



QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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1 April 2015

The Honourable T F Carmody
Chief Justice of Queensland
Chambers of the Chief Justice
QEII Courts of Law Complex
415 George Street
BRISBANE QLD 4000

By email: Associate.ChiefJusticeCarmody@courts.qld.gov.au

Dear Chief Justice

I refer to your letter of 29 March 2015 sent to the President of the Bar Association of Queensland and the Law Society of Queensland respectively which was published in the Courier Mail on Monday, 29 March 2015. In that regard the letter appears to have been given by you or your agent to the Courier Mail before it was published to the legal profession. Is that correct?

You state in the letter that it is your intention for the letter to be distributed to all members of the legal profession and, indeed, describe the letter as a "*direct letter to the membership of the legal profession*". I am a member of the legal profession and I have received it. I therefore take this opportunity to reply to you, although I reply in my capacity as Vice-President of the Queensland Council for Civil Liberties.

The current controversy involves disputes between your Honour on the one side and, it seems, all of the other Judges of the Court on the other. The Court is, on any view, now clearly deeply divided in that way.

I was very disturbed by the remarks made by Wilson J at his valedictory late last week. The overwhelming thrust of the remarks was that your occupation of the position of Chief Justice was causing major upheaval within the court. I note that

Watching them while they are watching you!

Justice Atkinson of the Queensland Supreme Court who is an officer of the Order of Australia is reported in today's Courier Mail as saying in court last week that everything Justice Wilson said was "completely true".

One of the complaints by Wilson J was that you, as Chief Justice of Queensland, described the other Judges as "snakes" and "scum". The use of such language would, of course, demonstrate a complete breakdown in proper professional relationships between you and the other members of the Court. I notice that in your letter, there is no mention of this allegation by Wilson J. Can you please advise whether in fact you have referred to other Judges of the Court as "snakes" and "scum". If so, then please tell me whether you consider that describing the Judges in that way demonstrates serious difficulties in your relationship with them?

Justice Byrne has been a member of the court since 1989. Over that period, his Honour has gained the universal respect of the legal profession. In his valedictory speech, Wilson J referred to your Honour's *"recent shocking, but unpublicised sacking of Justice Byrne, the Senior Judge Administrator – something which attracted unanimous condemnation and resistance from the Judges, and which they managed to have reversed"*.

I note that in your letter, you do not refer to this incident at all. Could you please advise whether you did in fact purport to sack the Senior Judge Administrator, and if so, the circumstances in which your Honour thought that was justified? If it is true that you sacked Byrne SJA, but later reinstated his Honour, then was that at the insistence of all the other Judges. Was it that you stood alone on the issue?

In your letter, you address Wilson J's comments concerning the appointment of a Judge to the Court of Disputed Returns. The procedure for appointment of Judges for the Court of Disputed Returns is an old one and one that is invariably followed. You explain in your letter though that:

"A primary purpose of the appointment practice is to ensure the appearance of neutrality. It will not always do that."

I understand that here the two Judges appointed under the practice were Boddice and Dalton JJ. Can you please explain the basis upon which it was thought that following the practice (which would have resulted in the appointment of Boddice and Dalton JJ) would not have "[ensured] the appearance of neutrality"?

Can you also explain what the facts and circumstances were behind what Wilson J described as (matters arising from the Court of Disputed Returns) was "unanimously condemned by the Judges".

Further, recent media reports indicate that emails and other documents relating to these matters are with the Queensland Attorney-General who has indicated she does not intend to publicly release them. The Attorney-General has indicated, effectively, it is up to the Judges to release the emails. I understand that a large number of media organisations and others have sought these documents by Right to Information. This process may take a large time being months or even longer. Their release should not be delayed when it is within your power to release them now. Will you release them now and if not, why not.

This letter is not intended to be disrespectful. I note the Council of Chief Justices of Australia in their published Guide to Judicial Conduct advises under subtitle '5.6.1 - Participation in Public Debate' - that "A Judge who joins in community debate cannot expect the respect that the Judge would receive in court, and cannot expect to join and leave the debate on the Judge's terms".

This letter is written reflecting that Guide to Judicial Conduct.

Yours faithfully

QUEENSLAND COUNCIL FOR CIVIL LIBERTIES



TERRY O'GORMAN
VICE-PRESIDENT