trying to empower them to take control of their own path, and in doing so, to restore their dignity. Now when I talk of dignity, perhaps I should go further. It's dignity to all creatures, great and small. You recall on hearing that on one occasion, Your Honour was sitting in the old High Court building. That building was - I'm not sure if it still is, sort of well-known to be riddled with some unwelcome inhabitants of the kind of vermin variety, of the animal kingdom I mean, of course.

Now, Your Honour, had adjourned the matter and your associate had joined you in the antechamber to inform you that there had been this gruesome discovery. It was a mouse; I think it was a rat. But we'll call it a mouse, and it

was recently deceased. More than that, it was located just behind the bench where Your Honour was sitting. Now, sensibly Your Honour made an offer to remove it immediately, you replied you weren't too concerned. You did ask the question politely though as usual. Did your associate feel concerned about it, and the answer you got was most certainly, yes.

You made the immediate offer of dealing it with as soon as you could. Following the adjournment, you could be observed so it was said, sitting and maybe even shifting a little in the seat, moving your chair when you could, but shortly and after a little pause in the submissions, you leant over to your associate and whispered triumphantly I believe, 'I've dealt with it. I've moved the body'. Now it later transpired that you had indeed quietly and unobtrusively picked up that dead mouse, you had gently placed it in the bin, perhaps even said a prayer for it. And you'd done all of that without anyone in the court being the slightest bit the wiser.

It does seem fitting for me to finish by quoting you, if you'll allow me again, the speech you once gave to the students graduating from the Monash University Faculty of Law taking their first steps as law graduates. You said this, 'Above all, wherever the journey of life takes you, and especially if your journey includes the law, remember that an important measure of a system that aspires to be just, whether it be a legal system, or whether it be a social system, is its capacity to show compassion'.

It is clear that Your Honour has a legacy which is a shining example to us all. You've done just that throughout what we believe is a remarkable career as a judge, and now of course, you're moving on to equally green pastures. It's even greener if one looks at the grass on the other side in that way. But you will leave this court shortly and take up position as said, as a professor of law at Monash, and of course as director of the Castan Centre for Human Rights. It's a fitting move, if I may say so, in an already illustrious career.

Your Honour, on behalf of the Victorian Bar, I wish you a long and happy retirement, if it ever comes. But in the meantime, I sincerely hope that you find joy and satisfaction in all your future endeavours, whatever that may be. May it please the court.

HIS HONOUR: Thank you, Mr Marks. Mr Pandya.

MR PANDYA: May it please the court. I appear on behalf of the Law Institute of Victoria, and the solicitors of this state to farewell Your Honour Kevin Bell as a justice of the Supreme Court of Victoria. We also acknowledge the traditional owners of the land on which we gather, we pay our respects to their elders, past and present, and to any elders here with us today. Your Honour, when a representative of the Law Institute sat down with you recently to discuss your career, it evolved into a captivating and wide-ranging conversation.

Instead of navigating the list of cases over which you have presided or anecdotes of the life in law, our discussion examined concepts of identity, the kinds of choices we make in life, and how we lead it. It traversed the necessity to recognise injustice, and seek to do something about it. These touchstones, Your Honour, reverberate throughout your career. They can be found in some of your landmark decisions about how the Victorian Charter of Human Rights operates. They can be found in your early work establishing community legal centres in Footscray and Essendon, and in helping to obtain Federal government funding for the absolute vital work of the Legal Aid system.

They can be found also in the many years you spent working on Native Title cases, especially in the Kimberley region, and they can be found in the important work as the former president of the Victorian Civil and Administrative Tribunal, where you lead a comprehensive review of VCAT's operations, performance, and its role within the Victorian Justice System. There is more, much more. But a formidable and lengthy career in justice should not merely be a recitation of legal tombstones. It seems to us, Your Honour, that

you have lived law by putting human rights and the integrity of the individual and the spirit of community to the fore of what you do.

Asked why you chose law, you said it was because you felt you could, 'Make a positive impact through both legal practice and academia'. You had and we quote, 'A sense that the world was an unjust place, and being a lawyer was a way to correct that injustice'. Those are certainly high and noble ambitions. Yet, Your Honour has made a difference and that is why so many members of the profession are here today.

