

Chief Justice Gleeson: "relaxed and friendly."

Bar News interviews the new Chief Justice

In 1979, speaking at the 20th Australian Legal Convention, you said: "Some of the qualities that are displayed by, and perhaps even account for the success of some of our leading advocates are antithetical to the qualities required of a judge." What qualities were you thinking of when you said that, in relation to: (a) barristers; and (b) judges?

(a) Competitiveness, aggression and the capacity to view a case with a keen eye to the interests of one of the parties to the litigation.

(b) Patience, courtesy and the concern for the interests of justice rather than the individual parties. I would be opposed to the use of anabolic steroids by judges, but I could understand how they could be useful to barristers.

You have been Australia's leading advocate for some years now. Presumably, you possess some of those qualities as a barrister of which you were speaking. Which do you possess?

The breeding of this question is by J.W. Smyth out of Jane Singleton. The flattery does not succeed in masking the sting. The answer to the question is: all of them, but in moderation.

Which of the qualities which you think desirable for a judge to have do you believe you possess and which do you think you may have to "grow into"?

I am constantly amazed at my own patience. I hope to be able to "grow into" the other qualities.

Do you anticipate having any difficulties translating from the Bar, not only to a position on the Bench, but to the job of Chief Justice of New South Wales?

Yes. I feel that I really have very little idea what it is like to be either a judge or the Chief Justice of New South Wales. However,

most judges that I have seen going about their business have taken a somewhat less adversarial approach to the problems before them than I have. I remember attending a speech in the Bar Common Room made by the late Phillip Jeffrey upon his appointment to the Supreme Court Bench in which he said that he had made a resolution that he would not, as a judge, regard it as any part of his function to endeavour to persuade counsel to agree with him. That sounded to me like a very good resolution, and also one that I will have considerable difficulty in keeping.

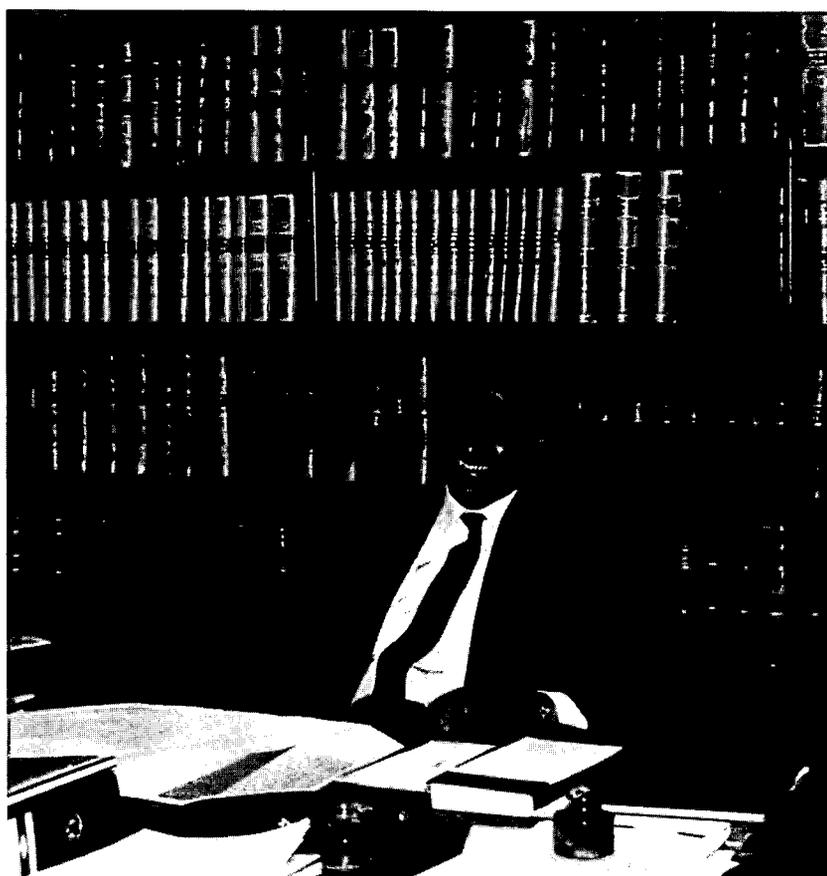
You also said in the same speech that there were some matters upon which judges did not speak up frequently enough, in particular, matters of public concern in the law and the administration of justice. Do you want judges to have a higher public profile on such matters?

