



**Speech at a Dinner of Judges of the Federal Court of Australia
29 March 2012**

**The Hon. Justice Garry Downes AM
President of the Administrative Appeals Tribunal**

When I was appointed to the Federal Court of Australia and the Administrative Appeals Tribunal in 2002 it was Government policy to abolish the Tribunal and replace it with a less independent Tribunal to be called the Administrative Review Tribunal. The Attorney-General said to me at the time that I would either preside over the burial of the Tribunal or over its resurrection.

By 2003 the Government had decided to abandon the broad proposal for replacement of the Tribunal, but to persist with one aspect of it, namely the removal of the requirement that the Tribunal President should be a Federal Court judge. That proposal continued for another two years until it was abandoned in 2005 in rather dramatic circumstances. However, it would take me too long to tell you about that.

To say this was a traumatic three years for the Tribunal, and for me, is no exaggeration. I was appointed as President of the Tribunal five times, four of them as Acting President for a short period.

The ultimate resolution of the issue was considerably assisted by the support of the Administrative Review Council and the Law Council of Australia for

continuation of the requirement that the President should be a Federal Court judge. The Tribunal and I naturally remained neutral – if interested.

All of this caused me then to focus on the question and I have continued to do so. The requirement that a Federal Court judge should be the President of the Tribunal is an important one. It has the support of both major parties. It has the support of the Government's advisory body on administrative law. It has the support of the profession. It enhances the status of the Tribunal and supports its independence.

It has always seemed to me that the relationship between the two offices should not be token. That would undervalue the views of those supporting the link. It would honour form ahead of substance. I have accordingly sat regularly in Full Courts of the Federal Court – for at least part of almost every sittings over the last ten years. My trial work, however, is in the AAT. I have always attended these meetings and the Sydney judges meetings. I hope my successor does the same.

Apart from the standing which the requirement gives the Tribunal I have appreciated the opportunity it gives to remain in contact with the profession and to keep up contacts with colleagues. I enjoy occasions like these few days in Adelaide.

To say I have enjoyed my diverse existence over the past ten years is an understatement. I have enjoyed contacts with a range of colleagues. They began with close friends and colleagues like Brian Beaumont, Murray Wilcox, Roger Gyles, Dick Conti, Brian Tamberlin and Peter Hely. Arthur Emmett, who was in my year in both Arts and Law, remains. There are now newer – dare I say younger – friends and colleagues. I have enjoyed your company and I will miss it.

Thank you.