



## **ADMISSION OF LAWYERS\***

1. **BATHURST CJ:** Now that the formal part of the proceedings has ended, I would like to warmly welcome you to the Supreme Court of New South Wales.
2. Present with me on the Bench today is Justice ..... to my right who is a judge of the ..... and Justice ..... to my left who is a judge of the ..... Together we constitute the Court that has, in exercise of its jurisdiction, admitted you to practice.
3. Today is a day for celebration. It is a day which marks the culmination of your legal studies to date, when you can look back with pride and relief on those caffeine-fuelled nights spent memorising the entire provisions of the *Corporations Act*, on the extended periods in which your bedroom floors were lost under study notes populated by peppercorns, carbolic smokeballs and boilermakers and, just when you finally thought it was all over, on the hours dedicated to video conferences with your PLT coordinator while trying to hold down a practical legal placement. You have all worked incredibly hard to get here. But for many of you, that achievement would not have been possible without the support of your family and friends who are present here today. Today is a day for them also to share in your success, much as they have no doubt shared in your anxieties and anguishes over the years.
4. For this reason, everyone should feel that they are welcome here today. For non-lawyers, the ceremony you have just witnessed can feel quite foreign and unfamiliar, and you may be forgiven for thinking our fashion choices rather strange. I did have at least one young member of the audience last year ask if we were doing Santa photos after the ceremony; I was very sorry to disappoint.
5. But for all of the pomp and ceremony that attends such occasions, courts are places that “not only exist for the public but ... function in the

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\* I express my thanks to my Research Director, Ms Bronte Lambourne, for her assistance in the preparation of this address.

presence of the public”;<sup>1</sup> they are inclusive spaces that are open to all. It is in this spirit that former Chief Justice, Sir Laurence Street, used to say on this occasion, whenever a baby in the audience inevitably cried and the anxious parent would lurch towards the courtroom doors: “Don’t leave madam, everyone is welcome”. And so you all are.

6. The reason that we mark today’s occasion with these unique traditions is to celebrate your entrance into a new community.
7. *The community you are joining is one that spans great stretches of history.* The advocates of Ancient Greece are known to have sworn an oath of non-falsity just as you have today, while the oaths of the Justinian era, sworn by Roman advocates, still bear a direct textual influence on those given in modern times.<sup>2</sup> But we need not look beyond our own shores to find an impressive legal history. As my predecessor used to say, “the number of nations that have courts as old as the Supreme Court of NSW can be counted on the fingers of one hand”.<sup>3</sup> Today, you become inheritors and custodians of the traditions and values of all the lawyers admitted by this Court during the 193 years of its continuous existence.
8. *The community you are joining is one that spans generations,* the most immediate of which are represented here today in each of your movers. For some of you, this ceremony is a family tradition. For others, you may be the very first member of your family to be admitted to the profession, or indeed to finish tertiary education. Whether your movers be family, friends, mentors or colleagues they have each, at some point in the past, also participated in the same ceremony and sworn the same oath as you have today.
9. *The community you are joining is one that, increasingly, and to its greater enrichment, spans genders, cultures, ethnicities and religions.* The first woman to practice law in Australia was Grata Flos Greig. It is reported that on the occasion of her admission in 1905, the Chief Justice of Victoria, Sir John Madden, commented upon “the graceful incoming of a revolution”.<sup>4</sup> Looking around us today, we see the result of that

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<sup>1</sup> Rosemary Annable, *A Setting for Justice: Building for the Supreme Court of NSW* (2007: UNSW Press) 148 citing Sir Kenneth Street, “Proposed new law courts. Notes on Supreme Court requirements” (1957), Chief Justice’s Correspondence 3/5635 File 8 (State Records NSW).

<sup>2</sup> Carol Rice Andrews, “The Lawyer’s Oath: Both Ancient and Modern” (2009) 22(3) *Georgetown Journal of Legal Ethics* 3, 8-9.

<sup>3</sup> Chief Justice Spigelman, “Admission of Legal Practitioners” (Speech delivered at the Admission of Legal Practitioners to the Supreme Court of New South Wales on 25 August 2000).

<sup>4</sup> “Australian Lady Barrister”, *The Sydney Morning Herald* (2 August 1905), 7.

revolution; almost 60% of recent admittees are women.<sup>5</sup> It is a revolution that will continue as increasingly more women filter towards the apex of our legal system. The legal profession should be a microcosm of Australian society. In presiding over each of these ceremonies, I am in a unique position to witness the changing profile of the profession. As I look upon the array of diverse faces that constitute its newest waves, I am encouraged that we are closer to achieving that goal.

