

VICTORIAN REPORTS

THE AUTHORISED LAW REPORTS OF THE
SUPREME COURT OF VICTORIA

VOLUME 51
2015-2017

EDITOR
P G WILLIS SC

Published for the
COUNCIL OF LAW REPORTING IN VICTORIA
BY
LITTLE WILLIAM BOURKE
AUSTRALIA
2018



Little William Bourke

	Little William Bourke (ABN 65 610 951 089).
AUSTRALIA	Level 22 52 Martin Place Sydney NSW 2000 Australia
ELECTRONIC	victorianreports.com.au littlewilliambourke.com.au

National Library of Australia Cataloguing-in-Publication entry

ISBN-13: 978-1-925633-04-7

ISBN-10: 1-925633-04-7

ISSN: 0042-5214 (print); 2208-4886 (online).

©2018 Council of Law Reporting in Victoria

This book is copyright except as permitted under the *Copyright Act 1968* (Cth), no part of this publication may be reproduced by any process electronic or otherwise, without the specific written permission of the copyright owner. Neither may information be stored electronically in any form whatsoever without such permission.

Inquiries should be addressed to Little William Bourke.

Printed in Australia.

COUNCIL OF LAW REPORTING IN VICTORIA

As at 1 March 2018

Chairman

THE HON JUSTICE CAMERON CLYDE MACAULAY

Ex-Officio members

THE ATTORNEY-GENERAL

THE SOLICITOR-GENERAL

THE LIBRARIAN OF THE SUPREME COURT OF VICTORIA
(LAURELLE MARGARET ATKINSON)

Members

MICHAEL RICHARD PEARCE SC

GEOFFREY PETER PROVIS

ANNETTE MINA CHARAK

ANDREW ROBERT WESTCOTT

Honorary Secretary

GEOFFREY CHARLES HANSEN

Editor

P G WILLIS SC

Consultant Editor

L W MAHER

Law Reporters

J A BARRINGTON

K A BOWSHELL

A M CHARAK

J A DAVARIS

A L HANDS

J P KRETZENBACHER

M NORTON

R K SORENSEN

K WESTON-SCHUEBER

R J BOADLE

L T BROWN

C J CHARNLEY

K M EVANS

A T HOEL

E LEVINE

R SCHEELINGS

S J VARNEY

C R WILLIAMS

P G WILLIS SC

BARRISTERS-AT-LAW

THE SUPREME COURT OF VICTORIA

As at 1 March 2018

CHIEF JUSTICE

THE HON ANNE FERGUSON

PRESIDENT OF THE COURT OF APPEAL

THE HON CHRISTOPHER MURRAY MAXWELL AC

JUDGES OF APPEAL

THE HON MARK SAMUEL WEINBERG AO

THE HON PAMELA MARY TATE

THE HON ROBERT STANLEY OSBORN

THE HON SIMON PAUL WHELAN

THE HON PHILLIP GEOFFREY PRIEST

THE HON JOSEPH GERARD SANTAMARIA

THE HON DAVID FRANCIS RASHLEIGH BEACH

THE HON EMILIOS JOHN KYROU

THE HON STEPHEN WILLIAM KAYE AM

THE HON STEPHEN GEOFFREY EDWIN MCLEISH

THE HON RICHARD MICHAEL NIALL

THE HON KIM WILLIAM SPENCER HARGRAVE

JUDGES OF THE TRIAL DIVISION

THE HON ELIZABETH JANE HOLLINGWORTH

THE HON KEVIN HARCOURT BELL AM

THE HON ANTHONY LEWIS CAVANOUGH

THE HON JOHN HERBERT LYTTON FORREST

THE HON LEX LASRY AM

THE HON JAMES GREGORY JUDD

THE HON PETER NORMAN VICKERY

THE HON KARIN LEIGH EMERTON

THE HON TERENCE MICHAEL FORREST

THE HON CLYDE ELLIOTT CROFT

THE HON MICHAEL LEON SIFRIS

THE HON PETER WADDINGTON ALMOND

THE HON JOHN RUSSELL DIXON

THE HON CAMERON CLYDE MACAULAY

THE HON KATE MCMILLAN

THE HON GREGORY HOWARD GARDE AO

THE HON GEOFFREY JOHN DIGBY

THE HON JAMES DUDLEY ELLIOTT

THE HON TIMOTHY JAMES GINNANE

THE HON MICHAEL JAMES CROUCHER

THE HON MELANIE SLOSS

THE HON JOANNE MARGARET CAMERON

THE HON CHRISTOPHER WILLIAM BEALE
THE HON MICHAEL PHILLIP McDONALD
THE HON RITA MARIA ZAMMIT
THE HON PETER JULIAN RIORDAN
THE HON JANE ALISON DIXON
THE HON ANDREW JOHN KEOGH
THE HON PETER BARRINGTON KIDD
THE HON MAREE EVELYN KENNEDY
THE HON MICHELLE LESLEY QUIGLEY
THE HON JOHN ROSS CHAMPION

