

ADDRESS BY
HIS EXCELLENCY MAJOR GENERAL MICHAEL JEFFERY AC CVO MC
GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA
ON THE OCCASION OF
FAREWELL DINNER FOR THE CHIEF JUSTICE OF THE HIGH COURT
GOVERNMENT HOUSE, CANBERRA
27 AUGUST 2008

May I acknowledge the traditional owners of the land on which we meet tonight; their wisdom, enduring history and culture.

Marlena and I are delighted to welcome you to Government House to farewell and wish well Chief Justice Murray Gleeson and his lovely wife Robyn.

We have adopted the practice of hosting gatherings for the Justices of the High Court and people with a strong interest or association with the Court, and so it is an additional pleasure to welcome members of the Council of Chief Justices here tonight.

Since we last met in July last year, Justice Susan Kiefel has joined the distinguished ranks of the High Court and Marlena and I welcome you this evening.

As this is the final occasion at which Marlena and I will have the pleasure of hosting this gathering, I should like to offer our best wishes to Justice Kirby on his pending retirement from the High Court. Justice Kirby is recognised as one of the outstanding jurists of his generation, widely respected for his legal ability, compassion and service to the community.

I also extend my appreciation to others present for the support you have offered me in the conduct of my constitutional and ceremonial duties as Governor General.

It is most pleasing to leave office in a week's time in the knowledge that the essential democratic and judicial institutions of our country remain in good order and in excellent hands.

In particular, the judicial expectations of the Founding Fathers so wisely laid down in our Constitution, prosper through the aegis of the High Court and the Federal, Family and Federal Magistrates Courts.

Ladies and gentlemen

Tonight, we farewell Chief Justice Gleeson.

His service to the nation and achievements over a lengthy and distinguished legal career will be well known to you all.

And the recent revelation in a weekend newspaper that he might have a post-legal career as an impersonator only adds to our regard!

There are many contributions upon which we could elaborate, but I will highlight just a few. These include setting out important principles on the independence and impartiality of the judiciary, the judicial review of administrative decisions, and the perennial topic of negligence. The Chief Justice has also made a significant contribution in the area of migration law, including citizenship and alienage, as well as the sometimes contentious issue of asylum law.

The exchange between Chief Justice Gleeson in the Gillard v The Queen appeal hearing in 2003 is worth noting, especially as it occurred on 1 April of that year:

'JUSTICE KIRBY: How big was the gun?

MR PEEK: We have it in Court and I was going to actually give a very brief demonstration of the cocking procedure later. Would it suffice if your Honour looked at it at that time rather than now?

JUSTICE KIRBY: Is it a big gun or a pistol?

MR PEEK: It is a pistol, I am sorry, your Honour. It is a Luger pistol and not a particularly big pistol. It is an automatic pistol, or a semi-automatic to be quite precise, rather than a bulky revolving cylinder pistol.

CHIEF JUSTICE GLEESON: If you are going to point it at us would you mind pointing it in the direction of Justice Callinan?

MR PEEK: I see.

JUSTICE KIRBY: I am glad I was excluded.

And then there was an even more illuminating episode from Chief Justice Gleeson's days as a barrister, representing Kate Fitzpatrick, the actor.

In her memoirs, Ms Fitzpatrick describes him:

'He was very still, gravely serious, had penetrating, almost unsettling, pale grey-blue eyes and a quiet steely voice.

After a few minutes of listening to him all I could see was a huge pale-grey brain in a suit.'

'He seemed powerful and determined but I was certain there were dangerous surprises lurking under the surface control ...'

'Waiting to cross-examine, Murray looked like a resting mongoose feigning disinterest as he sizes up dinner. At one point I swear he licked his lips. It was so quick it was almost imperceptible, but there was no mistaking his intention ...'

'Murray was incredible. When he cross examined he'd been a vivisector. When he summed up he was full of fire and anger...'

She later described him as 'the sexiest man I ever met', and the Chief Justice is reported to have commented in a subsequent media interview: 'She is a very discerning woman.'

More seriously, it speaks volumes for Chief Justice Gleeson's abilities that while many people achieve their greatest success near the end of their working lives, he has spent twenty years at the pinnacle of his profession as Chief Justice of New South Wales and then of the Commonwealth of Australia.

In this time, his reputation for hard work, a superb intellect, succinctness and compassion has been widely recognised and I know greatly respected by his judicial colleagues, the advocates who appear before the Court and the appellants over whose cases he has presided.

While there is an understandable reticence for his judicial colleagues to praise him in public, we can note the recent comments of Professor George Williams of the University of New South Wales, who stated that:

'…he's well-known for writing judgments that are concise, that are direct, that really do get to the nub of the question of law, and he has a very strong reputation as being one of the leaders of the court

over the last decade.'

'As a Chief Justice, you can look at his public role; he's someone who's spoken strongly on behalf of important legal principles, he's defended the court, and he's been prepared to get involved in the media in discussing some of those issues.'

And in a profession sometimes noted for its competitiveness, he has set a personal example of humility and courtesy which I am sure will be long remembered.

In my final address to the Parliament yesterday, I noted that 'the unrivalled reputation of the High Court for independence, leadership, wisdom, integrity and impartiality has continued' under Chief Justice Gleeson.

It is perhaps not widely understood that the responsibilities of the High Court as a mature and independent institution were established only relatively recently in its history, with the gradual abolition of appeals to the Privy Council, the change to allow the hearing of appeals only through the granting of special leave and the establishment of a permanent home for the Court with the other great national institutions of State here in Canberra.

Chief Justice Gleeson and his colleagues have been what we might term early pioneers in this maturing phase of the Court.

These changes have arguably increased the status of the Court as, in the words of Michael Coper: 'a powerful institution of Australian Government' as well as being our pre-eminent legal institution.

One of the hallmarks of Chief Justice Gleeson's term has been his circumspect balancing of the appeal and constitutional responsibilities of the Court with the emerging recognition of the Court as an independent Australian institution of the Australian Government, but beholden to no other power.

This brings to mind, the Boyer Lectures given by the Chief Justice and delivered in 2000, and in particular, the reference to the first Chief Justice of the Supreme Court of New South Wales, who wrote:

'…the judicial office itself stands uncontrolled and independent, and bowing to no power but the supremacy of law.'

The reference to the 'uncontrolled' nature of the judiciary reminds us that Australians place a huge trust in the individuals appointed to the Court to act honourably and in the nation's best interest.

That the rule of law is upheld, our democracy is stable and our nation prospers, reflects in no small way, the intellect, commitment, energy and judgement of the Chief Justice aided by his colleagues of the High Court in the proper discharge of their duties.

Chief Justice - we honour you for that achievement tonight.

As all of us who hold public office are aware, our spouses shoulder their own burdens in terms of the impacts of our work on family life.

Robyn has managed this inconvenience supportively and with grace over many years and Marlena and I and all present wish both of you every happiness as you embark on the next phase of life's great adventure.

Thank you.