



*Sir Laurence Steet K.C.M.G. and Justice Morling*



*Tim Duchesne and Anne Quirk*



*Jo-Anne Wright and Ross McKeand*



*Tony Bellanto Q.C. and Kate Traill*

## Chief Justice Gleeson's response:

I am grateful to you for all for this splendid occasion and for the generous sentiments which you have expressed by your toast.

I am especially grateful to Gyles and Wheelahan for dealing with me so kindly. May I remark upon how much nicer their speeches were than at least one of those delivered at the last Bench and Bar Dinner which I attended, which was an occasion to honour my predecessor upon his retirement.

I have no criticism to offer concerning the speech made by Waddy on that occasion. Indeed, his natural sense of fairness and good manners was such that he was evidently constrained to abandon the prepared speech that he had written for the occasion and to deliver, as a reaction to the offensive speech made by Meagher, what could only be described as a hagiography concerning Sir Laurence. It is rather, the self-indulgent effusions of Meagher that I intend to contrast with this evening's dignified and generous speeches.

In this regard, I find myself the subject of some constraint because of events which have intervened between that occasion and the present time.

As I sat here listening to Meagher's torrent of abuse directed carelessly towards my predecessor and myself it never occurred to me as a possibility that the Government would pursue its shameless patronage of old boys of Riverview College to the length of appointing him to the Court of Appeal.

The result is that I am now inhibited in what I can say by way of response to that speech. You all know that when I was at the Bar wild horses would not drag from me a remark critical of a Supreme Court Judge. Now I am obliged to take every opportunity to shower Judges with praise. Furthermore, I have to respect Mr. Justice Meagher's sensitive personal feelings. You may remember that the public announcement of his appointment was preceded by a spate of rumours as to difficulties in relation to his health. His Honour, on the occasion of his swearing-in, referred to the acute personal embarrassment which he had been caused by these rumours and expressed the sincere wish that no future references would be made to the subject of his personal health. In those circumstances I desire to make some references to the subject of his personal health.

Most of the rumours that you heard were in fact true. Indeed, over the Christmas vacation Meagher travelled the world in search of accommodating medical opinion, and finally received it in a suburb on the outskirts of Morocco. The whole sorry affair has resulted in the addition of a new category to any formulation of degrees of impossibility. Henceforth, in ascending order, they can be stated as follows. First, there is a camel seeking to pass through the eye of a needle. Second, there is a rich man trying to enter the Kingdom of Heaven. Third, there is an Attorney General endeavouring to persuade a medical practitioner of ordinary standards of competence and probity to certify to Meagher's fitness. It should be added that the fitness to which I refer is not fitness to run in the City to Surf race, or even to act as the anchorman for the Court of Appeal's tug-of-war team at the Supreme Court Judges' picnic. I am referring to fitness to sit still for a few hours a day and listen.

But I must not dwell on this new, and somewhat rococo, ornament to the Bench. This gathering of Bench and Bar is a very happy occasion for me and acrimony is foreign to my nature.

You may be interested, Mr. President, to know that the tradition of mutual support and encouragement between the Bar and the Supreme Court of New South Wales, and in particular the Chief Justice of the Supreme Court, goes back to the earliest days of the Colony.

A well-publicised conflict between Sir Francis Forbes and Governor Darling, in the days when the Chief Justice exercised something like a power of veto over legislation enacted by the Legislative Council of New South Wales, gave rise to a mighty conflict in which the Chief Justice's principal, and perhaps, only supporters were the Bar. The Governor sought to exact a form of social revenge upon the Chief Justice which is described by Lady Forbes in a letter that she wrote at the time in the following terms:

"If we gave a dinner party, General Darling would issue invitations, at the last moment, to our guests, for the same evening, his invitations being headed 'The Governor Commands Your Attendance at Dinner' etc. and our promised guests would arrive at our house to make their excuses so that they might obey His Excellency's mandate. In order to save ourselves, and our friends, from this humiliation we ceased to entertain except at the usual Bar diners, when we felt sure of our guests as the members of the Bar were not subject to Government control."