RESERVE JUDGES

THE HON DAVID JOHN ASHLEY
THE HON PAUL ANTHONY COGHLAN
THE HON MALCOLM FRASER BLUE
THE HON JULIE ANNE DODDS-STREETON
THE HON ROSS MCKENZIE ROBSON

ASSOCIATE JUDGES

THE HON JOHN EFTHIM
THE HON ALEXANDER JAMIE WOOD
THE HON ROBYN GAY LANSDOWNE
THE HON MELISSA LEE DALY
THE HON SIMON PETER GARDINER
THE HON NEMEER MUKHTAR
THE HON RODNEY STUART RANDALL
THE HON DAVID MARK BRUDENELL DERHAM
THE HON MARY-JANE IERODIACONOU

JUDICIAL REGISTRARS

MARGARET CAIRNS GOURLAY
JULIAN MICHEL KALMAN HETYEY
IAN ANDREW IRVING
LEONIE MARGARET ENGLEFIELD
PATRICIA MATTHEWS
MARK WILLIAM PEDLEY
JULIE KIRSTEN CLAYTON
DANIEL DONATO CAPORALE

JUDGE IN ADMIRALTY

THE HON GEOFFREY JOHN DIGBY

ATTORNEY-GENERAL

THE HON MARTIN PAKULA MP

SOLICITOR-GENERAL

KRISTEN WALKER QC

Memoranda

2017

- 1 October The Honourable Marilyn Louise Warren AC, Chief Justice of the Supreme Court of Victoria since 2003, resigned.
- 2 October The Honourable Anne Ferguson, a Judge of the Supreme Court of Victoria, was appointed to be Chief Justice of the Supreme Court of Victoria.
- 28 November Richard Michael Niall QC was appointed a Judge of Appeal.
- 19 December The Honourable Kim William Spencer Hargrave, a Judge of the Trial Division, was appointed a Judge of Appeal.
- 19 December Michelle Lesley Quigley QC was appointed a Judge of the Trial Division.
- 19 December John Ross Champion QC was appointed a Judge of the Trial Division.

2018

- 15 January Daniel Donato Caporale was appointed a Judicial Registrar.
- 26 January The Honourable Alec James Southwell QC, a Judge of the Court from 1979 to 1997, died aged 91 years.

Obituary

The Honourable Alec James Southwell QC

A man of remarkable energy, the Hon. Alec Southwell QC was one of the longest serving judges in the nation. He served as a judge in the State of Victoria for 33 years. He died on Friday 26 January 2018, aged 91 years.

Alec Southwell was born on 1 November 1926 in Melbourne. He was educated at Melbourne Church of England Grammar School where his father, Bertie Southwell, was the Classics Master.

He completed the first year of law at the University of Melbourne in 1943 before enlisting in the Royal Australian Navy in 1944. Until 1946 he served in New Guinea and Morotai aboard HMAS Penguin, HMAS Whang Pu and HMAS Ararat.

After his naval service, he graduated with an LLB in 1946 and in 1951 commenced reading with Benn Dunn who, like his Honour, was subsequently appointed a County Court, then Supreme Court, Judge. During his 18 years at the Bar he had a varied practice, acquiring a formidable reputation as an outstanding, efficient and meticulous advocate and becoming a dominant figure in the fields of Common Law and Personal Injuries. He brought these skills to the Bench where he was known for diligence, legal acumen, stamina and a remarkable capacity for hard work, as well as the qualities of fairness and courtesy.

His Honour was appointed to the County Court in 1969 and served for 10 years as a judge of that court. Notable achievements during his time as a County Court Judge were the completion of three important Inquiries: one into the Teaching Service and two Court of Marine Inquiries. One of the more notable cases to be heard by his Honour in the County Court was *BP Refinery Westernport v Shire of Hastings* which would eventually be determined by the Privy Council in 1977 and become a leading authority in contract law.

