



Supreme Court
of New South Wales

**IN THE SUPREME COURT
OF NEW SOUTH WALES
BANCO COURT**

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 to my right and to my left. Together we constitute the Court that has, in exercise of its jurisdiction, admitted you to practice.
3. Traditionally, to be admitted as a lawyer, an applicant must have certain educational qualifications and be of good character. I was tempted to impose one more requirement. I proposed to the Admission Board that, as a precondition to you practicing, each of you would have to follow the Supreme Court on Twitter and Facebook. However, I was informed that I had no power to do this. Incidentally, our 'handle' is @NSWSupCt. Although we 'tweet' and 'post', I am also yet to get approval for the Court to start 'gramming' or 'snapping'.
4. On a more serious note, without recourse to social media lingo I only pretend to understand, I would like to congratulate you on your admission to the legal profession. You have all worked incredibly hard to get here. The ceremony in which you have just participated is very old. The first such ceremony was in 1824 and took place a few blocks away in the Georgian Public School, now the site of the David Jones women's department.¹ And so it has been the practice for 192 years that lawyers have taken an oath before judicial officers of this Court. No doubt, that is how long many of you feel like you have been studying.

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

¹ *Sydney Gazette*, 20 May 1824, 2, available at <<http://trove.nla.gov.au/newspaper/page/494854>>.

5. While you may think that your time as a student has ended, and no doubt your friends and family hope that it has, I am afraid your legal education is not complete. The law is a profession that demands constant learning. Although it might be hard for you to believe, I was admitted quite a long time ago. However, I am still learning new things, or, if I'm being honest, having them pointed out to me. Much of what I learnt at law school has been statutorily replaced, impliedly repealed, or, much to my chagrin, overturned by judges. However, this should not be a source of disappointment; the law is immensely fascinating in its continual development and evolution. You will be happy to know that not all of the laws you memorised will be repealed; some old laws do still slip through the cracks. For example, it is widely reported, although unverified, that it is still the law in Victoria that a person is forbidden to wear pink hot pants after midday on a Sunday.²
6. As a member of the legal profession, you have agreed to uphold particular ethical rules and values. Not only does the law regulate behaviour and provide a mechanism by which individuals can peacefully resolve their disputes, but it also serves as a safeguard; it restrains the exercise of power and enables every individual to assert their interests and defend their rights. The rule of law demands, among other things, a commitment to justice, equal application of the law to government and citizens, strict judicial independence, and an ability to access the courts. It is this enigmatic principle that you are now trustees of. You are tasked with preserving and strengthening the rule of law.
7. You are also now holders of an esoteric body of knowledge; and I am not only referring to your knowledge of whether you can eat a cabin boy while stranded at sea or bring a claim if you find a snail in your ginger beer. I am referring to your ability to understand the language of the law and its quality as an ever evolving body of principles, spanning the breadth of all aspects of

² See, eg, The College of Law, '5 Australian Laws not to break on Australia Day (...or any other day)', 25 January 2016, available at <<https://www.collaw.edu.au/insights/5-australian-laws-not-to-break-on-australia-day-or-any-other-day/>>; Maria Carnovale, 'loopy legislation', *Police Life: The Victoria Police Magazine*, December 2007, available at <http://www.police.vic.gov.au/retrievemedia.asp?Media_ID=24100>; Luke Foley, quoted in Crikey, 'Tips and rumours', *Crikey*, 17 November 2014, available at <http://www.crikey.com.au/2014/11/17/tips-and-rumours-1253/?wmp_switcher=mobile>.

society. Your ability to understand the language of the law gives you the power to contribute to its evolution and ensure that it is available, accessible and responsive to the needs and interests of all people, no matter their ethnic or cultural background, political persuasion or socio-economic position.

