

is important: it demonstrates the independence of the barrister to the barrister, to the client and to the solicitor. No firm can imply 'This is "our" barrister.' Other consultant professionals have their own rooms and so it should be.

### 3. Cancellation Fees

Fees should be negotiated between the solicitor and the barrister at the time of briefing. No cancellation fee is payable unless it is agreed to by the solicitor.

But barristers sell time. If a block of time is required which may not be used then a cancellation fee can be and often is negotiated. In my experience such fees are at a compromise level and significantly less than would have been earned if the time was used. Such fees remove any incentive to "keep the case going" which is clearly in the public interest.

But sometimes such fees turn out to be unfair in practice even if in accordance with a prior arrangement. We must always be sensitive and flexible about fees. Solicitors have to deal with the lay client and we must assist where there are problems.

All fees must be negotiable and must be appropriate to the needs of the client for advice and appearance.

A formula for every case is very hard to achieve.

### 4. Appearances with solicitors

Barristers appear with solicitors if two counsel are required. We do not appear with solicitors for all the independence reasons outlined.

We have always supported the right of solicitors to audience, a fundamental departure from the English practice and we continue to support it. They can appear with other solicitors if they wish. We do not dispute that solicitors have important legal skills and that some have advocacy skills. But we are on about independence. With respect to them, the in-house amalgam advocates in the states where they exist lack it.

We firmly believe that our rule is appropriate, in the public interest.

### 5. Wigs and Gowns

We robe to emphasise to the client, to ourselves and to the world that we are first and foremost officers of the court. Our duty to the client although of enormous importance is in the end secondary to that.

In the context of the cab-rank rule this is important. It also emphasises that the individual barrister is "being" a barrister, not an individual in court, that a job is being done, not something personal.

Robes also tell the world we *are* those independent creatures, barristers. That of course is why the complaint is made: The mega firm wants to blur the distinction.

Included in this editorial is a photo taken at my English admission in 1988, with (inter alia) the Attorney General for the United Kingdom, Sir Patrick Mayhew.

I was in London for discussions with the leaders of the Bar of England and Wales about the Green Paper. I was much fortified by the vehemence with which they and he were prepared to fight for the independence of the barrister. All Australian barristers must be equally prepared. □

## Adrian Solomons - The Bar's Good Friend

Sir Adrian was born on 9/06/1922. He was, for 30 years, senior partner in the firm Everingham Solomons & Co. of Tamworth. He was the litigation partner of that busy regional firm and used the bar extensively.

We knew him as "Sol". He died on 20/12/1992. I first met him whilst he was studying law with the Sydney University Regiment Group after World War II. He had served in the 2nd AIF with distinction for 6 years, enlisting on turning 18 in 1940. He graduated BA.LLB in record time and joined Col Everingham's firm in 1949.

He was a Country Party/National Party stalwart, serving as Federal President from 1974-1979. He was a member of the Legislative Council in NSW for more than 20 years.

Although he briefed the bar extensively, his loyalty to it, its independence, and to the Rule of Law were demonstrated most obviously as a politician. When the Askin Government sought to abolish juries and the right to silence in criminal cases, it was his work in committees that stopped the rot.

When Frank Walker set about an attempt to fuse the profession, Solomons not only defended the Bar in committees and in the House, but also persuaded every single suburban and country solicitor to sign a petition pleading for the retention of the independent Bar. Although from a National it carried the Labor caucus.

But weeks before his death he was lobbying independents about civil juries committal proceedings and the like.

He was always available when needed.

His local community service was a byword. He was a music buff, a traveller, a reader. He was a loyal husband, a devoted father and a great friend. May he rest easy. □

John Coombs

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