In 1979 his Honour was appointed to the Supreme Court of Victoria where he served for 18 years as a Judge and, after his retirement in 1997, for 5 years as a Reserve Judge of the Court. Among his many notable cases are that of Peter Caitos, Melbourne's "silver gun rapist", the Linter litigation and *Humphries v Poljak*. In the last case his Honour's joint judgment with Justice Crockett gave a meaning to the term 'serious injury' that has survived for 26 years now. In his later years on the Bench, he sat in the Full Court and then as an additional judge of appeal in the Court of Appeal. He sat in all jurisdictions of the Supreme Court and is regarded as having made an invaluable contribution to the work of the Court. Addressing his Honour at a ceremonial sitting of the Supreme Court to mark his retirement, the Solicitor-General, Douglas Graham QC, remarked: "For nearly three decades Your Honour has brought a powerful legal intellect and great forensic acumen to the courtroom".

Throughout his life, Alec Southwell was a passionate and talented sportsman. He was an outstanding cricketer, although sailing, golf, snooker and

billiards also featured in his sporting repertoire. He served on the Melbourne Cricket Club Committee for 18 years (1979-97), the last nine as vice-president. Another passion was woodwork; he built boats and assisted in the construction of his own house.

At his retirement celebration, Alec Southwell thanked his wife, children and grandchildren for their support. In 2014 and 2016 he moved the Admissions of his granddaughters, Sarah Southwell and Katherine Southwell.

AF

Remarks of the Hon Marilyn Warren AC, Chief Justice of Victoria on the Occasion of a Farewell Sitting in the Banco Court

Wednesday 27 September 2017

Aunty Joy Murphy, Solicitor-General and Presidents of the Victorian Bar and the Law Institute of Victoria. I thank you most sincerely for your extraordinarily generous remarks.

Tradition has it that these are occasions when the Bar and the profession generally come and tell a judge how wonderful he or she has been, thanks them for their service and, I have sometimes suspected, confirmed that the judge in fact departs. Well, I will, very soon.

It is my intention this morning to turn the tables. You see, I wish the centre of attention to be not me, but the Court, the Bar and the profession. My thesis is that the Court needs and relies on those who bring the cases.

I will commence with the Court. It has been an extraordinary honour and privilege to serve the administration of justice in this State for 19 years, 14 as Chief Justice. I think there is no better legal job in the State, and possibly the country, than being a judge of this Court, except being Chief Justice. There are abundant opportunities to sit on the most significant, complex and serious criminal and civil trials and appeals. There are opportunities to hear some of the best advocates in the land, assisted by cases impeccably prepared and managed by an outstanding legal profession. There are opportunities to be a part of the wonderful collegiality of this Court. Being a Supreme Court judge is also an opportunity to determine the jurisprudence which contributes to the rule of law and the shaping of the State and the nation. Any barrister or lawyer who has the chance of appointment should jump at it.

Victoria has long been a leader in the law. This Court has grown since I joined, in numbers of judges, associate judges and judicial officers. The work has increased exponentially. However, it is the nature of the work that has really changed. The business of the Court is now replete with commercial and common law class actions, Charter cases, expanded criminal work and some of the most significant commercial and common law litigation in the country. This is no accident. I believe it is because of the quality of the bench that the Supreme Court of Victoria offers to the litigation community and the desire of the judges to serve that community.

Yet judges are only as good as the cases that are presented to them. It is the barristers and lawyers who prepare and provide the cases to the judges to be determined. Inevitably, there is a synergy or symbiosis between each of the roles in the administration of justice.

In that respect, I acknowledge the extraordinary diligence, rigour, creativity, application and resilience of the Victorian commercial barristers and lawyers. Then there are the clever, resourceful and devoted common law barristers and lawyers who cover everything from catastrophic injury to environmental cases to public law. Thirdly, there are the criminal barristers

and lawyers for whom I have so much respect because of the gravity of the work they perform, prosecuting the interests of the State and ensuring that justice is delivered to accused persons. I thank all the barristers and lawyers who have conducted cases before me. If I was too demanding – I hope you know my heart was in the right place.

