

SPEECH – THE HON JUSTICE MALCOLM GRAY
LAW SOCIETY OF THE AUSTRALIAN CAPITAL TERRITORY
ANNUAL DINNER
2 NOVEMBER 2000

I was asked if I would say a few words at this dinner, but it was stressed that it should be short. I understood that, but I asked if I could have some suggestions as to content.

I was told that I might like to think about topics like:

- Yourself
- Your background
- Your achievements
- What attracted you to accept the position of Judge in the ACT
- Parallels between ACT and SA
- Recurring themes
- Things that have stood out
- Things that I have a particular interest in
- Things that I feel strongly about.

You will, of course, be comforted to learn that I was very, very, strictly told that all of this was to be given within less than 10 minutes. All in under 10 minutes? I think that I have used that up in just telling you about it. Perhaps I can now sit down.

No, I will attempt it.

The topics –

Myself

To talk about this would be madness. I want to cultivate an air of mystery. In any event, I dare not contradict anything that is said about me for fear that it will establish the truth of other things that are said.

My Background

It is true that I have had a diverse background, but I adopt the philosophy that Sercca adopted – it is not really productive to look back or forward, rather it is useful to concentrate on the present.

My Achievements

These are for others to list (or scratch around to find) because I know well the adage that anything said will almost certainly come back to haunt me or (in the language of the trade), at worse, incriminate me.

The attraction of the position

I was indeed attracted to accept the appointment to the position of Judge in this Court, partly because of the Gareth Evans defence at the time of the spy flights over the Franklin River – it seemed like a good idea at the time, but really for a more prosaic reason – I was

attracted to the very diverse jurisdiction exercised by the Court in its trial and appellant functions.

Parallels between ACT and SA and some things in which I have a particular interest

The most notable, of course, as far as this Society is concerned are the moves towards a fused profession such as exists in South Australia. I see that there are moves to further integrate the Bar into an amalgam in order to achieve this parallel with South Australia. As President of the South Australian Bar Association at the time of my appointment here, I must declare a vested interest in maintaining the independence of the Bar. An essential part of that independence derives from the Bar rules particularly in their provision for sole practice, payment of fees in the solicitor/barrister relationship and their detailed duties and responsibilities in the conduct of cases before courts and tribunals.

In any fused profession, there seems to me that there should be a correspondence between the rules that govern solicitor advocates and those that elect to practice solely as barristers. The Society's present Professional Conduct Rules do not fully address this issue. No matter what happens in these winds of change blowing around the profession, I certainly hope they do not compromise the Bar or an advocate's independence so essential for the performance of their function as officers of the Court. There seems to be much room for dialogue between the Law Society and the Bar Association about these matters.

You have very graciously put up with me for longer than I wished to speak. I thank you all for the warmth of your welcome to me and the support you have expressed.