Sir Harry responded

Assuming, as I do, that this gathering is not merely an expression of relief at my imminent departure, I feel very honoured by the fact that the Bar Council has arranged to hold this dinner for me and that you have paid me the compliment of attending it.

The New South Wales Bar is not only the most numerous, but also the most active and influential, of the bars in Australia. That is not say that it has a monopoly of wisdom and talent, or that all of its members are without fault or flaw. Indeed, as experience shows, the members of this bar, like those of others, are capable of ranging over the whole gamut of oratorical qualities from stubborn tediousness to scintillating eloquence. However, at all times during my life in the law, and I have no doubt ever since there has been a bar in Australia, there have always been, as there still are, barristers in New South Wales whose skills are of the very highest order. And because the bar here tends to take a bold and spirited attitude to the conduct of litigation, born no doubt of a sentimental attachment to the practices that predated the Judicature Act which New South Wales so belatedly adopted, one tends to look to the New South Wales Bar for fresh initiatives and for the setting of trends.

I do not need, in this company, to expound the virtues of a separate bar, whose existence I most strongly support.

However, I fear that the same view is not held by the community generally. At a time when a levelling egalitarianism is all the vogue, and change for the sake of change is orthodox, it is not surprising that there are many members of the public, and some of the legal profession, who doubt the need for the existence of a separate bar. Paradoxically enough, in a climate which is uncongenial to intellectual merit, the bar has so far fared better than most professions from a material point of view. That should not blind us to the fact that there are real threats to the continuance of the bar as we know it. One of those threats lies in the growth of the megafirms of solicitors, some of whose members seem to think that the emerging reorganization of the solicitors branch of the legal profession, with its reliance on size, specialisation and technology, will leave no place for a separate bar. Another is the influence of legal aid which, although highly desirable under modern conditions, makes a large section of the bar dependent on the public purse — a situation which must tend to undermine the bar's essential independence. A third threat may exist in the belief of some influential members of society that the bar provides costly examples of restrictive professional practices of a kind now distinctly out of favour. It is not surprising that members of public should suspect professional practices and traditions which they do not understand, and misunderstandings concerning the legal profession are revealed in unexpected places. For example, there appeared in the October number of the Australian Law News what purported to be a summary of a report by a committee which was set up by the Commonwealth Education Minister to review Australian studies in tertiary education. I do not know who the members of the committee were, but according to the report they said:

> "Law in Australia has tended to concentrate on that needed by the graziers and that needed to control convicts."

Mr Justice Morling and R.V. Gyles Q.C.

I do not think that a study of the law reports of any court in Australia, or of the statute law, would support that view.

The report went on:

> "There is an anachronistic concentration on what the law is and how it is to be applied, divorced from the social and historical context — that is, there is too great a concern for 'black letter law'."

The writers appear to regret that law students are taught what the law is rather than the law as someone wishes it to be, but I must say that a little knowledge of black letter law, in the sense in which it is used by the committee, would be nothing but an asset to any barrister appearing in the High Court. I hope that the bar can survive these threats, for I have no doubt that without a strong separate bar judicial performance would be very much the poorer and the protection of the public from the insolence of office will be very much the less effective. The survival of the bar may come to depend upon the success of its efforts to maintain its integrity and efficiency and to moderate the activities of any of its members who carry either cupidity or professional licence too far.

I would take this occasion to express my regret at the fact that the bars of the eastern States are in the course of withdrawing from the Law Council of Australia. I am not in a position to express any view as to the merits of the dispute which has led to this action. It is most unfortunate if it is right to say that the Law Council is devoting its time to advancing the interests of one branch of the profession over those of the other. However, I think it will be even more unfortunate, both for the bar and for the legal profession generally, if the Law Council ceases to represent the profession as a whole. When governments

seek advice concerning the law generally or the profession they naturally enough turn to one representative body and the influence of the bar is likely to be weakened if it speaks alone. I am sure that the bars are endeavouring to find some way of staying in the Law Council without jeopardising their interests and I hope that they succeed in their efforts.

I am of course not qualified to tell you what the bar ought to do, for it is over a quarter of a century since I practised at the bar. For most of that time I have sat in an appellate court. The task of an appellate judge is not always easy. His or her role, besides deciding the case before the court as justly as the law permits, is to endeavour to develop principles that will meet the needs of a changing society but which will nevertheless fit harmoniously with the general body of the law, statutory and non-statutory. That is a very different thing from elevating into legal principles one's own idiosyncratic views of justice. It is a different thing also from using a computer to scour the law books of the world, from Wyoming to Swaziland, in the hope of finding some pronouncements that will fit one's preconceived notions. So far as the actual administration of justice is concerned, the qualities of the judge who conducts the trial usually play a more important part than that of any appellate court. But of both trial judges and appellate judges it remains true to say, as Francis Bacon said four centuries age, "Above all things, integrity is their portion and proper virtue". The tide of social change has swept away many old attitudes but not, I hope, that one.

Although life on the bench is not as exciting or remunerative as life at the bar, it has many compensations. It is true that the last year has not been altogether pleasant. It has not been made easier by the fact that some members of the media have sometimes apparently acted on the view that the freedom of speech is so important that it should not be restricted by too meticulous a regard for accuracy or too nice a sense of decency. Nevertheless I have enjoyed all my life on the bench, and particularly the opportunity which it has afforded to make and continue friendships with members of the bar. I appreciate your kindness in making me an honorary member of the New South Wales Bar Association. Indeed when I have left the legal scene I shall be able to combat nostalgia by recollecting the pleasant association that I have had with the members of this bar, and to console myself I shall be able to say "Et ego in Arcadia vixi", which of course means "I too was a member of the New South Wales Bar Association". □