

**A SPEECH FOR THE FAREWELL OF THE  
CHIEF JUSTICE, THE HON J J SPIGELMAN AC,  
FROM THE SUPREME COURT**

**9.30am, Tuesday, 31 May 2011, Banco Court**

May it please the court. It is my privilege to speak not only as Attorney General of New South Wales, but on behalf of the NSW Bar Association.

Today we gather to farewell your Honour as Chief Justice of New South Wales - and to thank you for 13 years of energy, commitment and leadership – both on and off the bench.

Your Honour's journey to this place was extraordinary.

You were born on New Year's Day 1946 in Sosnowiec, a coal mining and steel city in Poland. At age three, you came to Australia with your parents and two brothers and settled in the beachside suburb of Maroubra, in Sydney's east.

You were educated at Maroubra Public and then Sydney Boys High, where you showed the first hints of your passion for justice.

You formed the Asia society to counter prejudices against Chinese students, and in the school magazine you condemned the White Australia Policy.

Then – at Sydney University – you were one of 30 members of Student Action for Aborigines who went on the Freedom Rides through some of NSW's most notoriously racist country towns in 1965.

In 1971, you were awarded the University medal for Law, despite what a former attorney-general, the late Jeff Shaw, described as “frenetic activity in extra-curricula matters and very sporadic attendance at lectures”.

Your first years out of university were indeed frenetic. You published your first book, *Secrecy: Political censorship in Australia*, and became a senior adviser –

and then principal private secretary – to Prime Minister Gough Whitlam.

You also served as head of Department of the Media before deciding to try your luck at the Bar in 1976.

You soon had a busy practice, and took only 10 years to be appointed a Queen's Counsel. It showed the quality of your work had won the respect of your peers.

One suspects the case which gave you the most satisfaction was acting for the National Rugby league in the Super league litigation. That is because you admit to being a long-time fan of the South Sydney Rabbitohs rugby league club.

Indeed, you remarked at your swearing-in that “it takes a lot for a Souths supporter to willingly wear rabbit fur.”

With your successor also declaring his allegiance, some might be wondering whether support for the bunnies is a prerequisite for a chief justice.

There is a tale, perpetuated in the NSW parliament, that David Williamson, was attracted to the idea of writing his play, Top Silk, by Your Honour's days at the bar.

A check with Mr Williamson led to the following response.

"I'm not sure that I wrote Top Silk as a result of Jim's stories, but I certainly used one of his lines in the play... "The line was the cab rank rule was - and I quote the play (and Jim) - "A rule devised to maximise a barristers income and minimise his conscience."

Mr Williamson said "It always got a big laugh".

Away from the law, you also served on numerous cultural boards, including the Film Finance Corporation, the NSW Art Gallery, Powerhouse Museum, Brett Whitely Foundation and the National Gallery,

When you took your oath of office 13 years ago you said you would be “dedicating my life to the law to a degree that I have hitherto managed to avoid”.

The state is grateful that you did.

You have been instrumental in creating links with legal and judicial bodies in Asia and the Pacific region, including the Asian Judicial Seminars.

Because of you, there are now bi-lateral judicial cooperation arrangements with Singapore and New York, which allow a question of foreign law to be referred to a foreign court for determination.

Your push for reform of domestic Commercial Arbitration legislation based on United Nations model laws have been vital in promoting Sydney as the venue for commercial dispute resolution in the Asia-Pacific.

You have overseen changes to caseload management, including the introduction of the Civil Procedure Act

2005. You reminded all of the importance of litigation being “just, quick and cheap”, and of the importance of the comma.

The results have been impressive: the NSW Supreme Court has had a civil clearance rate of more than 100 per cent every year for the past five years. The Court has the second lowest costs per matter in the country - and it leads the nation in resolving commercial disputes.

In the field of criminal law, you were the driving force behind guideline judgements on sentencing – the first of which was R v Jurisic on dangerous driving. This led to greater consistency in sentencing.

Your judgements on negligence law, revenue law and constitutional issues were rarely challenged ... and often adopted by other courts.

Though you ran a busy – and productive court – you also ran a happy court. Morale was high, due in part to

initiatives such as the annual Supreme Court conference, concerts by Justice George Palmer and the bar choir led by Justice Peter Hidden ... and other “bonding sessions”.

And your reputation as a scholar - with a penchant for challenging conventional wisdoms - grew.

Your McPherson Lecture Series on Statutory Interpretation and Human Rights received deserved acclaim.

Your lectures on Thomas a' Becket and Henry the 2nd to the St Thomas More Society became a book that was lauded as “fascinating and precise”.

In your Australian Day lecture of 2008, you suggested the overthrow of governor William Bligh in 1808 was not a result of too little rum but “the first attempt at town planning in Sydney”. So Your Honour has helpfully pointed us to the origins of the city’s preoccupation with real estate.

There have been many other times when you have stirred public debate. It might have been about manners in society or the obligations of the legal profession ..... or a reminder about the importance of judicial independence and the rule of law.

You have undoubtedly been a leader who has justified the public's confidence in the judiciary.

You Honour still had seven years before you would have been forced to retire, but one suspects this state's loss will be the nation's gain. After all, you are still a young man.

Last year you were appointed as chair of the National Library Council. Then there are your preferred pastimes – as listed in *Who's Who* – of “tennis, swimming and recumbency”.

There might also be more chances to show off your liking for Buddy Holly tunes.

Chief Justice, we are all in your debt. And it is a large debt.

Yet I am sure that debt will be repaid – with interest – as future generations acknowledge your contribution to the political, legal, cultural and intellectual life of New South Wales and Australia.

All that is left is to wish you, your wife Alice and your family well for the future.