

May it please the court.

On one approach it would have been very straightforward to prepare this speech. A simple listing of your Honour's achievements in many areas of law, law reform and human rights would occupy far more time than has been allotted to all speakers at this ceremony. But such a speech would not grasp the distinguished contribution your Honour has made to the law much less the humanity and empathy with which you made it.

An example of the latter qualities is demonstrated by the manner you approached people to speak at this ceremony. To be able to speak is both a privilege and a pleasure yet the manner in which your Honour issued invitations to speak and the enthusiasm your Honour displayed when the invitations were accepted made it seem as though the speakers were doing you a great favour. Nothing, of course, could be further from the truth but it does illustrate the great courtesy and empathy you have shown to your colleagues and practitioners alike over many years of distinguished service.

The Attorney has referred to the many previous judicial appointments you have held. I would like to refer to your time as President of the Court of Appeal. Prior to your appointment as President that court was, to say the least, no place for the faint hearted. If it were not accurately described as a bullring it took the notion of Socratic dialogue to a level never before heard of. Your Honour changed that. The courtesy and civility you

displayed to all those who appeared before you rapidly became the norm for the court. That did not mean that submissions were not subject to careful and at times intense intellectual scrutiny. But the manner in which it was done was designed and was effective to bring about the best in those who appeared before the court. This legacy has continued well after your departure from the court.

One thing that is commonly overlooked is that during your time on the Court of Appeal your Honour made significant contributions to areas of law other than those for which you are justly renowned. For example, in *Advance Bank Australia v FAI Insurances*, your Honour articulated the principles which should guide directors in the context of a contested election to a public company board. That judgment, not nearly as well known as many of your other contributions to the law, has since that time guided lawyers, the commercial community and recently the Takeovers Panel who have had to deal with this important issue.

Your Honour's distinguished contribution to the jurisprudence of this court is well-known and documented. In hearings you have displayed the same intellectual curiosity and courtesy as has always marked your career. Your judgments whether as part of the majority or in dissent have always illustrated a concern for principle, human rights and the rule of law.

The fact that your Honour's view on certain issues has been a minority view on the bench has received no small amount of publicity. Can I just say two things. First, the focus on your dissenting judgments entirely overlooks the contribution you have made to the majority view on any number of occasions. Second, the work of this court has always involved extremely difficult questions of policy and principle. Powerful dissenting judgments have a habit of highlighting the issues involved in the making of the decision, indicate where law reform is potentially required and provide to the court a guide as to what, if any, subsequent steps it should take in the development of a particular area of the law. It is for this reason that your Honour's dissenting judgments have been so closely analysed by courts, practitioners, academics and law reformers.

The burdens and pressures of the High Court would seem to encourage judicial monasticism. Not so for your Honour. Your Honour's extra judicial oral and written output has always been prodigious. Persons with a normal level of energy simply shake their head in wonderment as to how your Honour is able to do it. One of your former colleagues on the Court of Appeal somewhat mischievously and inaccurately summarised your Honour's speech making prowess in the following words:

*"He loves making speeches. It does not seemingly matter to whom. He will address any conference, association, eisteddfod, congregation, reunion, symposium, levee or dining club."*

The same former colleague even more mischievously and inaccurately said,

*“Recently he spoke to the Loya Jirga at Kabul on ‘the message of Islam’ and to a gathering of senior monks at Phnom Penh on the ‘necessity for silence’.”*

The community is lucky that you have not seen the necessity for silence. Your Honour’s extra judicial speeches and writings are not merely well worth reading but they have made a substantial contribution to many facets of the law, the legal profession as an institution, law reform, international law and international humanitarian law. The legal profession and the community generally are richer for your contribution and secure in the knowledge that it will undoubtedly continue.

On behalf of all the independent Bars of Australia can I thank you for your distinguished service and wish you many happy and productive years in the next phase of your life.

May it please the court.