There are two particular aspects of that extract from Lady Forbes's letter which are noteworthy. The less important relates to her apparent indication that the Chief Justice paid for Bar dinners.

That is a practice which has long since fallen into well-deserved obsolescence, and I can assure you that there is little prospect that it will be revived. The second aspect concerns the concluding words of the letter which I will repeat: "The members of the Bar were not subject to Government control."

I doubt that Lady Forbes was expressing a legal opinion. Nevertheless, I would like to think that her comments reflected, and continued to reflect, a profound truth. If it be the case that, going back to the earliest days of this colony, Governments have found, as two elements of the community "not subject to Government control" the Chief Justice of the Supreme Court and the Bar, then that is the way it should be. I trust that is how it will remain.

The Bar is a wonderful institution. I saw from reading a newspaper over the Easter weekend that some of its members make enormous incomes, and that they are fond of sexual gossip. In relation to the latter subject I regret that I have nothing to contribute. As to the former, my own ideas as to what is a proper sum for a barrister to charge have now crystallised. I regard the last fee which I charged as the maximum which is appropriate, in both real and nominal terms, and this view can

be expected to be reflected in disciplinary proceedings over the next twenty years.

That period will be one of great change both for the Bar and for the Judiciary. The tendency of change is often difficult to recognise for those who are living in the midst of it. However, I believe it is possible to make some fairly confident predictions.

One prediction that I believe can be made with a considerable degree of confidence is that relations between the Bench and the Bar will become even closer than they have been in the past because we will share an increasing number of common members. There used to be a famous, if apocryphal, story told about the Australian Golf Club, where Wheelahan is such a notable figure. It concerned a letter that was written by the Secretary of the Club at the request of the Committee to the Committee of St. Andrews in Scotland seeking a ruling upon an intricate problem which arose out of circumstances involving a golf ball coming to rest in the branches of a tree. The Committee of St. Andrews was invited to express an opinion upon what was the appropriate action to be taken in such

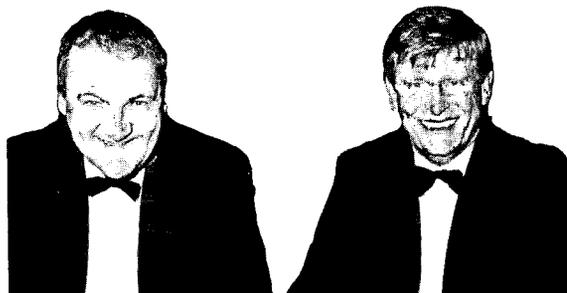
circumstances. The response came back: "There are no trees on golf courses". Only a few years ago I received a similar response from some senior English Judges and barristers when, as President of the Bar Council, I made inquiries as to the approach which the Bar should take towards the right of former Judges to return to the Bar and practice. I was told that

former Judges do not return to the Bar. As a proposition of fact that is manifestly untrue of Australia at the present time.

I have no doubt that, as an inevitable consequence of Government policies, a consequence that has been clearly drawn to the attention of the relevant Governments, what has in recent years begun as a trickle of Judges returning to private practice, either at the Bar or in firms of solicitors, will become a steady stream. The Bench and Bar will have to learn to accommodate this new circumstance. I have yet to make up my own mind whether I for my part will lift a finger to stop it even if I were able to do so. When I speak of Judges returning to private practice I mention particularly private practice as barristers or solicitors. There is, however, another form of private practice developing at a rapid rate in the United States of America. I refer to retired Judges returning to private practice as Judges. Depending on the extent to which these events occur they may have profound consequences, of a structural nature, for the Court system and the administration of justice in this country.

I have confidence in the survival and vigorous growth of the independent Bar. Nevertheless, I am sure that the next few years will see important structural changes in the organisation of the legal profession. I am constantly surprised at the ingenuous belief on the part of some who promote change in that regard that, once it has commenced, lawyers will have control of the direction which it takes.

For example, I hear solicitors speak of the advent of multi-



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