



**THE LAW SOCIETY
OF NEW SOUTH WALES**

Remarks for

Brett McGrath

President of the Law Society of NSW

Bicentenary of the Supreme Court of NSW

Date: 17 May 2024

Venue: Banco Court, Level 13, Law Courts Building of NSW

Time: 9.00am – 11.00am

May it please the Court.

I too acknowledge the Gadigal of the Eora nation, the traditional owners of the land on which this Court stands, and pay my respects to their elders, past and present. I acknowledge and extend my respect to all Aboriginal and Torres Strait Islander peoples who are with us today.

It is an honour to appear today on behalf of the solicitors of New South Wales, in front of this room of exceptional legal minds, Governor, Chief Justices, distinguished guests from across the Southern Hemisphere, and the eyes of history.

I would like to begin by discussing an IT specialist. I admit this is a high-risk anecdote to open with.

This individual asked about this address last week, and remarked drily, “sounds fascinating.” When asked if he thought that society would be better or worse without the Supreme Court, he answered honestly, “I don’t even know what the Supreme Court does.”

He was told briefly about the biggest legal issues in our community, and the role of the Court. Considering this, he remarked, “Yeah. I guess it would be worse without it.”

This person—he is real, this is not an act of perjury—he is worth keeping in mind today, amongst this celebration. Our universe, our legal world, alive with all the creatures of the law, is, after all, not the world of most people.

And yet, for two hundred years, today, this Court has overseen the calm application of law across NSW. Including, for our nameless IT specialist—without him even knowing it.

Like this individual I imagine we may all take this institution for granted, occasionally—although I doubt anyone would admit as much right now—under the gaze of the Chief Justice of NSW, and the Chief Justices of much of Asia Pacific. This is nevertheless the reality of being human, from time to time.

But our complexities, with all their philosophical and emotional nuance, are adjacent with a larger point. Energetically crackling away in the background, simultaneously, has been the same independent sense of justice that has animated the common law, for over a thousand years. Words passed from person, to person, which have been kept alive by probably over a hundred thousand people: Judges, Registrars, Registry and Court staff, lawyers, their staff, and clerks, and associates, for more than two centuries, here in New South Wales.

And for everyone in the legal profession, their journey starts right here, at one of the dozens of admission ceremonies which are held in this very courtroom every year. A legal career might lead all the way to the Bench before us and take many turns and unexpected paths along the way. Yet it always begins as a solicitor.

And the Supreme Court has honoured this part of its history, by introducing admission ceremonies and celebrations in regional NSW as part of the Bicentenary. As a profession, we have been grateful to take part in these events with the Chief Justice this year, from Albury to Kingscliff, from Newcastle to Campbelltown.

From their very first day in the profession, the solicitors standing before you, take a solemn oath that upholds human decency, reasonableness, and civility in the sacred administration of justice in this Court.

Without this, we would be much poorer. Without this, our IT specialist might very well wish for something like this Supreme Court.

Without its independence—which has been maintained since Monday, the 17th May 1824, when the Royal Salute from the Battery at Dawes Point rang out—after the first Chief Justice, Sir Frances Forbes, took his oath of office; without the work of the 18 Chief Justices; and hundreds of honourable Justices of this Court, we would have been much poorer.

Much has happened in 200 years, more than the scope of my time today allows. And this Court sits in a broader colonial legacy. Those wider consequences for the Aboriginal peoples who lived here for five hundred, or six hundred centuries, possible more, are frankly, deeply disturbing. The Myall Creek Massacre, as mentioned by the Attorney General, is tragically a lone example of justice being done in this state's earlier context.

It is also worth noting that it was not until the halfway point of this Court's history, in June 1924, that Marie Byles became the first female solicitor admitted to the profession. Ms Byles might not have foreseen that within four generations of her working life, women would come to make up 65 per cent of law graduates, and over half of the solicitors in the state.

What has happened in this Supreme Court, over the past two hundred years, has happened without serious incident.

There has been public controversy and friction between branches of the legal profession, and different attitudes to the application of the law. But no major incident has scarred this institution or disfigured it. It works in a complex, efficient, and prodigious capacity with an unbroken heritage.

The Supreme Court Act 1970, which reorganised and rearranged the Court, carefully stipulated that, "the Court as formerly established as the

superior Court of record in NSW is hereby continued.” The direct continuation of its foundation was, and remains, unbroken.

Around 40,000 matters were filed in this Court in the previous year—including over 30,000 uncontested probate filings. Only a comparative handful of cases were heard in 1824. As the law changes, and society and technology continue to expand, so too will the work of this Court grow. And solicitors will continue to assist in guiding the court in its determinations.

Similarly, the legal profession has supported this growth over the past 200 hundred years. There are, as I have been fond of saying at many public addresses this year, over 42,000 solicitors in NSW. However, there were just six solicitors recognised by Sir Frances Forbes to practise in this Court in 1824.

And it was not possible to appoint a solicitor directly to this Bench before 1968—and I note that the legislative reform was vigorously opposed by the Bar Association then. Thankfully, times have changed, in both senses.

From those of our roll, who have become justices on this Bench, from the first, the Honourable Kim Santow in 1993; to her Honour, Justice Julie Ward, President of the Court of Appeal, the first female solicitor directly appointed to this Bench in 2008, whose Honour sits here today.

Like their Honours, solicitors will continue to support this Court with everything our profession demands and asks.

For we bring to this Bench a deep understanding of the human side of the administration of justice. Representing those in the community who, just like the IT specialist, “don’t even know what the court does.”

It is my hope, as it is of the profession I represent, that in 200 years this moment is remembered. That it is done so as an unbroken part of the 400-year anniversary of this Court. And for centuries after that, and ever onwards.

As we have heard from the Attorney General the Supreme Court of New South Wales has been described as:

“the visible embodiment of the essence of the law—growth, change, and progress within continuity.”

That visibility begins right here. Our profession is growing, and as our numbers climb, they reflect the changing make-up of our diverse society.

We are many. But we are united. And the continuity of this Court remains.

As the Court pleases.