

# *‘SWELLING THE RANKS OF THE PERIPATETIC UNEMPLOYED’:*

*the first decade of the  
High Court of Australia*

**BY PROFESSOR JOHN WILLIAMS**

*Dean of the Adelaide Law School*



**HIGH COURT  
OF AUSTRALIA  
PUBLIC LECTURE**

High Court of Australia  
Canberra

8 June 2011 — 6pm

COURTROOM ONE

High Court of Australia

8 June 2011 — 6pm

Refreshments to follow

*All welcome*

RSVP by 20 May 2011

# 'SWELLING THE RANKS OF THE PERIPATETIC UNEMPLOYED':

THE FIRST DECADE OF THE  
HIGH COURT OF AUSTRALIA

## ABSTRACT

'THE JUDICIAL POWER OF THE COMMONWEALTH shall be vested in a Federal Supreme Court, to be called the High Court of Australia.'

Despite this confident constitutional pronouncement, the establishment of the High Court of Australia was by far the most difficult of three branches of the new Commonwealth. By the end of 1905 members of the first High Court of Australia, all of whom were involved in the design of the Constitution, could reflect upon a most difficult two years in the life of the Court.

Even before its establishment in 1903, Australia's Federal Supreme Court had proven to be an institution that attracted controversy. Denounced by some framers as an unnecessary luxury, or worse a wedge

between Australia and the Mother Country, its size was diminished and the first Chief Justice was publicly criticised as unworthy of its high office. Its decisions were resented and ignored by the Supreme Courts, rejected by the Privy Council, and in 1905 two of its members seriously considered resignation after a protracted dispute with the Government of the day.

From these difficult beginnings the Court emerged to achieve the qualities that its supporters had hoped and desired. This lecture will explore the forces that were set against the High Court in the difficult decade when, to join the Court, in the words of one of its detractors, was to swell the 'ranks of the peripatetic unemployed'.



HIGH COURT OF AUSTRALIA



JOHN WILLIAMS joined the Adelaide Law School in 1997 as a lecturer, having completed his doctorate at the Law Program, Research School of Social Sciences, at the Australian National University. Prior to his appointment as

Professor in Law in 2006 he was a Reader at the Australian National University (2004-2005) and a Senior Lecturer (1999-2003) and Lecturer (1997-1998) at the Adelaide Law School. He has held visiting positions at the University of Victoria, BC (2007), the University of Cape Town (2001) and was the Menzies Foundation Fellow at Kings College London (2002).

John's main research interest is public law and in particular Australian constitutional law, the High Court of Australia, comparative constitutional law, federalism and legal history. In recent times he has developed his research to investigate water law and the regulation of the Murray-Darling.

He has held a number of Australian Research Council and national competitive grants.

He has been co-editor and founder of the *New Federalist*, and editor of the *Australian Journal of Legal History* (now *Legal History*) and the *Adelaide Law Review*. He is a member of the Editorial Board of *Legal History*.

John is a member of a number of academic and government committees including the National Archives Advisory Council, Vice-President of the Australian Association of Constitutional Law, and the advisory committee of the Adelaide Festival of Ideas and chairs the South Australian Fulbright Committee. He has served as a member of the Advisory Board of the Don Dunstan Foundation and UniBooks Pty Ltd. Since 2009 he has been a consultant to the Good Offices Mission as part of the United Nations peace process in Cyprus.

In 2001 he was awarded a Centenary of Federation Medal.



SECOND LECTURE

30 November 2011

*'EXTRA-JUDICIAL  
ACTIVITY BY HIGH COURT  
JUDGES: HISTORICAL  
PERSPECTIVES'*

by Professor Fiona Wheeler  
Associate Dean  
ANU College of Law  
The Australian National University

Professor Wheeler's research is primarily in the area of constitutional law, the judicial system and the history of the High Court of Australia. She is the author of numerous articles and book chapters and with Brian Opeskin co-edited *The Australian Federal Judicial System* (2000). Her doctorate on the separation of judicial power under the Australian Constitution was awarded the ANU's JG Crawford Prize.



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