8. Lawyers in this state have a long and proud history of upholding the rule of law through courage and tenacity. In doing so, they have contributed to building a fairer, more tolerant and diverse society.
9. In 1838, the Attorney General John Plunkett braved intense public condemnation to successfully prosecute seven white settlers accused of murdering a Weraerai tribe in rural NSW. The case unambiguously established that all inhabitants of New South Wales were entitled to the full protection of the law.
10. In 1902, Ada Evans was the first woman to graduate from law at Sydney University. She managed to enrol while the Dean was overseas. As she was prohibited from practicing after her graduation, she campaigned tirelessly until the New South Wales Parliament passed the *Women's Legal Status Act*.³ The Act provided that women could be elected to parliament, hold government offices, be appointed to judicial office and be admitted to practice.
11. In 1967, the first pro bono initiative was created by a commercial law firm to represent individuals who had been arrested for protesting the South African apartheid regime.⁴ Since that time, pro bono work has been a central component of the legal profession's contribution to the community.
12. In 1965, a young Jim Spigelman, whose portrait hangs to my left, was part of a small group of university students who set out on a 'freedom bus' tour of NSW to call attention to discrimination against the Aboriginal community. Spigelman went on to become Chief Justice of New South Wales. In that same year, Gordon Samuels, who would later become a judge of the Supreme Court and Governor of this State, provided representation to young indigenous people who were protesting segregation by asserting their right to

³ *Women's Legal Status Act 1918* (NSW).

⁴ Maria Twomey and John Corker, 'Pro Bono at Work: Report on the Pro Bono Legal Work of 25 Large Australian Law Firms' (2008) 11(2) *Legal Ethics* 255.

go upstairs in a cinema.⁵ Some twenty-five years later, the dedicated work of a team of solicitors and barristers on the *Mabo* case contributed to finally abolishing the fiction of terra nullius in this country.

13. Now that you are admitted, you too will be called on to deliver fearless advice, speak out in cases of injustice, contribute to public discussion and ultimately contribute to our legal system's promise of 'equal justice under law'.
14. This promise, and the rule of law itself, depends, in large part, on public confidence in the administration of justice. Public confidence is enhanced if the legal profession reflects the diverse make-up of the community that it seeks to represent. Historically, the legal profession has lagged behind in this regard. While looking around you at the images of past Chief Justices on these walls, you might not have the greatest confidence that the legal profession has changed. However, throughout the years, there has been progress. Up until 1976, a year before I was admitted to the Bar, no more than two women commenced at the Bar in any year. Now, at the apex of our court system, three High Court judges, two state Chief Justices and three Presidents of state Courts of Appeal are women. Last year, I had the privilege of presiding over a ceremony in which the first indigenous person was appointed as senior counsel. We are clearly a long way off from a truly diverse profession. However, these statistics, and stories such as that of Ada Evans, the first female law graduate, should remind us of the difficulties faced in the past and encourage us to support initiatives that foster diversity and celebrate the breadth of the profession today.
15. Indeed, the paths that have led each of you to this ceremony are unique. You come from different homes, backgrounds and countries. The administration of justice will only benefit from the individual experiences and perspectives that you bring to your practice.
16. Finally, the performance of your ethical obligations as a lawyer will not always be easy. As lawyers, you may be tasked with providing resolution in situations

⁵ See The Hon Michael Kirby AC CMG, 'Honouring pro bono lawyering' (Address to Victorian Bar Pro Bono Committee, 2 April 2009) available at http://www.michaelkirby.com.au/images/stories/speeches/2000s/2009+/2348.Victorian_Bar_Pro_Bo_no_Committee_April_2009.pdf.

of deep crisis. You may have to find acceptable pathways through minefields of hostility when family or business relationships break down. In performing this role, it is important to keep in mind that you are now part of a professional community. 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. I was a barrister for some 35 years and over that time I lost my fair share of cases, certainly far more than I think I should have. 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 any of my fellow judges on the bench in that comment.

17. For all the lawyer jokes about us being dishonest and greedy that you will have to endure, you are today joining a profession that is held in high regard. You are now each custodians of the legal traditions that underpin our society. It is for this reason that we mark today's occasion with the ceremony you have just witnessed. Believe me, I am not wearing this wig because it is comfortable, much less because it is fashionable.

18. On behalf of the judges of the Supreme Court, I congratulate you on your admission and welcome you to the legal profession.

19. The Court will now adjourn.