

Kim Santow Memorial Service

Being sandwiched as a speaker between the Chancellor and the three Santow boys this evening was always going to be difficult. But having Kim here on stage, looking relaxed, hands in pockets, is totally unnerving.

Let me start by taking a backward step. For that, in a sense, is what we have all done these past few months as we heard the news about Kim.

Geza Francis Kim Santow was the son of an intellectual Hungarian father, an occasional mother and, as a young boy, was in the care of a governess who wrote letters to Aldous Huxley. When Kim was nine years old **he** wrote a letter ... to the local newspaper. It urged that all Australian children should be exposed to the music of Mozart.

Remember. This was not the Hapsburg Palace in the 19th century. This was Newcastle, New South Wales, in 1950. This was Kim.

Fortunately for Kim, a later stepmother with a knockabout Irish sense of humour, chipped away at the preciousness of the boy and if there was any left by the time Kim met Lee, she removed that pretty quickly.

Kim met Lee at a party in Sydney, wearing a short purple miniskirt. Just to be clear. Lee was wearing the miniskirt. Not Kim. I have seen Kim in some wonderful getups, but mini skirts, thankfully never.

As we know, sartorial elegance and Kim were permanent strangers. His unconcerned relationship with clothes, preferably old ones, simply said:

I am totally comfortable in my skin. Are you in yours?

His complete lack of self-consciousness; his ease with himself and with others.

And that was the magic of Kim. His ability to place his huge frame and towering intellect comfortably alongside you, never overshadowing, being totally present, taking great care. A man of genuine humility.

Kim was a big man in every respect - intellect; ideas, thirst for knowledge, appetite for food; generosity of spirit and big feet. In fact (as I remarked on his 60th birthday), the only thing small about Kim was Lee.

Never one to confuse the wrapping and the package though (for you will remember the first sighting in a short purple miniskirt), Kim found in Lee, the complete package.

One of those perfect symbiotic relationships of the natural world between big and small. They were a wonderful partnership, from which sprang three much loved boys, a succession of legendary cats and many wise and enduring things.

Kim loved the law and he loved Freehills. And the busloads of Freehills alumni here tonight suggest that it was mutual.

I spoke to Brian Page (who Kim regarded as his earliest mentor) a few days ago. Now almost 96, Brian regarded Kim as another son and said of him: "he was a gentle soul with a brilliant mind and an unusual patience and empathy. His ability with corporate law was legendary".

Kim joined the firm at age 20, became a partner at 24 and remained there for 33 colossal years. He loved the fact that it was a firm free of prejudice, open to all comers with talent, integrity and a preparedness for hard work. Of course, Kim had all of those.

Kim had energy, constant renewable energy and working alongside him at Freehills was to be in an intellectual and creative whirl. He was all action.

He was a one-man recruitment agency, forever in search of talent.

David Gonski, was effectively recruited when he was 16 after Kim heard him speak at his brothers' barmitzvah. He tracked **me** down in London, others from South Africa and many (dare I say it in this hallowed hall) from the University of New South Wales, recognizing, as Kim did, the creative possibilities between commerce and law.

Kim not only recruited, he mentored. He selflessly nurtured younger colleagues and nothing gave him greater pleasure than seeing them develop and fly. He provided for us, in return, a shady retreat for wise counsel and support.

Kim was also a walking library. Not only because of his knowledge, but because of the notes and books he always carried. His long arms were built for the purpose.

Elizabeth Nosworthy tells my favourite story of Kim and his documents.

Kim rushes into Elizabeth's office one morning (by the way, most Kim stories begin with him rushing into someone's office). He asks Elizabeth to meet him at a client later in the day on an important matter (of which Elizabeth knows nothing, but Kim promises to brief her at the meeting). Later, at the large client gathering, Elizabeth is there, but there is no Kim. 10 minutes go by, when a young solicitor brings in a large folder of Kim's documents and apologises for Kim running late. The documents are placed on the table in front of a vacant seat alongside Elizabeth and everyone waits.

And that is where Stanley Kubrick got his brilliant idea for *2001 A Space Odyssey*. Some of you will recall the "Dawn of Man" beginning of the film. The Apemen awake, to find a monolith has appeared in their midst overnight. They gather around nervously, mesmerised by its symbolic power.

