

## **Sir Maurice Byers Kt CBE QC**

10 November 1917 – 17 January 1999

President of the New South Wales Bar Association, November 1965 – November 1967

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On the 17 January 1999 the New South Wales Bar lost one of its most senior members and one of its most devout and articulate supporters. He was also one of the finest lawyers ever to practise in this country.

After attending St Aloysius College, Sir Maurice took his law degree at the University of Sydney and was admitted to the Bar on the 26th May 1944. He practiced initially from University Chambers at 167 Phillip Street. In 1957 he moved to the 10th floor of the then newly built Wentworth Chambers where he joined, amongst others, John Kerr QC and Gough Whitlam. His practice as a junior and later as a Silk was primarily in the fields of equity, taxation, company and constitutional law and he appeared frequently before the Privy Council. He took Silk in 1960 and continued his extensive practice at the private bar until he was appointed Solicitor General for the Commonwealth in 1973 which office he held for 10 years. He was President of the Bar in the years 1966 and 1967.

In his long career at the Bar both as Commonwealth Solicitor-General and in private practice there was virtually no constitutional law case of any moment in which he was not involved. He had as much to do as anyone who lived in the twentieth century with the exploration of the Constitution. His arguments were disarming, innovative and succinct. His success rate when appearing in the High Court in the years he was Solicitor-General remains unparalleled.

It has been said of him that he distinguished himself as a silk by listening to the views of his junior no matter how misguided. That has also been the experience of those who have been his colleagues, whatever their seniority. He was not only prepared to listen to his colleagues but unequivocally to support them if he thought any injustice might be done to them. His humility and generous spirit were exemplified by remarks he made at a dinner held in 1994 in his honour. He said:

But tonight we're together as barristers and as former barristers. We are all ministers of justice, sharing the one responsibility; each bound by the one duty owed to justice and having like immunities because of that. So that in what we do we are equal colleagues in the one undertaking whatever our function and whatever our age and whatever our experience.

He once remarked to his wife Pat in the early years that the thing he wanted most out of his career was to be the best constitutional lawyer in the country. He clearly succeeded in achieving his goal. There is equally no doubt that this country would have benefited had he been able to exploit his abilities as a Justice of the High Court. We were denied his contribution. Somewhat selfishly perhaps the Bar was able to enjoy his wit, his charm and his kindness for all of his practising life. The Sixth floor (which he joined in February 1984) was especially privileged by his daily presence even when he was not well. He remained uncomplaining, cheerful and always ready to listen.

The passing of a great lawyer like Sir Maurice Byers is not just a deeply sad event for his family, friends and colleagues but it removes an important and real link with our legal past. For example, his descriptions of the personalities who helped shape our legal system will remain as poignant portraits of them and present a unique perspective of our legal institutions.

At the 1994 dinner he provided the following description:

At this time the Victorians Latham, Starke and Dixon dominated the High Court. On the one occasion I was before him, Starke sat wigless and radiating menace. The others I encountered more often. Latham wore rimless glasses, was scholarly and dryly humorous; Dixon's angular face shone with vivacity, intelligence and a unique Mozartian charm. They were a powerful trio.

The Supreme Court was dominated by Chief Justice Jordan, around whose powerful figure his judicial colleagues orbited like so many attendant and mainly silent planets. The difference between the Courts was profound. The Supreme Court had long favoured a form of pragmatism where the likely social or legal disturbance that new ideas might give rise to became the test of their validity. That was not then and is not, I think, now the case with the High Court.'

He also commented on the same evening in conclusion:

I know the Bar faces a testing time. But we should be of good heart. An independent Bar has become an essential feature of the administration of justice in every court, State or Federal. If we maintain our rights, accept our responsibilities and realise that accountability for what we do is the price of control of our destiny, all will be well.

In the foreword to the 1995 reprint of Quick and Garran's *Annotated Constitution of Australia*, he described the authors as having devoted their lifetimes to the Commonwealth and its citizens. Sir Maurice Byers was also such a man.

We have lost a dear friend and colleague. He has however left us with memories that will endure.

Sackar QC  
6 Selborne Chambers.