Higher than whom? My observations were made in 1979. Since then some judges have assumed distinctly a high public profile. If I may, I would observe that the quotation from my speech is somewhat selective. What I in fact said (see 53 ALJR 346) was: "There are some matters upon which judges do not speak up frequently enough, and when they do, insufficient notice is taken of what they say. There are, however, other matters upon which some judges (fortunately, a relatively small minority) already have far too much to say."

I proceeded to give examples of what I had in mind as falling into the former category.

Do you think that, whether because of events of recent years concerning the judiciary, or generally because the community is more critical of professions than it used to be, the public image of the administration of justice has become tarnished?

Yes. Both of the factors referred to in the question have been at work in recent years. It is to be hoped that the first will disappear,



but the second is bound to increase. This is the age of consumerism, and litigants are encouraged to regard themselves as consumers of judicial services. However inappropriate such a notion may seem to a lawyer, it is by now well entrenched in the community.

If so, what steps will you be taking to restore it?

There are some aspects of the administration of justice of which public criticisms are well-founded. For example, the present level of court delays in New South Wales is simply unacceptable. This is a problem which is being expertly and diligently addressed by persons within and outside the Supreme Court, and if their efforts are successful then they will have achieved a major improvement in the public image of the court. I hope that I will be able to encourage and assist their efforts.

Do you perceive a role in the Supreme Court for a public relations/media liaison person?

No.

How do you expect to divide your time on the court between the Court of Appeal, the Court of Criminal Appeal and the administration of the Supreme Court?

Because of my complete lack of experience and because I only have a vague idea of what is involved in the work of administration, my estimate is likely to be completely unreliable. However, I would hope that I would be able to devote approximately 1/3 of my time equally amongst the three matters referred to in the question.

The Supreme Court appears to be going through a crisis in terms of having sufficient judges to hear the matters before it. How do you see that crisis being resolved or at least eased?

There needs to be a combination of two elements. There is, I think, undoubtedly a need for more judges and resources available for the administration of justice. However, it is unrealistic to expect that governments can be persuaded to seek to solve the problems confronting the operation of the courts by throwing money at those problems. They will only be induced to spend more money if they can be shown that the courts themselves are taking their own steps to promote efficiency. This is being done within the Supreme Court at the moment. A great deal of effort is being expended upon devising a program for reduction of delays. This is the sort of thing which might well encourage the

Government to give further financial assistance.

The High Court has decided that its members will no longer wear wigs and a full set of robes because of its purely appellate function. Do you think the Court of Appeal should follow suit?

This is not a matter on which I would wish to express a view without having heard what the judges think. However, I can't imagine that it would be appropriate to have one form of dress for the Court of Appeal and a different form of dress for other judges of the Supreme Court.

What sort of a court can we expect to see you run?

Relaxed. Friendly. A cosy place in which a just solution to peoples' problems can be sorted out as the result of a quiet chat between Bench and Bar.

What do you hope to see from members of the Bar appearing before you?

It would be impertinent of me to lecture barristers on their professional standards. I have no doubt that the Bar will continue to maintain its present high standards in that regard.

Do you see the increase in the mega-firms and in-house advocates as representing a challenge to the existence of the Bar as an independent institution?

Oddly enough, I see these circumstances both as representing a challenge to the existence of the Bar as an independent institution and, at the same time, as helping to ensure its survival. Nothing is calculated to underscore the need for an independent Bar quite so much as the viewing of a few episodes of L.A. Law.

If so, do you think that the Bar should change any of its practices in order to resist that challenge?

It is for the Bar Council, rather than judges, to make decisions on matters such as this. However, I think it is important to maintain flexibility. For example, the question of accepting instructions in relation to non-contentious matters from persons other than solicitors is one that will have to be kept under review.

Will you miss the Bar?

Yes.

* Believe that, and you'll believe anything! - Ed.

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