10. As you enter this new community, I hope you find, as I did, that one of its great strengths is its collegiality. As you face challenges in dealing with clients or superiors, or you have difficulties with your work, the support of your peers will be invaluable. Although it may be hard to believe, I was admitted quite a long time ago and was a barrister for some 35 years. Over that time, I lost my fair share of cases, certainly far more than I would care to admit. The other barristers on my floor could always be counted on to share my disappointment at the unfairness of the verdict, the sly tactics of opposing counsel, and most often, I regret to say, the obtuseness of the judge. I hasten to add that I do not include either of my fellow judges on the bench in that comment.
11. It is important to remember, however, that membership of this community comes with both privileges and responsibilities reflected in the oath you have just taken. You have each vowed to uphold three fundamental duties.
12. First, you have undertaken a duty to faithfully serve the profession. At its heart, this is a promise to protect and uphold the rule of law. On a good day, taking up such a cause might see you heralded as a hero, but often, you may find the clamour of the masses rise up against you. "Populism" is a term that has gained much traction these days as we are daily bombarded with lessons about how fragile the border between order and tyranny truly is. As a lawyer, you will be called upon to defend the rule of law in cases where populist sentiment may undermine it.
13. While it may be the burden of the lawyer to take on unsavoury clients and unpopular causes, posterity, more often than not, rewards those who stand up in the face of injustice. Think of the courageous lawyers who represented the Australian Communist Party against its dissolution at a time when Australian soldiers were fighting in Korea, the iron curtain had fallen over Europe and the domino theory was conventional wisdom. Ironically, it was Sir Robert Menzies, the prime minister who introduced the Communist Party Dissolution Bill, who is attributed with saying: "a

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<sup>5</sup> Urbis, "2015 Profile of the Solicitors of NSW", May 2016, available at: <https://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1149382.pdf>

lawyer is never seen to better advantage than when representing a client against whom every man's hand is turned".<sup>6</sup>

14. Despite the almost legendary reverence given to such cases, faithful service to the profession is found in the daily acts of lawyers; in the family lawyer who must balance their client's interests with that of the child; in the commercial lawyer who says to their rich and powerful client, "you have no case";<sup>7</sup> and in the criminal defence lawyer who must repeatedly answer that perennial cocktail party question "how can you defend someone who you know is guilty?"
15. But this duty is also a privilege; you have the opportunity to be involved in and influence matters of public importance. As the legal profession's newest recruits you are at the coalface of change, whether it be in competition law or refugee law; you are the profession's frontier and also its vanguard, you are responsible for injecting vitality and quashing cynicism.
16. Secondly, you have vowed to uphold a duty of competence. You now have the privilege of conducting yourself as a lawyer because you have proven that you are capable of processing and interpreting that vast and ever-evolving body of principles that makes up our common law. You have the unique privilege of being literate in the language of the law. Understanding the language of the law is not a question of becoming fluent in latin – much to the non-lawyer's surprise. It does, at times, however, involve the ability to translate tongue twisters such as: "Subject to subsection (4) of this section, subsections (3) and (4) of section twenty-five of this Act shall apply where the provisions of section twenty-three of this Act have effect as applied by subsection (1) of this section...".<sup>8</sup> I see all the non-lawyers in the room suddenly remembering why they chose not to pursue a career in the law. And yes, that was real legislation.
17. But in all seriousness, your ability to understand the language of the law, not merely as a technician who can recite the words of a statute or legal principle, but as someone who understands its spirit and underlying purpose, means you also have a responsibility to translate that language for others; to make it accessible and available; and where appropriate, to correct ignorance in public debate.

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<sup>6</sup> A M Gleeson AC, "Graduation Ceremony" (Speech delivered at the University of Sydney on 7 May 1999).

<sup>7</sup> Craig Collins, "Lawyerly Courage", 10 February 2017, available at: <https://legalworkshop.law.anu.edu.au/news-and-events/news/lawyerly-courage>

<sup>8</sup> *Land Compensation Act 1961* (UK), s 26(3) (as enacted), extracted in The Hon. Sir R Megarry, *A New Miscellany-At-Law* (Oxford and Portland, 2005), 90.

18. Finally, you have vowed to uphold a duty of honesty. Throughout your career I can guarantee that you will have to endure many jokes at the expense of lawyer's honesty and integrity. I'm also fairly certain that in deciding to study law, each of you probably had a close friend or relative who trotted out their favourite lawyer joke on cue. Lawyers have been the butt of literary gags for centuries, from Dickens' unforgiving portraits that paint the profession as peddlers of pedantry to Shakespeare's quick-fix for utopia: "kill all the lawyers".<sup>9</sup>
19. At a time when mistrust in institutions is rife, it is your duty to foster and preserve public confidence in the profession. Those stereotypes are fought on an individual level, by personally conducting yourself with honesty and integrity in your everyday practice. It is because, on the whole, lawyers do act ethically and professionally that, underneath it all, the law is a profession that is held in high regard. The measures of public confidence can be deceptive; you only really know it's there once it's gone.
20. And so you will each leave here today, some will go on to be barristers, some solicitors, some will choose criminal law, others commercial, some will work in-house, for the government or in local community centres, for some of you, this will be your first and final appearance in court, but you are all bound together by the oath you have just taken and the privileges and responsibilities it contains. On behalf of all of the judges of the Supreme Court, can I once again congratulate you on your admission and welcome you to the legal profession.
21. The Court will now adjourn.

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<sup>9</sup> William Shakespeare, *Henry VI*, Part 2, Act IV, Scene 2.