

40th Anniversary of the Federal Court of Australia

Dinner Speech

Sir Gerard Brennan AC KBE GBS

You honour me by inviting me to speak at this Dinner when we are celebrating 40 years of the Federal Court's life and activity. The invitation is a tribute to my longevity as I think that Ray Northrop and I are the only survivors of those who took their oaths of allegiance and office as judges of the Court under the Chief Judge, Sir Nigel Bowen, on 7 February 1977. I rang Ray to ask him for any pertinent recollections. Now Ray was a devoted advocate of the creation of the Court and he rejoices in this celebration. One of his recollections was the good wishes he received from Lionel Murphy who congratulated him on his successful advocacy. But then I was left with the problem of saying something to the many here tonight who are giving or have given the Court its life and activity for the past 40 years. For nearly half that time I have been retired, freed from what Sir John Nimmo used to refer to as 'the tyranny of reserved judgements'.

Each of you or your partner has a more authoritative knowledge of the Federal Court than I can offer. I asked the Chief Justice to give me a list of some of the more notable judgments of the Court during the last 40 years and he kindly did so. I was tempted to talk about the fine jurisprudential quality of these judgments, for they do indeed show the research, scholarship and incisiveness of the authors but that would merely confirm what is already familiar to you. But then my son-in-law, Dan O'Gorman, who had attended the ABA Conference in Dublin, lent me his copy of Ruadhan Mac Cormaic's book on the Supreme Court of Ireland – a book which has escalated in the sales charts of that island of saints and scholars. It demonstrates that the life of a court is not exhausted by recounting a court's jurisdiction, the judgments it delivers or the legal principles it has defined. The life of a court involves more than is found in the reports; it involves the personalities of the judges, their relationships one with another and with the members of other branches of government, with the tensions that arise between them, with the sensitivity of the court to the changing culture and values of the community, with the style of advocacy, with the accessibility of the court to potential litigants, with the transparency and facility of the court's procedures and with the atmosphere and architecture of the courtroom. These are factors which shape the role that a court may play in the history of a nation. Courts have played an influential role in the history of the Australian nation, as we would expect in a nation which boasts adherence to the rule of law. So I must ramble a little over different aspects of the Federal Court's 40 years, perhaps reminding you of matters that are already familiar but stressing the novel growth of a federal judiciary in our federal Commonwealth.

This is a preview. Not all pages are shown.