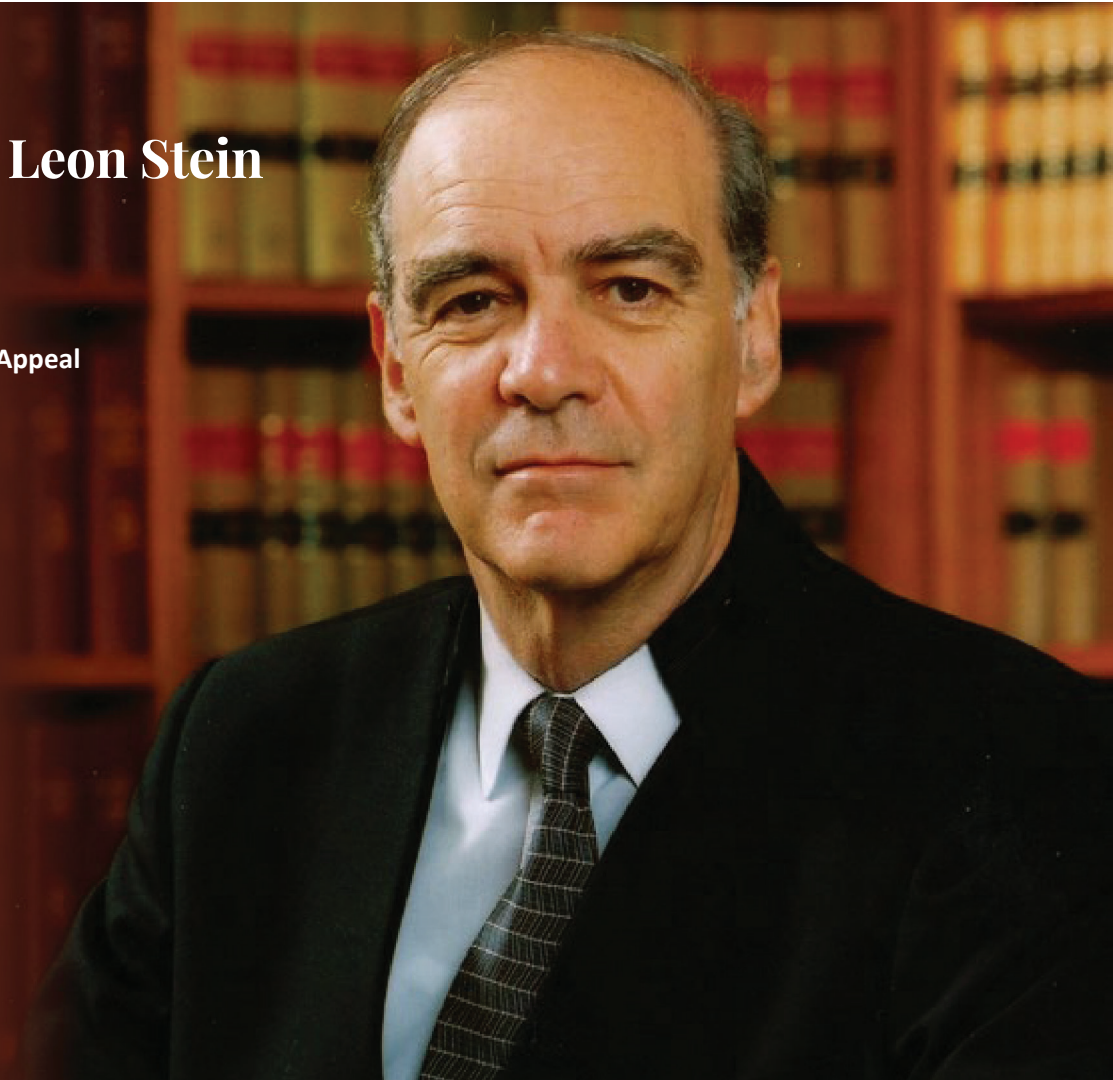


The Hon Paul Leon Stein AM KC

1939–2024

Barrister and judge of the
New South Wales Court of Appeal



Chris Ronalds AO SC
Frederick Jordan Chambers

Paul Stein AM KC had a lengthy legal career and is widely recognised as a leading environmental and planning lawyer from the early days of that area of law. He was called to the New South Wales Bar in 1961 and took silk in 1981. He was born in London in 1939 and came to Australia with his family in 1953. He went to Sydney Boys High School and then the University of Sydney.

