

# Some Thoughts on Courtesy

by Rick Burbidge QC

IT IS THOUGHT by many senior barristers that standards of courtesy within the Bar have fallen over the years. As one gets older the distant past tends to take on a glow which it lacked at the time, but I think that there is a measure of truth in the perception. This is to be expected where the Bar has grown from several hundred, all housed in much the same area and knowing each other by name, to now approaching two thousand and widely dispersed. Believing that part of the strength of the Bar as an institution derives from the courtesies traditionally afforded one another, I set out some of the matters which I have experienced personally, in the hope that, where failure to observe those courtesies stems from ignorance of their existence, they will be remedied. Perhaps others will add to the list.

## Behavior in court

- Where a number of counsel are in court it is customary for junior barristers to yield their seat at the bar table to any barrister senior to them. Generally speaking, the centre of the table is occupied by the most senior barrister present.
- In mention matters, one should yield precedence to more senior members. It is sufficient to look around

as one rises, yielding with good grace to an obviously more senior barrister.

- On ceremonial occasions, it is not good enough to arrive early, secure a place which you think roughly appropriate, and then sit stony-faced whilst senior late comers are left to find a position further back in the court, if they can. If senior practitioners turn up in numbers which you had not anticipated, then your gamble is lost, and you should make your position available. The fact that an even more junior barrister refuses to leave does not relieve one of the responsibility, though it is to be hoped that peer disapproval will dislodge the more junior barrister.
- It is inappropriate to offer any personal observation about one's opponent in court. Should some matter of offence arise, it is best dealt with by direct discussion outside the court, or in extreme cases, by letter to the Bar Council.
- It is discourteous to 'sledge' ones opponent, whether by interjection, snorts or facial and bodily movements. Nor is it wise: judges are not going to be impressed by such behaviour, and are certainly not going to permit it to influence the result. If your opponent wants to 'sledge', ignore it, or pause thoughtfully until he/she is finished.
- Authorities should be brought to the attention of the court and any counsel affected. Last minute additions should be signalled by facsimile or telephone. Obscure authorities and those discovered in the morning should be made available both to the court and opposing counsel by the provision of photocopies.

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## Formal occasions

Where there is a guest of honour and at functions where placecards are provided, it is customary to remain standing until the guest of honour is seated. On any occasion where the departure of the guest of honour is announced (eg. the Governor or Governor-General), it is customary to rise.

## The lifts

It is a courtesy to permit senior barristers to enter and leave lifts first, where this is practicable. The situation is here complicated by the question of whether gentlemen still give way to ladies, as once they did. Such a view may now be regarded as old fashioned, and perhaps by some offensive. Perhaps we should operate according to our own instincts.

It creates a very poor impression for counsel to be heard discussing their cases in the lifts. Apart from the obvious possibility that remarks will be reported to those interested, the public must wonder whether their confidences are being similarly exposed in another lift.

## Telephone

It is good manners to be on the line when telephoning

a senior barrister whether making or receiving the call, and it is obviously rude to allow any person to remain waiting to take a call which you have initiated.

## Courtesy to solicitors

It is within my memory that young barristers were on occasion rude, condescending and disdainful to their instructing solicitors, and solicitors with whom they came in contact. This conduct I suppose arose from a perception that the Bar is in some way superior to what was then termed the lower branch of the profession. This attitude when displayed rankled with solicitors, and I have no doubt played no small part in the enthusiasm with which many solicitors embraced the concept of a fused profession in 1993-4.

It would be well for all members of the Bar to remember that solicitor's formal qualifications are no different from those of barristers, that solicitors choose to be solicitors, that there are many fine legal minds within their ranks, and that their skills, though different, are no less demanding than our own. Whilst the Bar has in recent years confronted these facts with a consequent improvement in its behaviour, it is a warning still worth sounding.

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## CIRCUIT FOOD

# Like MacArthur... I Shall Return.

By John Coombs QC

**I**N A MISSION TO SEE *Shakespeare in Love*\* at the Cremorne Hayden, the party of the second part and I sampled Cannibals for the first time, but not for the last.

The decor is bright and although there is a lot of glass and a shiny floor, it is reasonably quiet, and the chairs are very comfortable for elegant modern.

We had no reservation and were limited by the session time. No problem. We sat at the top of the stairs on the high level side and were immediately offered drinks

and menus, and a request for bread was dealt with by delivery with the drinks. The first plus, pane toscano, baked on the premises, crunchy and full of bread flavour.

We ordered, and within a few minutes a complimentary appetiser was brought - a demi tasse of quail consomme with fresh thyme, just gamey enough for the thyme to shine, and quite delicious.

We shared a duck and coconut chicken laksa, which was spicy and hot but not too much chilli, with meat, a few greens and very thin noodles swimming about. A satisfying 'soup'.

Next we shared Guinness braised ox pie with mushy peas and spicy onion jam. Very English and very home-cooked with irregular fork-tine marks neatly around the edge and an elevated centre. Chunky, flavoursome beef in thick gravy was the centre and the pie sat on a bed of mashed mushy peas (correctly sweet) and in a shallow pool of

onion jam-flavoured gravy.

The whole thing was very rich and satisfying. The chef (Helen Walton) has eschewed the Californian anti-salt fetish and both dishes needed neither salt nor pepper, just something nice to wash them down with. Yarra Valley Pinot Noir seemed right for both courses, as long as some beer was handy.

Like MacArthur ... I shall return.

*\*Great movie!*

## CANNIBALS RESTAURANT

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Cremorne NSW 2090  
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Dinner: Monday to Saturday

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