Your Honour was the eldest of eight children in the Bell family, raised in modest circumstances, in public housing in the suburb of Moorabbin. And while the Catholic faith featuring strongly in your upbringing, you converted in recent times to Judaism. Your embrace of the Jewish faith came in part from the discovery of Jewish heritage by your mother's lineage. More importantly though, your decision to convert has completed Your Honour's sense of identity. You told us that it makes you whole.

Your Honour is proud to say that you are a person of faith, and that you had a sense of God and that you engage in the rituals of your religious faith. But there is more, and that comes from the way Your Honour perceives that life lived in law means assisting others. Lawyers can help to make a positive contribution to people's lives, to the community, by resolving or removing disputes with care and empathy. That tenant has been reflected in Your Honour's work as a solicitor and later at the Bar in tenancy laws, welfare law, refugee and migration law.

Ensuring the most vulnerable members of our community have equal access to law, and the ability to defend their interests in court, has been one of your abiding principles. Along with Denis Nelthorpe, now Professor Nelthorpe of Victoria University, you founded in the 1970's and 1980's, an innovative and private legal practice in Melbourne's western suburbs. It

charged fees for conveyancing, commercial and property work, and this fee stream helped to fund assistance for others needing criminal defence representation, help with family law, immigration, or tenancy laws.

This practice eventually became the Footscray Community Legal Centre, and it's still operating in Barkly Street as the Western Community Legal Centre. You were the standing counsel for the Metropolitan Fire Brigade for several high profile inquests, including the devastating Coode Island fire in 1992 and the dreadful Kew Cottages of 1996, which killed nine men with physical or mental disabilities. In 2002, you represented the Victorian Government before the coal royal commission into the building and construction industry.

One of the highlights of your personal career was working intensively on Country, on and off for months over the course of a decade, with the indigenous people of the Kimberley. You represented the plaintiffs in the Jaru community's protracted claim for Native Title and it greatly influenced your own approach to spirituality. Your Honour told us that achieving a stronger sense of understanding and dignity in the Australian context has been and we quote, 'A joy of life I cannot live without'. Indeed, you say it would have been incomplete had you not come to understand who the Jaru people were, how they connect with Country, with each other, and importantly, how they connect with other Australians. This was a dynamic in the development in of native title law, when cases such as Mabo and Wik have been decided.

But legal concepts around many practical details still had to be worked through. They included determining the composition of indigenous communities, the nature of connection to land and how subgroups were related to larger groups.

By seeking to understand the various Dreaming's that intersected around Broome and doing so in terms of individual religions so to speak, Your Honour deepened your understanding of the people, their country and the

intricacies of the case.

A legal peer who observed your work closely in that period told us you handled that complex and highly contested case with great sensitivity and expertise. As we have heard, Your Honour came to the Bar in 1985. You took silk in 1997 and you were appointed to this court in 2005.

In surveying the legal community, your welcome matters involving the Victorian Charter of Human Rights is cited repeatedly. Your practicionism which ran to 75,000 words concerned the rights of the mental health patient, who sought a review of pharmacological treatment ordered by his doctors.

Patrick's case concerned a mental health patient being held involuntarily in an institution who resisted a decision by VCAT to appoint an administrator with the power to sell his home. Your Honour determined that the appointment of an unlimited administrator was an unnecessary and impermissible interference with Patrick's human rights, to equality, to privacy and a home.

And the 2007 case of PBU and NJE involved the legal test for determining a mental health patient's capacity to give informed capacity to electroconvulsive treatment.

You have been president of the Victorian Forensic Leave panel since 2015. Continuous learning and imparting that education to others has been important to you and that is evidenced by your extracurricular studies.

You completed a Post Graduate Degree in Human Rights Law as well as a Master of Studies both from Oxford University. That was after you completed your very important studies in Viticulture from Charles Sturt University.

In 2017, you were made a member of the Order of Australia for your extensive contribution to the law. Although you will leave this court you are certainly not retiring. You have agreed to become the Director of the Castan

Centre of Human Rights and a Professor of Law at University.

I on behalf of the Law Institute of Victoria and all the solicitors and lawyers of this state, may I wish Your Honour the warmest of wishes for many interesting, stimulating and fulfilling years ahead. May it please the court.

HIS HONOUR: Ms Walker, Mr Marks and Mr Pandya, I thank you most sincerely for the remarks that you have made today. I don't think I deserve all of the praise that you have expressed, but I can see myself in much of what you have said and I take great satisfaction that my work may have had some meaning.