During his time at the New South Wales Bar, he took a side track into state bureaucracy as the New South Wales deputy ombudsman (1977–79) and the president of the New South Wales Anti-Discrimination Board (1979–82). He chaired many organisations addressing social justice, including the board of the Law and Justice Foundation (2005–20) and the New South Wales Environmental Protection Authority (2007–12). He was made a Member of the

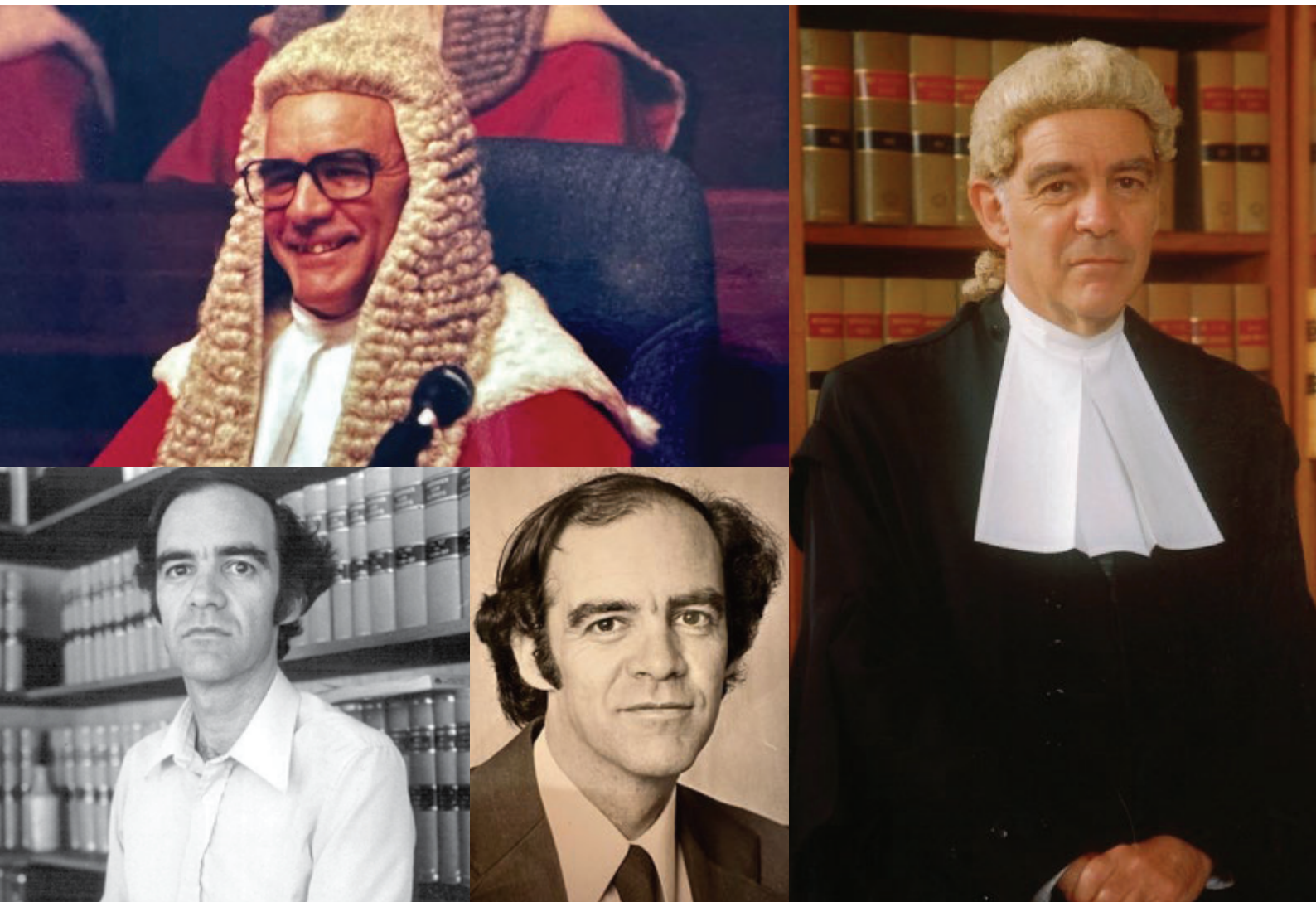
Order of Australia in 1994 for his service to the judiciary and the community. In 2009, the Law Council of Australia held a symposium to honour his significant contribution to environmental law.