And we cut back to the client's boardroom. Grown men and women, corporate executives and lawyers, stare in silent awe at Kim's papers, in the certain knowledge that within its depths, are the secrets of existence. Kim will reveal all when he arrives.

In fact, he never did. It was ultimately left to Elizabeth to wing it (for that is what good partners do) and then to lug the secrets of the universe back to the office.

Kim described Freehills as an exciting place. He made it so.

In those days, if you had a complex commercial legal problem and you got Kim and David Gonski in the same room, with a whiteboard and coloured marker pens, it was pure entertainment.

Two pinball wizards at the top of their game - shooting silver balls into play; driving them across obstacles; fingers on the flippers, accelerating balls outside the squares - arrows, red lines, blue lines; section numbers and then, bells ringing and lights flashing. Game over. Problem solved.

As I walked back to my office (wondering if Kim had ever played a *real* pinball machine), I knew I could not lose. Either, one day I would become a grown-up commercial lawyer. Or, if not, I could simply shelter behind them and pretend.

Kim was quite simply one of the best commercial legal minds this country has ever known and his contribution to the field of commercial law as a solicitor, as a judge and as a writer was monumental.

He helped take Freehills from a good small firm into a great large one, and he was at the forefront of many significant legal developments, often agitating for and securing important legislative change.

It was Kim who devised the structure for unifying Australia's disparate company's codes into a single uniform code. He was a driving force behind fundamental changes to the Trade Practices Act. He was the ancestral father to the Takeovers Panel and, more recently, was behind the changes to the Panel's powers, now upheld by the High Court.

Kim was always attracted to matters of public interest and when, in 1993, he was invited to the bench of the Supreme Court of New South Wales (only the second solicitor ever to be so appointed) he jumped at it. He spent 14 illustrious years there.

Kim said, in retrospect, that the short walk from Martin Place to Phillip Street, was the hardest thing he had ever done.

He recalls his first day in the Equity Court with Justice Young, simply to watch and listen. Justice Young heard the case and then issued a perfect ex tempore judgment at speed. Kim returned to his chambers in a state of deep despair, convinced that he should resign. There was no way, he thought, that he would ever master the art.

Well, he did. He stuck to it, reading and listening, building up slowly, following the advice of Justice Malcolm McClelland, that "you cannot put a foot wrong if you don't move your feet".

When Kim eventually learned to move his feet under the bench, he discovered the full stop. What joy, for, at Freehills, Kim had only known the semi-colon. It suited his stream of consciousness then, a thought within a thought within a thought.

They did not allow pinball machines into the Supreme Court and Kim became more deliberate, more systematic. You could say, more judicial. And full stops allowed him to place short sentences like building blocks set in concrete, one at a time, enabling him to construct tall judgments; widely reported judgments which, in many areas of corporate law, now stand as leading authority.

It is no surprise to those of us who worked with Kim at Freehills that Chief Justice Spigelman, at Kim's recent farewell from the Court, should remark on Kim's unique capacity as a judge of commercial matters and his ability to understand the law's creative potential to look for solutions. For, that was the Kim we knew.

In addition to his familiar commercial sphere, Kim loved his role as an equity judge. He saw it as reconciling the social and moral views of his father and those of Lee. As Kim put it at his recent farewell, it was akin to a healing operation, in a public hospital, with patients often poor.

It is also no surprise that the Chief Justice should affirm Kim's work at the bench as "animated with compassion and without any semblance of narrow prejudice". For, Kim's whole life was conducted in that way.

In his personal reflections only a few weeks before he died, Kim acknowledged that Lee had grounded him in common sense and had taught him compassion and the importance of due process. In short, he acknowledged that he became the judge he was, because of Lee.

Which brings us back to the portrait of Kim with his pet cat *Strudel* at his feet.

Someone, someday, will write the story for his grandchildren of *The Chancellor and the Cat* or, perhaps, *Strudel goes to University*.

It will be a friendly tale:

Of a big man, with a small best friend called Lee
He loved cats and people and they, in turn, loved him back
He liked to hear Mozart and Bach and the sound of his pet cat's purr
He was wise and just and did many good things,
But when people clapped, he became shy
And when he died, all the people of the land came and filled a great
hall, to say goodbye.

Stephen Chipkin

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