

**FAREWELL ON BEHALF OF THE
WA AND AUSTRALIAN BAR ASSOCIATIONS FOR THE
THE HON SIOPIST J
ON THE OCCASION OF HIS RETIREMENT AS A JUDGE OF
THE FEDERAL COURT OF AUSTRALIA**

30 APRIL 2018

May it please the Court.

It is my privilege to appear on behalf of the Western Australian and Australian Bar Associations at this ceremonial sitting to farewell your Honour. It is also a particular personal pleasure.

Following the recent Farewell for Justice Gilmour, your Honour sought me out and gave me some ideas as to how you would like the Bar to farewell you. I trust I have complied with your Honour's injunction this morning.

At the outset, I need to inform the Court of a position of potential professional difficulty in which I find myself in appearing this morning.

That is, I hold a brief which challenges the validity of the amendments made to section 72 of *The Constitution* in 1977, by which the maximum age for federal judges was set at 70 years.

I am in a position to tell the Court that the applicant, Anne Siopis, whom I am instructed is known to your Honour by marriage, challenges the amendment on the basis that it infringes a number, and certain, of her implied constitutional freedoms. Hence, all that I say this morning is without prejudice to those proceedings which will be brought before a court of competent jurisdiction shortly, after section 78B Notices have issued.

Leaving aside such questions, the surprise is not at your Honour's constitutionally required retirement, albeit on a provisional basis perhaps, but rather, remains, at your Honour's appointment.

That is not, in any way, to suggest that your Honour was not eminently qualified for appointment.

Legend has it that your Honour came to the favourable attention of the then Commonwealth Attorney General by sitting next to him at a Dinner.

So much might be readily imagined. For if your Honour has faults, being a poor companion at a meal is certainly not one of them.

Rather, there was some surprise that the learned Attorney was charmed in circumstances where, not very long before while he was the Minister for Immigration, you had, as counsel on a *pro bono* matter, had the Minister come to this Court and explain why he should not be cited for contempt for having removed your applicant for judicial review.

Your Honour is a man of grand passions and is, sometimes, readily excited. It is fair to say that your Honour's grand passions were much excited by the Department's actions, and no-one was left in any doubt as to your Honour's views.

Nonetheless, as we know, the rest is history.

In the vein of your Honour's excitable passions there is a story told – no doubt apocryphal - of your Honour appearing as counsel before your friend Justice Ipp, again, perhaps, a person known for an excitable side to his personality.

As could happen, your application had not started well in that the Judge seemed firmly and volubly against you. This caused a reaction from your Honour; which then led to a perfect feedback loop or chain reaction of heat, volume and dare I say it intransigence.

Justice Ipp, apparently, stepped out of the loop first and indicated that he was now coming to the view that he should grant your application. Your Honour was still in the former moment, and was not going to accept any weak backing down by the Judge.

That led, so it is said, to the Judge revising his view as to whether he really was minded to grant your application. That caused your instructor to desperately leap over the Bar table from behind, grab a very big handful of your Honour's robe and tell you – not so *sotto voce* – to shut up and sit down.

That excitable side to your Honour's personality has not been apparent on the Bench. You have been a patient and careful Judge over your very many years of service.

That has been especially evidenced in the way that your Honour has dealt with self-represented litigants. Some of whom have directed language at your Honour that would make Malcolm Blight blush, but your Honour has remained calm and judicial throughout.

There perhaps can be no sterner test of one's commitment to deliver justice with no fear, favour or personal prejudice, when that is to be done in the face of such obvious and demonstrated hostility. Your Honour repeatedly passed that test with flying colours.

Indeed, your Honour has been known to quip to Registry staff that the growth in self-represented litigants in this Court could be attributed to the satisfaction they felt with the way their claims were dealt with, so that they kept coming back despite their lack of success.

Your Honour's time on the Bench has not dimmed your passion for your adopted Australian Rules Football. For anyone with time to listen, your Honour will critique various decisions made by the AFL over a number of years which have inflicted many, apparently grievous, slights and insults on your beloved Eagles. Time does not permit me to give even a small sample of these conspiracy theories.

Notwithstanding having never tried a jury case, your Honour has always been generous with your advice to your fellow judges about the jury system. I know that Carmel McLure, when President of the Court of Appeal, looked forward to the bi-

annual Dermie Lunch when she was able to receive the benefit of your Honour’s views on that topic (and many others).

Your Honour has been a huge presence in the legal profession and in the Registry of this Court. Your trademark booming laugh has been emblematic of that and it has been missed from every workplace that your Honour has left. It will be missed, I know, from this Court.

While your Honour was at Parker and Parker, apart from your exploits at morning teas and Christmas parties, your Honour was known as being unable to walk past the door of an office which contained two people talking without joining that conversation. Your Honour may be pleased to know that “doing a Siopis” is now a fully recognized “thing”, again, on the 23rd Floor of Francis Burt Chambers. In this Registry, your Honour has probably convened, by this mechanism, more Full Courts than in the whole history of the national Court previously.

Aside from being able to pass on tips to the Eagles coaching staff, I am sure that your Honour will continue your vigorous and disciplined exercise regime in retirement. To hear your Honour tell it, on most mornings you run along the beach at North Cott and then swim. Images of the beach iron-man event are invoked.

Some who have been able to observe this routine have been surprised to see that it mostly comprises of your Honour dropping a towel on the beach and trotting down to the water’s edge – that’s the run component – to wade into the water for a minute or two – that’s the swim component – to emerge a moment later looking for coffee and breakfast. It may be that retirement will permit a slight expansion to the regime.

The Bar acknowledges, and is most grateful for, your Honour’s long and conscientious service. We have always enjoyed appearing before you. Our system of justice and litigants have been the beneficiaries of your Honour’s dedication.

Your Honour's growing family is spread around the world and we wish you safe travels and a splendid, healthy, well-deserved retirement.

May it please the Court.

Matthew Howard