Ms Walker, it is of the utmost significance to me that you thank me on behalf of the state of Victoria for the work that I have done. Service to the community has been and remains my ultimate goal. That is why that thanks is so significant. It was my late father's ultimate goal. He was a public servant for 50 years and I believe I have followed in his footsteps.

Mr Marks, my wife Tricia Burns and I are very proud members of the family at the Victorian Bar. You have been very generous in what you have said about me and I thank you for that.

There are many advocates in this room who have inspired me over the decades, and still inspire me. People about whom even more than that you have said about me could be said, of them.

Mr Pandya, you have been very well briefed and you have touched me with the remarks that you have made. Everything that you have said is true. I want to acknowledge before you and those present that my first professional teacher in the law was my principal Michael Thornton who was here at my judicial welcome from McPherson & Kelly.

He stressed to me the importance of exercising personal individual responsibility for the affairs of clients. A lesson that I have translated into the need to understand the stakes that an individual has in a legal problem which

has been indeed the focus of my life as a judge, as an advocate.

At present, the First Nations of Victoria are meeting to formulate a framework within which a treaty might be negotiated with the government on behalf of the Victorian community. Among those engaged in that process are representatives of the Bunurong and the Wurundjeri people who are peoples of the Kulin Nation upon whose traditional country we are gathered here today. I recognise and pay my respects to their Elders past and present, especially in the light of my native title work and the distinguished work of others in this room in that area, and wish those representatives all the best in their important deliberations.

This is a personal occasion for me. Everybody in this room is special to me in one way or another. I want to specially acknowledge the presence of my good friend Will Alstergren, Chief Justice of the Family Court of Australia and the Chief Judge of the Federal Circuit of Australia. You say that I'm busy.

I acknowledge the presence at the Bar table, of Brenda Kissane QC, representing the Director of Public Prosecutions who herself is very busy.

A large number of judges and other judicial officers have honoured me with their presence today and I thank you. Many have sent me messages. There are many here from my court and there are many here from other courts and I thank all of you.

There are persons as I look around from the time that we spent together at Douglas Menzies Chambers and Joan Rosanove Chambers. They were truly wonderful times and I reflect upon them with enormous affection.

There are several partners and barristers and judges whom Tricia and I now count as good friends. There are Victorian Government agencies represented and I look at those representatives now. The Chief Executive Officer of Victoria Legal Aid is here with her partner Cath Wheelan, my very

old friend from Wingate Avenue Community Legal Centre days in the 1980s.

I am not sure whether Ruth Barson from the Human Rights Law Centre has made it but I'd be glad if she did.

There are many people here not from the legal profession including my family, and neighbours and good friends, of Tricia and I. Several of you in the jury box are honoured guests.

I am so pleased that Cantor Michel Laloum and his wife Anna are here today with others from Temple Beth Israel.

Most of my readers and associates are here. Some of them have been speaking I can tell. Members of the faculty of law at Monash University are here. I look forward to working with you. There are members of the faculty of law at Melbourne here as well. Thank you for coming.

Michael Salvaris, it gives me such joy to see you in the front row, my old friend. Likewise, Lorenzo Boccabella and Trudy who have come from Brisbane, thank you.

Michael and Lorenzo go back to my Tenants Union and Community Legal Centre days in the late 70s. We worked hard and we did well.

It is extraordinary to see you all here today. Each of you have contributed to me as a person and a lawyer and I thank you.

Now I want to say something to my family who are among the guests in the jury box. They are my wife Tricia who as I have said, is a barrister, indeed the best family law barrister in the world. Our son Lawrence and his partner Lucy Holmes, who have produced two grandchildren, James and Summer. Our daughter Dr Imogen Bell and her partner Peter Fitzgerald. My sister Julie Nanassy who herself is a judge's associate of many years standing and her son Adam Woods. Thank you for travelling from New South Wales today.

And my brother Simon. The youngest of what were eight children and are now only four unfortunately. It is said to recall that my brother Michael, Julie, Simon and I lost our two sisters Cathy and Christine only in the last couple of years, having lost our mother and father some years ago.

To each of you I express my deepest thanks. You know what only you and I can know, which is just how difficult a job like this really is.

We as a family have been through a lot in the period that I have been a judge, especially in the past few years. I could not have done the work that I have done without your support during that period and I am immensely proud of your own personal achievements.

