

Ceremonial Sitting - 17 May 2024 - Acknowledgement of Country

1. Mandaang guwu (thank you), your Honour. I so move. As is customary and culturally appropriate, I begin by acknowledging the Gadigal people of the Eora Nation upon whose land we gather today. I acknowledge their elders past and present. As at 1788 there is said to have been approximately sixty-eight (68) First Nations language groups within the modern territorial confines of the state of New South Wales. I acknowledge all First Nations and First Nations Peoples who are resident of and / or descend from First Nations whose land is within the territory of New South Wales and extend that acknowledgement to all Aboriginal and Torres Strait Islander peoples of this island continent. I also acknowledge their elders past and present.
2. I acknowledge my First Nations brothers and sisters who are present in this Court today as well as those who are viewing this ceremonial sitting online.
3. **Sovereignty was never ceded. Always was and always will be Aboriginal Land.**
4. I also acknowledge the judges of this honourable Court, and the plethora of distinguished guests from Australia and abroad who are present today whether in person or virtually.

5. On a day such as today, marking an anniversary of such significance as two hundred (200) years, before I yield, I take this opportunity to make some brief observations.
6. It is an achievement of great magnitude for an institution of any kind to have existed and continued for two (2) centuries. It is no easy feat to do so. The indiscriminate variables of change, chaos and upheaval are constants in the complicated collage of events that constitute human history. In order for institutions to survive, let alone thrive, they must be respected by the communities in which they exist. Degradation and decay of that respect can be fatal. Instrumental to maintaining respect, an institution must remain agile and attuned to changing attitudes and beliefs of the community in which it exists. On occasion, an institution must be prepared to be a progenitor or protagonist for those changes. This Court's engagement with and approach to First Nations People is an example of this court's demonstration of its capacity to evolve and adjust.

7. In 1836, Justice Burton in *R v Murrell* opined that ‘... the Aboriginal natives of New Holland [Australia] are entitled to be regarded by Civilised nations as a free and independent people’, however, **‘the various tribes had not attained at the first settlement of the English people amongst them to such a position in point of numbers and civilization, and to such a form of Government and laws,** as to be entitled to be recognized as so many states governed by laws of their own.’ Such reasoning would be unlikely to withstand scrutiny in this Court today.
8. Rather, it is now more than ever an excepted historical, anthropological, archaeological and legal conclusion that First Nations Peoples of Australia have for tens of thousands of years maintained systems of traditional laws and customs that indelibly connect them individually, collectively and spiritually to the lands and waters of their respective ancestors. That connection cannot and will not ever be broken.
9. The invitation of the Chief Justice to speak today at this auspicious event stands in stark contrast to earlier times, up until 1876 in NSW, when a First Nations Person was not considered competent to give evidence as a witness at a hearing before this Court. The absence of evidence from First Nations People meant that to this day there remain shadows on many hills and valleys of this continent, being the spirits of First Nations men, women and children whose lives were taken and for whom justice was never done.

10. The Chief Justice's authentic and heartfelt acknowledgement and recognition of past injustices to First Nations People is another instance of the Court engaging in reframing 'the view from a window that has arguably been carefully placed to exclude a whole quadrant of the [Country's historical] landscape' and aids the ongoing task of piercing what W E H Stanner described in 1968 as 'the Great Australian Silence'. By its actions this Court demonstrates its agility and capacity for change to better reflect the community it serves. Equally, it gives reason for confidence in those First Nations and First Nations People that come to this Court that they will obtain a fair hearing and the hope of just outcomes.
11. As the Court enters its third century, the prospects that the Court's chequered history of engagement with First Nations Peoples will continue to be relegated to a relic of the past and be replaced by a mutually beneficial and brighter future for all involved grows. In the coming century of this Court, as it continues to thrive and grow from strength to strength, it is sincerely hoped that the disproportionate interactions of the Court with First Nations People in the criminal justice system will decrease. A further modest aspiration is that the Court will see the appointment of First Nations Peoples amongst its ranks as judicial officers.

12. For those outcomes to manifest will require the ongoing commitment of this Court to continue to pivot from the previous ethnocentric mono narrative which constituted the bricks from which the wall of the Great Australian Silence was constructed to a shared narrative which makes space for the existence, recognition and mutual respect of the oldest living culture in the world.
13. On that note, I shall end as I began, *mandaang guwu*.