An outstanding attribute of the Victorian Bar and profession is their commitment to providing pro bono assistance when needed. I acknowledge that there have been countless cases in the Supreme Court when, after only a phone call, representation has been provided in needy circumstances. A senior lawyer was heard to remark about pro bono public law one day in the High Court before the bench entered: “What is it about Victoria? There must be something in the water”. This Court, both the Court of Appeal and the Trial Division, have been constant beneficiaries of members of the Bar and the profession stepping in, sometimes in quite large cases, to provide assistance and service at no fee or benefit to themselves. I express my personal appreciation and gratitude for the many times I have been assisted by that pro bono support.

Yet, the Bar and the legal profession face change and challenge.

I have reflected on some of the changes I have seen in my almost two decades on the Court. First, the increased application and intensity of case management. Judges supported by judicial and public administrators are extremely productive but demanding. Secondly, technology. It has expanded and will transform this Court, but again be demanding for all, because the coming generations of lawyers will be dominated by technology. Thirdly, expanded and novel jurisdictions. Fourthly, the establishment and expansion of judicial education opportunities to enable judicial officers to be their very best, including culturally aware in our multicultural society. Judges, in turn, are a step ahead because of the Judicial College of Victoria. Fifthly, a significant shift in the provision of information by the Courts about what they do. For example, the Supreme Court is extremely active in social media. Sixthly, the growth in the numbers of self-represented or unrepresented litigants (due to increased community awareness of rights and redress, the growth of administrative tribunals and VCAT, and the paucity of legal aid). Seventhly, the massive growth of alternative dispute resolution, especially judicial mediation in which the Supreme Court offers an important service. Fewer cases run to trial, verdict or judgment.

Eighthly, the presence of women on the Supreme Court bench and in court. In that respect, there is much more to be done. We have so many excellent women barristers and lawyers, we should see more of them in court and more often. Ninthly, recognition of the significance, relevance and importance of the indigenous peoples and awareness of their over-representation in the criminal justice system.

All these phenomena and more will press barristers, lawyers and judges. Practice and judging have changed.

The Courts and lawyers have been around for millennia and have proven

highly adaptable and flexible especially in the modern era. I have no doubt the barristers and lawyers of this State, together with the judiciary, will rise to the challenges.

The final change that I have seen is the shift of the media and community attitudes towards the Courts. Community interest in judges' work, particularly criminal work, has increased. Conventionally, judges do not speak out and defend or explain their decisions beyond their written reasons. This has been a difficulty.

Sentencing attracts much public comment. Nearly everyone has an opinion. I have found sentencing the hardest part of the job, trying to reach the correct sentence for the circumstances. Dealing, as this Court does, with homicide cases, it is hard confronting the pain and grief of family and friends who have lost a loved one. As judges, we feel that grief. I have not found the answer as to why judges' reasons for sentence are not read widely. Judges cannot really rely on the media for communication. It is up to us to write more simply and briefly with accompanying summaries and all published in an accessible way on the internet and through social media. This is an achievable goal which will help community understanding of what we do and why.

It is forecast that, in decades to come, Victoria will emerge as the most populous State in the country. It necessarily follows that the Bar and the legal profession will need to expand and adapt to meet that growth. Similarly, the judiciary will meet significant challenges in the years ahead.

I have many more thank you's to give.

The generous statements emanating from the Bar table today are an acknowledgement and a celebration of my colleagues with whom I sit, Justice Maxwell, the President of the Court of Appeal, Justice Hargrave, Principal Judge of the Commercial Court, Justice Lasry, Principal Judge of the Criminal Division, Justice J. Forrest, Principal Judge of the Common Law Division and Associate Justice Derham, Head of the Associate Judges, and all the judges within their Divisions. I acknowledge and express my deep gratitude to each of them for their constant refinement of what they do and their implementation of change and commitment to the administration of justice. I thank them for their constant support of me. I thank every judicial colleague for helping me along the way.

Mentioning reform leads me to express my appreciation for the contribution made to the Court during his time by Justice Nettle when a member of this Court. His Honour's reputation as a jurist is well known. However, he was an important contributor to judicial administration, particularly through the implementation of the very successful civil appeal reforms. Furthermore, as you might imagine, Justice Nettle was a powerful counsel to have seated beside me, when I was arguing for independence or resources with public administrators.

So many judges, staff, personal staff, public administrators and people generally have helped and supported me along the way. I am very grateful.