He was appointed to the District Court in 1983 but departed enthusiastically as he loathed sending people, especially young Aboriginal people, to jail. He was appointed as a judge of the Land and Environment Court (1985–97) and was later elevated to the New South Wales Court of Appeal (1997–2003).

As former president of the Court of Appeal, Keith Mason AC KC, observed, ‘When he joined us in the Court of Appeal, I would encounter a resourceful, empathetic, always courteous and scholarly companion in the law.’ Counsel were relieved to see him on their court as he was universally known for being ‘nice’ and ‘kind’ to those appearing before him, unlike some of his colleagues.

He is remembered for his many groundbreaking decisions, such as *Corkhill v Forestry Commission (No 2)* (1991) 73 LGRA 126. His decision in *Leatch v National Parks and Wildlife Service* [1993] NSWLEC 191 was the first to incorporate the precautionary principle into New South Wales law. His decision on costs in public interest litigation was upheld by the High Court: *Oshlack v Richmond River Council* (1998) 193 CLR 72, as was his decision to hold that corporations could not claim privilege against self-incrimination as a company was not a person in *Environment Protection Authority v Caltex Refining Co Pty Ltd* (1993) 178 CLR 477.

Paul actively engaged in a range of activities to address critical societal issues such as elimination of corruption and discrimination against First Nations people and people with disability. After he retired from the Court, he chaired various local government planning panels and was instrumental in their broad recognition and enhanced role.



While he was president of the Anti-Discrimination Board, he decided that all counsel should sit during the entire hearing, especially when cross-examining applicants in sex discrimination proceedings, to reduce any intimidation. While opposed by many at the Bar as not ‘proper’ appearances, this innovation has continued and is the practice at the New South Wales Civil and Administrative Tribunal today; the reason for the introduction is long forgotten.

One demonstration of the respect and admiration in which he is held is that his former ‘tippies’ have a WhatsApp group and remain in contact despite not having actually worked together. Their only link is that they worked for Paul in his judicial role and all loved and admired him from working so closely with him. At Paul’s swearing out, it was said of the relationship between tipstaff and judge, ‘You have broadened this definition well beyond the envelope. In your case it encompasses teacher, friend, law lecturer, mentor, adviser, guide, counsellor.’

Another tipstaff remarked, ‘He’s adored by his “tippies” and he’ll be sorely missed by them.’

In the late 1980s and early 1990s, the misogyny of some in the New South Wales judiciary and some senior silks was open and vocal and extremely debilitating to battle. On a personal note, one day in 1991, I was having the most horrific time in the New South Wales Supreme Court when appearing before a deeply sexist judge. When I limped home, I thought I could never return to court. It was too brutal. I called Paul, and he was at my front door in four minutes. We then spent hours plotting and planning what I would do to survive and represent my client’s interests in a confident manner. With trepidation, I returned to court the next day and at lunch time, despite having to adjourn his own L & E Court early, there was Paul sitting in my chambers to check whether our plan was working or needed some adjustment.

Paul assured me that the court environment would get better and that such

appalling conduct by judges towards female barristers would eventually be shown to be not acceptable. He was correct, and such conduct in the New South Wales Supreme Court is now unimaginable.

His love of the bush is demonstrated by his second home in the small south coast community of Bawley Point, although he never ventured above knee height into the surf. He was the annual community cricket match umpire, and no dissent to his rulings was tolerated. Out was definitely out.

Paul was a deeply admired judicial officer, colleague and friend. Above all, as the tributes at his Celebration of Life showed, he was a family man who balanced the competing responsibilities of a demanding profession and life at home with his wife, Barbara, three daughters, Yasmin, Giselle and Jesse, and three grandsons.

Above all, he injected humanity and compassion into his professional practice and his interactions with those he cared for. And for that, many of us are forever grateful. **BN**