

The Hon Justice Michael Pembroke

On 12 April 2010 Michael Pembroke SC was sworn in as a Judge of the Supreme Court of New South Wales.

His Honour completed his schooling at St Ignatius College Riverview and then studied arts/law at Sydney University, subsequently obtaining a Master of Laws at Cambridge University. His Honour commenced practice at Freehill Hollingdale in July 1978 and commenced practice at the bar in 1982. His Honour joined 12th Floor Wentworth Chambers in 1984, and was appointed senior counsel in 1995.

Pembroke J practised widely in commercial law including banking law, building and construction, trade practices, telecommunications and international commercial arbitration. Outside practice at the bar, his Honour was a member of the London Court of International Arbitration, chair of the Appeal Tribunal of the Australian Stock Exchange, a member of the Australian Institute of Company Directors and of the St James Ethics Centre.

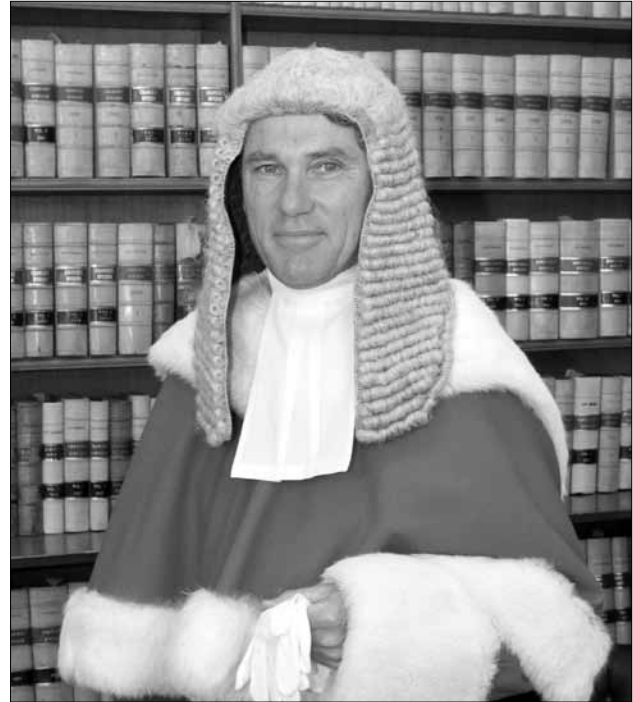
The president of the Bar Association Tom Bathurst QC spoke on behalf of the New South Wales Bar. Mary Macken spoke on behalf of the solicitors of NSW. Pembroke J responded to the speeches.

The president spoke of Pembroke J's arguments:

Your Honour was an economical barrister in the best sense of the term. Your Honour's arguments were always well structured, concise and dealt only with the points that were worth arguing. That was due in large part to the meticulous preparation you undertook in all cases in which you were briefed. Your Honour was an unflappable opponent. You went by the motto don't complain, don't explain, and no matter how difficult the case was your Honour always maintained a calm and cheerful composure. I had the privilege of appearing with and against your Honour on a number of occasions, the last being only a few weeks ago. Your Honour was always a formidable but courteous and fair opponent.

Both the president and Ms Macken referred to his Honour's property at Mt Wilson and his Honour's writing about it. The president said:

In a marked contrast to the generally held view that the dry exterior of practitioners at the commercial bar is matched by an even drier interior your Honour is an incurable romantic. Your Honour has constructed a remarkable property at Mount Wilson, replete I'm told with a lake which is described by many as a mini-Versailles. Justice Nicholas has described it to me in even more extravagant terms. However, not content with designing and building such a beautiful edifice your Honour has written about it. Your Honour's works, *Trees of History and Romance-Essays from a Mount Wilson Garden* was reviewed by John Griffiths SC who described your writing as rich in its imagery and pregnant with sexual innuendo. It described your description of a birch as slim, subtle and unmistakably feminine. I don't know how your Honour's submissions would



have been received by the Court had they been written in that style, I can only hope that your judgments will be.

Ms Macken described the book as a:

...rather whimsical look at the history, mythology and botany of tree species interspersed with personal memoirs and poetry focused on many of the trees growing on your property at Mount Wilson in the Blue Mountains. As Mr Bathurst has noted, the property is aptly named Hawthorn and spans some five and a half acres, once being a pine forest. Today it has made way for a park-like landscape with natural groups of trees, mainly oaks, beeches and birches overlaid with a lake and a small temple. Light in winter and providing shade in summer the mighty oak, the first tree to be planted, is one of your Honour's favourites. Like the words of Lord Tennyson's poem, *The Oak*, your Honour "strives to live thy life young and old like your oak".

Ms Macken also referred to his Honour's life-long and biding interest in the natural environment having been inspired by the herbaceous borders in the gardens of Selwyn College at Cambridge University. Ms Macken noted that his Honour was a governor of the World Wildlife Fund Australia and trustee of Australian National Wildlife Collection Foundation.

Ms Macken had referred to his Honour's wide travels as a child of a military man. Pembroke J said that:

...for the first seventeen years of my life I neither knew any lawyers nor thought of the legal profession. My sole objective

was to follow my father and lead a platoon of soldiers anywhere, but preferably in battle.

Somehow the years of Latin and English literature and the fact that most of the other boys at school were the sons of doctors and lawyers had an effect. Even then I was ambivalent and when I went away at the end of the year leaving it to my father to enrol me, my instructions were to put me down for Medicine or Arts/Law, whatever I got into.

So it was that in March 1973 I started at the university with Bret Walker, and others who have become more well-known than I am or could ever expect to be. A few years later when I arrived at the Law School, Dyson Heydon was the Dean and Bill Gummow was one of my lecturers. It never occurred to me that in years to come I would work with each at the Bar and appear before both as judges.

His Honour referred to his experience as a solicitor at Freehill Hollingdale & Page:

I first went there as a summer clerk during two university vacations. In those days we were called Christmas beetles. Freehills was then at 60 Martin Place and the office was a more relaxed environment than I suspect it has since become. I ran errands for Peter Hollingdale, Kim Santow and others. The place was so relaxed that in one empty office there was a cricket kit and two of us would go there on an occasional quiet summer afternoon and throw a cricket ball around. That other person is now the chairman of a bank. When the ball was thrown too hard or our reflexes were too slow the sound of leather crashing against the plywood panelling of Ian Hutchinson's adjoining office was deeply embarrassing.

Pembroke J said that after commencing at the bar:

I made a lot of mistakes but I think I learned quickly. One of my worst mistakes occurred when, in the early months, I dutifully attended my first swearing-in. Knowing nothing, and

not being shy, I arrived in this Court in good time, saw that the best seating appeared to be at the bar table and promptly positioned myself at the left-hand end, where Mr Margo is. I could not help noticing that all the places to my right were gradually filled by very old barristers wearing long wigs. They must have been in their forties and fifties. Eventually I realised that something was quite wrong. I decided to vacate my place when I received a tap on the shoulder from an even older, tubby barrister, whose name I later ascertained was Maurice Byers.

His Honour also said:

In the beginning I did lots of little equity cases, often defending the indefensible for a small finance company that did not stay in business. As my responsibilities broadened I spent more time in the Commercial List. For my generation the most significant judicial force of the 1980s was Andrew Rogers. I was there at his first Friday list in December 1979 and frequently throughout the ensuing decade. I know that I am not alone in saying what a transformative effect he had on the practice of commercial law at that time.