

Ceremonial sitting to mark the 175th anniversary of the Supreme Court of New South Wales

17 May 1999

The Honourable JW Howard, Prime Minister

Chief Justice, Chief Justice of Australia, your Excellency, your Honours, Premier, Mr Whitlam, I have the honour and the privilege today to participate in this ceremony on behalf of the solicitors of New South Wales and to offer my congratulations on behalf of the Law Society of New South Wales to this Court on attaining its 175th anniversary.

It is of course a time when I believe, despite our reluctance as Australians over the years to think over much about our history and, as Mr Whitlam said, we have tended in the past to think of history as belonging to other countries. I do believe that as we approach the Centenary of the Federation of the Australian nation, and as Australians begin to ponder the fact that within a very short period of time there will be no Australians left alive who were personally associated with many of the seminal events which have given shape to the modern nation, we are, as Australians, becoming increasingly interested in and preoccupied with our history. We are finding new meaning to many of the institutions that have been important to our society over the years and no collective view, no institution, has been more important to the development of the modern Australian society than, of course, the rule of law.

We have many debates in our community about the desirability of writing a Bill of Rights into our Constitution. There is an ongoing debate, quiet on most occasions, as to whether the best protection of liberty is a robust common law or perhaps something that is more firmly rooted in statute, and it is not my role today to prolong or to add further dimension to that debate, except to express the view that in all the time I have been in public life I have held very strongly to the conviction that there are three great bulwarks to a democratic society, in its best sense: You need a vigorous and robust parliamentary system; you need a free press; and you need an incorruptible judiciary, and the courts of this nation, of which the Supreme Court of New South Wales is in many ways the exemplar, the courts of this nation, through the years, have demonstrated constant integrity, a constant discipline and constant incorruptibility. The willingness of courts to impose upon themselves, and particularly this Court, those disciplines, to impose those disciplines on its members, has been a constant reassurance to successive generations of Australians.

Of course the Court has changed. Of course the profession, which I had the honour of practising until I entered Federal Parliament, has changed. I am reminded of the more obvious changes; the far larger number of women. When I did my first year at the Sydney University Law School in 1957, something in the order of 12 or 15 in my year were women. When my daughter commenced that same year 35 years later, 52 per cent of her first year were women. The technological changes that have overtaken the practice of solicitors in the last quarter of the century would leave a person who had been out of practice for 25 years, which is my situation, returning to that practice, in many respects bewildered. It would have changed in so many ways, yet there is a continuity and that continuity is that the practice of a solicitor is the practice of public service. A solicitor has an obligation to serve clients. A solicitor has an obligation to honour the traditions of the profession. A solicitor has an obligation to honour the principles and the service of the law.

The law is a valuable bulwark against tyranny and a slide in authoritarianism. As we have seen only too sadly in one or two places recently, the first signs of a drift to authoritarianism is an apparent encroachment by the executive upon the absolute independence and the absolute integrity of the courts of a nation.

Your Honour, it is a privilege to extend, on behalf of the solicitors of this State, the members of the Law Society of New South Wales, our sincere congratulations on the 175th anniversary of this very distinguished Court, this great bulwark of freedom in Australia.

Thank you.