The office of the Chief Justice of Victoria has become a very busy role, indeed, one of the busiest in the country. The office is responsible not only for the judicial administration of the Supreme Court, but also heads the Courts Council of Court Services Victoria, the Judicial College of Victoria and the Judicial Commission of Victoria. I have been blessed to have had four outstanding Chief Executive Officers to assist me in that regard: Louise Anderson, David Ware, Samantha Burchell and Richard Besley.

It might be thought that I have been remiss in not casting my gratitude more widely. Be assured that family, friends, colleagues and staff have been thanked at another time. On the other hand, my departure has been the subject of an extraordinary number of celebrations, many of which were hosted or attended by the Bar and the Institute, which has led me to conclude I am shortly to overtake Dame Nellie Melba's farewell reputation.

That said, I cannot leave without acknowledging two special supporters. Justice Maxwell, who has worked with me now for 12 years and travelled much of the journey. He has supported me and helped in countless ways.

The other person is my Executive Associate Vivienne Macgillivray, who has been with me almost the entire period of my term as Chief Justice. She has been unfailing in her devotion, loyalty and hard work, often having to deliver unhappy news and help to triage the complex problems that invariably arise from day to day.

I also extend my very warm congratulations to my Chief Justice sister, the Honourable Diana Bryant. She, too, will shortly retire, and I wish her a long and happy retirement.

Finally, there is my family. Sometimes I have been unable to devote myself to them the way I would have wished, but now they will have me back and I will endeavour to make up for lost time. They should be prepared.

I thank each and every one here for coming today and for your generosity. The honour you bestow on the Supreme Court and me is very generous. I am so very glad you came. However, may I make one request of you?

Almost everyone here is a Victorian. This is the courthouse and the courtroom where Victorian lawyers mostly commence their careers. She is a Court to be loved, cherished and protected, our Supreme Court. Look after her, and pledge your support. I regret I was unable to achieve a new Supreme Court building. However, the Court will soon finalise a concept plan which, hopefully, will enable the Government to understand and embrace the chance to construct a beautiful, functional court building for the highest court of the State. I will watch with curiosity and wonder.

I extend my warmest wishes to Justice Ferguson, who will assume the office of Chief Justice shortly. Her Honour will take the Court forward, together with her colleagues, to a whole new era. Mine now closes.

Mr Tipstaff, the Court will now adjourn sine die.

Remarks of the Hon Anne Ferguson, Chief Justice of Victoria on the occasion of a Welcome sitting in the Banco Court

Thursday 12 October 2017

Thank you to everyone who is here today and watching online. In particular, thank you to Aunty Joy Murphy, Attorney-General and Presidents of the Victorian Bar and the Law Institute of Victoria, for your generous remarks. As is the tradition on these occasions, you have embellished some stories and no doubt started some myths about me that will grow over the years. I'm sure that it will give me (and perhaps others who know me well) some cause for amusement. I thank you for that, because I do like a good laugh.

To more serious matters. First, I wish to acknowledge the leadership of the previous Chief Justice, Marilyn Warren AC. She led this Court into a new era and I, and the judicial officers and staff of this Court, are very grateful to her for doing so.

The last few weeks have given me time to ask myself, what does it mean to be the Chief Justice of the Supreme Court of Victoria and what should a Chief Justice do? I don't profess to have the complete answer at this early stage. But what I do know is that it is a precious and unique opportunity to make a tangible contribution to the justice system in this State, to influence and help shape how justice is delivered and, in that context, to serve the community.

I want to focus first on the last of these things. As always, communication is very important. In serving the community as Chief Justice, I will treat it as part of my responsibility to do everything that I can to make sure that what judges do, how we do it and why we make the decisions that we do is easily understood by all people. While the result that we reach might be obvious from our decisions, I am not sure that why we have reached the result is always as clear. So we may have to put further thought into how we communicate – both as to the methods of communication and the language that we use.

For example, one method of communication we use is our judgments. Judgment writing is a skill. To non-lawyers, perhaps even some lawyers, it may come as a surprise that judges attend training sessions to develop this skill. For example, we are taught that the first paragraph of the judgment should set out what the case is about in a way that would explain it to a neighbour over the back fence. That is sometimes very difficult and we don't always achieve it. Indeed, I'm reminded of the saying 'if I had more time, I would have written a shorter letter'. Time is sometimes short. But we are committed to improving our judgment writing skills through continuing training to write in a way that makes it clear to 'our neighbour' what our decision is and, most importantly, why we have come to it.