That is not merely enough thanks for you Tricia. But how can I express the inexpressible? How can I do justice to 15 years of unconditional love, support and encouragement during my time as a judge? How can I properly recognise thousands of acts of kindness, hundreds of thousands of acts of encouragement and millions of acts of tolerance during this time? Especially when my work is not actually yet done.

I cannot do any of these things anywhere near properly. So please accept this, my enduring love, my deepest respect and my heartfelt thanks.

Mention has been made of my judicial work in the field of human rights and I am indeed proud of that work. It was difficult but it had to be done. History will tell how important that work has been and how important other judicial work that I have done has been. But what is really important to me and I know now is that I did all of this work as a judge administering justice according to the rule of law in this constitutionally independent court.

Nothing I have done exceeds that. It is for me enough. To have been given the opportunity to do that by the Victorian community was an extraordinary privilege which I was aware of every second of every working

day.

I have enjoyed excellent collegiate relationships with my fellow judges and other persons working in the court. Tricia and I have made lasting friends here with both fellow judges and with their partners, many of whom are here today. I am very grateful.

It takes a productive and happy institution to make a productive and happy judge. If I have been that then I owe a great debt of gratitude to all of you.

I especially mention the retired judges who have come here today on my invitation. They were very distinguished and very senior when I arrived at the court and I relied upon them heavily in the early years. The kindness and encouragement and support that you gave me during that time was invaluable. I am deeply appreciative and I hope that I have repaid the debt of your personal investment in my judicial career.

Of the non-judicial officers and administrative staff at the court, there are several present at this sitting including the Chief Executive Officer of the court, Matt Hall.

I recognise with appreciation the contribution of your non-judicial officers and administrative staff, to the efficient operation of the court. I highlight in particular the work of my longstanding legal secretary Barbara Rohan. Her service to the court significantly exceeds in time that of any person here.

She joined the court in 1971 under Chief Justice Winneke. I was still at secondary school. Next year Barbara will have been at the court for 50 years. This is an extraordinary achievement in which we all rejoice. I reflect with wonder upon the changes that Barbara must have observed happen at the court. I thank her for her unfailing service to my chambers for 15 years.

There are people in this courtroom with whom I have shared chambers up close and personal as it were for a significant period of time. All of these people therefore know what I am really like and would be in a position to add a note of reality to the things that were said earlier today.

I refer to my ever supportive mentor, the Honourable Peter Heerey AM QC, who is here today with Sally, I think. Then there are my five readers. Tony Laurence, an honoured guest in the jury box with his partner Jane Semple. Richard Niall, now a Justice of Appeal in this court, who is here with his wife Helen Sawczak. Mark Perrica, Roz Germov and Peter Gray QC, whom I share with my oldest friend Tony Cavanaugh, now a justice of this court who can't be here today.

Finally I come to my 16 fabulous associates who are more or less in order: Alice Rolls, Carolyn Brown, Amber Stanley, Sarah Law, Lucinda O'Brien, Bruce Chen, Chrissie Demos, Gemma Leigh-Dodds, Kent Blore, Emily Golshtein, Jessie Freeman and James Blaker and Claerwen O'Hara, Sasha Ponniah, Tanya D'Souza and Stephen O'Connell. I can only express my gratitude that most of the people with whom I have shared this time up close and personal are nonetheless here today. Those who are not have offered apparently good excuses.

Now I want to say something a little more to my associates because they have taught me as much as I have taught them and I want to give some explanation.

I feel that we have been on the most extraordinary journey together. I taught you the importance of being just and fearing not, in the individual case and you connected that with the administration of justice generally. I taught you that momentum is everything and you taught me that momentum is best maintained by a good team effort.

I taught you about standards, as in 'standards', and you taught me that

especially goes for editing judgments. I taught you that with a little effort one can do ten things at once and you taught me with a little more effort one can do 20 things at once.

I taught you about advanced human rights adjudication, I hope, and you've taught me about casual sexism, racism, and other kinds of othering and how language perpetuates gender inequality.

I taught you the value of learning, *Ancora Imparo*, and you taught me the value of teaching. I taught you about pinot noir and you taught me about Aperol spritz.

My heartfelt thanks go to all of you for helping me to be the best kind of judge that I could possibly be. A special thanks must go to Alice and Kent for coming from Adelaide and Brisbane respectively to be at this sitting.

Personally and professionally, may all of you have happy, productive and fulfilling lives. I am immensely proud of what you have already achieved and I really look forward to having breakfast with you tomorrow morning.

