

## The Last Hurrah!

The last Australian appeal to the Privy Council, *Austin v. Keele & ors.* was heard in late June and early July. Ireland appeared for the appellant, leading Ryan. Emmett Q.C. appeared for the respondents leading S.R.W. Emmett and Street.

At the conclusion of the hearing on 1 July 1987 the following speeches were delivered:

"Mr. Emmett: My Lords, I understand that after several false starts, perhaps false stops, this is the last appeal which Your Lordships will consider from the Commonwealth of Australia. It is therefore an appeal of some historical significance.

All of the counsel at Your Lordships' Bar in this case are novices before Your Lordships and I am sure we all regard it as a great honour to have appeared, first of all before this Board in any event, and secondly in this last appeal. I should perhaps in that regard observe that my learned juniors' family at least are not novices to this Board. Their father has been before the Board in two capacities, one as counsel and one of course as the other end of an appeal. Their grandfather and great grandfather also have been subject to appeal before Your Lordships although they never appeared before the Board themselves.

I understand that more eminent counsel than I have made remarks about the great contribution that this Board has made to jurisprudence in Australia and I can only endorse those. It has been a long line of authority from the Privy Council keeping the colonies on the straight and narrow path of the common law. No doubt we are now approaching our manhood. Our bi-centenary of course is due next year and it is perhaps appropriate, that, before that occurs, we have finally put ourselves in the position where we can look after our own affairs. Maybe our sister dominion across the Tasman will soon see the light and follow suit and I suppose it is also fitting that New Zealand is represented on the Board by Sir Duncan McMullin.

My Lords, I don't think I can say anything more than express the appreciation of Australian lawyers. Of course it has never been a great imposition to come across to appear in London — Wimbledon in early July and the like — and one has to accept those benefits with the burdens of overseas travel.

My Lords, may I say this, some two thousand years ago Catullus, lamenting the loss of his brother, made some remarks in one of his *Carmina*. '*Atque in perpetuum, frater, ave atque vale*'. Perhaps I could adapt that in translation — 'And so, forever, my Lords, hail and farewell'.

Lord Keith of Kinkel: Thank you Mr. Emmett. I am assured that this is indeed the last appeal, not only from New South Wales, but from any of the States of Australia. From time to time over the last year, when we had the last appeal from various States, I have said how much their Lordships have always appreciated hearing Australian counsel. The association has been a very happy one. Their Lordships have enjoyed having it and are indeed sorry that historical events necessarily lead to the conclusion that it must come to an end now. While it is a matter of regret there it is, things must take their courses. Their Lordships

have appreciated the argument in this present case very much indeed. It has been well up to the standard of advocacy which we're accustomed to hear from New South Wales and their Lordships will consider what advice they will humbly tender to Her Majesty.' □

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