In the age in which we live and work, judgments are just one form of communication. There are many others, including through the traditional media, websites and social media. I want this Court to continue to develop and

improve how we use those means of communication, to look for others and to keep up with changes in communication as they emerge.

I also want to touch on another topic today. In my view, my role as Chief Justice is to serve the State of Victoria; not just the Supreme Court. All tribunals and courts make an equally important contribution to the justice system in this State. It is not possible to have them all represented on the bench with me today. However, I do have the President of the Court of Appeal of this Court and Justice Kidd sitting with me. As President, Justice Maxwell heads the last part of the court system in this State. Justice Kidd is not only a judge of this Court but he is the Chief Judge of the County Court. He represents a different part of the court system. His Court, the County Court, shoulders a huge responsibility, particularly in the criminal justice sphere. I am very pleased that the President and Justice Kidd agreed to sit with me today.

Much has been made by some of the fact that I am a woman and had been a solicitor before coming to the Court. I don't think of these things as relevant distinguishing features. I can't wait for the day when diversity – not just gender, but cultural, intellectual and other forms of diversity – is not worthy of mention because it occurs so commonly. From my own observation, organisations that have diversity function better and make better decisions. The Court and the legal profession can make a difference in encouraging and developing diversity so that our judiciary can be drawn from a wide pool of people who have different backgrounds – whether that be gender, culture, race or experience. In the context of the Court, the beneficiary of a diverse judiciary is the community which itself is diverse.

As to my background as a solicitor, I have now been on the bench for many years. The experience of being a judge of the Trial Division and Court of Appeal is the most relevant part of my professional background to equip me to be Chief Justice. Having said that, my time as a solicitor and life experience, working and living in the community provide the personal background that is necessary to equip me for the position. My experiences include working at the local milk bar in Mulgrave when I was a student, sitting in the outer at the MCG watching the mighty Tigers, participating and observing people in every day pursuits.

It is usual during welcome ceremonies for the judge to thank those who have helped and supported them in their careers. I am in the unusual situation of having already been welcomed to this Court and this is my second welcome. Consequently, I won't mention individually those that I thanked on the occasion of my first welcome. Suffice to say that I am still as grateful to each and every one of them as I was on the first occasion. They each made a significant contribution to my development both professionally and personally. Thank you. During my time on the Court, many people have helped and supported me in my role as a judge. My thanks to my associates, the tipstaves, secretarial staff, registry and other support staff who work behind the scenes who have assisted me during the past seven years. They each go about their work without fuss but without them, I could not have functioned as a judge. I would like to particularly thank my personal staff for ensuring that

today's ceremony has run smoothly. They have all been terrific. Thank you. Over the past few weeks, I have had the benefit of working more closely with our CEO, Louise Anderson. She is a remarkable person. I am very grateful to her for helping and guiding me as I start in my new role.

To all the judicial registrars, associate judges and judges, thank you. You welcomed me to this Court openly and warmly. It made my transition to the role of judge so much easier than it might have been. Your positive reaction to the announcement of my appointment as our next Chief Justice was overwhelming. At the same time, it encouraged and reassured me that the challenges I now face are not insurmountable and that I will not face them alone.

The independent Bar is an important part of the justice system. At my first welcome, I said that I would rely on the members of the Bar to help me. They did not let me down.

Seven years on, I do not presume to know all there is to know about the office of Chief Justice. Again, I invite my colleagues, members of the independent Bar and the broader legal profession to work with me to make a real contribution to the justice system in this State, to influence and help shape how justice is delivered for the benefit of the community. Before closing, I want to thank the members of my family. I am grateful to each and every one of you for the love and support that you give me. To my husband, Kim, [aka Justice Hargrave to some] I would not be sitting here today if it were not for your encouragement and support to take on the position. I could not do this without you. Thank you.

On Monday, I was sworn in at Government House as the 12th Chief Justice of Victoria. I repeat the affirmation that I gave on that occasion; that is, to discharge the duties of my office according to law and to the best of my knowledge and ability without fear, favour or affection. Put another way, I will do the very best that I can as Chief Justice. I will act fairly. I won't let what has been or might be said about me or done to me influence how I do my job. To finish, as one of my wise colleagues said to me last week, 'Anne, just be yourself'. For better or worse, that's what I intend to do.