I am very proud to have been the President of VCAT and to have conducted the review which has been mentioned. I have enormous respect for the institution, the people who work in it and the fundamentally important role that it plays in Victoria's system of justice.

The VCAT model has been replicated in other states and indeed in other countries. It has a particularly important function in vindicating and promoting human rights. I am honoured that the President of VCAT, Justice Michelle Quigley, is here today and I think Justice Garde, the previous president is here also. I see him now.

Under their leadership, VCAT has continuously improved and I especially wish Justice Quigley and the institution every success in that present endeavour.

I am very proud to have been President of the Forensic Leave Panel for five years and a member for longer. Several members of this court and the County Court who are members of the FLP are here with us, as are members in other categories as well as officers of the Department of Health and Human Services who provide excellent management and administrative support for the panel. I want to especially thank the executive officer of the panel, Dannielle Wilkinson with whom I have worked closely for well over a year.

In the light of the upcoming transfer of this jurisdiction to the Mental Health Tribunal, whose president I acknowledge is here today, I want to recognise the contribution of the panel, to the panel, of a large number of judges of this court and the County Court over more than 20 years, including that of several presidents and the contribution that will become of my successor Justice Terry Forrest who is on circuit and can't be here today.

The tribunal will be receiving a jurisdiction that has been modernised through a reform project. I thank and congratulate everyone in that project which is all but completed.

In my time as a judge I have seen a significant number of woman judges appointed to this court and an even larger numbers appointed to other judicial institutions. I applaud the commitment of successive governments to the promotion of women in the profession and to judicial office.

I have served with honour and pride under the former Chief Justice Marilyn Warren and the present Chief Justice Anne Ferguson. I thank them both for their support and encouragement during my term of office and especially during times of family and health difficulty.

Most importantly of all I thank Chief Justices Warren and Ferguson for allowing, indeed encouraging me, to be the kind of judge who was authentically me. To the Chief Justice's executive associate, Vivian Macgillivray who is seated in front of the Bench, I express the deep thanks of

my wife and I for 15 years of unfailing personal support over and beyond the course of duty. I thank you especially for doing me the honour of being my senior associate for my last sitting in this court.

Before closing the proceeding, let me share with you why my family and I find the Banco Court, this extraordinary room, to be full of special meaning. All Victorian lawyers, including me in 1978, were admitted to practice in this court room.

Joseph Lenczner, who might be here today, moved my admission in this courtroom just as he attended my judicial welcome. But there is a much stronger reason why this courtroom is so full of special meaning for me and my family.

I moved the admission of my wife Tricia here in 1994. Present on that joyous occasion were myself, Tricia, our daughter Jessica, our son Lawrence and our daughter Imogen. There is a treasured family photograph of the five of us outside the entrance of the court.

Jessica is no longer with us sadly. We lost her to causes related to mental illness two years before I became a judge. Many people in this courtroom know and have been personally affected in various ways by the full story and have provided their love and support at times when it was really needed.

We are immensely grateful but those memories need to be kept in their place. My family has nothing but the fondest memories of the day of Tricia's admission, when we were all here together on a joyous occasion in this courtroom just as we feel nothing but joy during this retirement ceremony in the same special place.

It is now time to say goodbye. But there is a small issue to consider. That issue is that I am not really saying goodbye to you, to the law, or indeed to working life. I am saying hello to other people, many of whom are here, and a

new working life as a professor in the faculty of law at Monash University and the director of the Castan Centre as has been said.

I thank the Dean of Law, Professor Bryan Horrigan and the university for giving me the opportunity to focus exclusively upon human rights law at the level of both principle and practice which I have wholly embraced.

Obviously I have to find a way of saying goodbye and hello at the same time. I have found that way.

In Hebrew, 'shalom', peace, can mean goodbye and it can mean hello and it can mean both. So let me say both goodbye and hello by reference to an ancient and much-loved prayer which works at both the spiritual and the secular level:

'Oseh shalom bimromav

Hu yaaseh shalom aleinu

V'al kol yisrael

V'imru amein'

This means, 'Let the one who makes peace in the heavens make peace for all on earth'. It means let peace be both a universal principle and a universal practice. It means goodbye to what has been and hello to what is to come in that peace.

To all of you thank you and shalom. Mr Associate, for the last time with me, could you please close the court.
