

**Speech by the Hon Susan Kiefel AC, Chief Justice of
Australia at dinner held by the Bar Association of
Queensland
to mark retirement**

Friday, 27 October 2023

The last occasion on which I spoke at a Bar Association dinner was the dinner which marked my appointment as Chief Justice in 2017. On that occasion I reflected upon time passing and said that I appreciated it was marching on when I realised that my associate hadn't been born when I went to the Bar in 1975.

I have said on a number of occasions how much I enjoyed my time at the Bar and how grateful I was for how the Bar treated me as a very young barrister. At that time of course there were briefs that I could not have because clients would not be represented by a woman. Some solicitors' firms had a policy of not briefing women. But fortunately not all solicitors had this view and barristers certainly did not. In my early days at the Bar much of my work resulted from senior barristers encouraging solicitors to give me a chance.

Some judges of this time did not pursue a policy of discrimination when venting their anger on young barristers. Of course, not all of them were ill-tempered, but the few who were could make a day in court feel like a lesson in survival. One District Court judge could become so enraged, for no obvious reason, that his face would turn the most awful purple colour. We lived in constant fear that he would depart this life in the middle of our argument. Young barristers today know nothing of such hardships, having been spoiled by the more gentle manners of modern judges. Sadly, many of the judges in the time of which I speak were the product of experiences in battle in World War II. I don't think we appreciated this at the time.

The Bar at that time was very collegiate. It was much smaller of course than it is now which made it a tighter community, but I hope that collegiality is still a feature of the Bar. The Bar then had pretty much an open-door policy. Any senior barrister was available to offer advice to new barristers and I benefitted greatly from the guidance of many. I had never known collegiality before I came to the Bar and I took an understanding of its importance to the Bench.

By the time I took Silk solicitors had become more open-minded in their briefing practices, but some needed prompting, which was often provided by juniors I worked with. And some clients needed the reassurance of a personal assessment and a conference often provided that opportunity.

One such occasion involved George Brandis when he practised at the Queensland Bar prior to his election as a Senator and his appointment as Attorney-General. George is here tonight. He had been briefed as junior counsel in a competition law case. The law firm briefing him was an old establishment firm. He suggested they brief me as the silk. The firm and the clients agreed to have a conference with me no doubt for the purpose I have just mentioned. The clients were three livestock agencies that ran the Goondiwindi saleyards. My chambers were filled to overflowing with big men wearing moleskins, double-pocketed shirts, wool ties and elastic-sided boots.

For what follows, you must bear in mind that many people still smoked in the late 1980s. Things were a little stiff, awkward almost for a while, so I asked if anyone minded if I smoked. As expected, no one did. I then opened my desk drawer, took out a packet of Drum loose leaf tobacco and a Tally-Ho cigarette paper and proceeded to roll a cigarette by hand. I then licked one end of it (as one does), lit the other and drew back. There was an audible sigh of relief in the room. The rest of the conference went well. We won the case.

My experience was not that judges were averse to women Silks. If anything they could be **too** helpful. I was once acting for a newspaper which was

a defendant in a defamation trial before a jury. My opponent directed some personal remarks at me and this continued for some time. The judge decided to intervene. In front of the jury he said: "Mr X, I think you are playing the man and not the ball". There was much laughter from the jury. This was not especially helpful.

In my speech at the recent ceremony in the High Court to mark my retirement I observed that when I was appointed a judge, in the early 1990s, the prevailing view was that the appointment of women to the judiciary would be helpful to women in the profession and helpful at a societal level to encourage acceptance of women in positions of authority. This led to some women accepting appointment out of a sense of duty when they had hardly taken Silk. The prevailing view somewhat overlooked that such appointments also deplete the number of women Silks at the Bar, deprives them of the special experience of leadership as a Silk and of the possibility of appearing in appellate courts including the High Court as a Silk and denies young barristers, women in particular, of a role model and mentoring. I hope that women Silks today would not feel the same pressure to curtail their time as a Silk.

I also said at the retirement ceremony that I had learned to admire the Bar. I have been a barrister and a judge in total for nearly 50 years. In my view over that time the Bar has maintained the professional and ethical standards necessary for its continued existence. This is not achieved without barristers having a deep understanding of the role of the Bar in our society and a commitment to those standards which sets it apart as a profession.

I have much for which to thank the Queensland Bar. To all of that I must now add my thanks for this splendid dinner this evening.