



**Supreme Court**  
of New South Wales

# IN THE SUPREME COURT OF NEW SOUTH WALES BANCO COURT

## ADMISSION OF LAWYERS\*

1. 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. I would also like to acknowledge the traditional owners of the land on which we meet, the Gadigal people of the Eora nation, and pay my respects to their elders past and present.
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 trying to memorise the entire provisions of the *Corporations Act*, summaries filled with peppercorns, carbolic smokeballs and snails in bottles, or the hours of trying to video-call your PLT examiner while holding down a job. You have all worked incredibly hard to get here.
4. For many of you, these achievements would not have been possible without the support of your family and friends. They have been there through the endless years of study, and are probably on the receiving end of your finely honed skills of argument and persuasion. I hope you take the time today to thank them for their support.

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

5. In participating in this ceremony today, you have become part of a tradition which dates back to the twelfth century.<sup>1</sup> The first admission ceremony in this Court was conducted in 1824, and it took place just a few blocks away, on what is now the site of the David Jones women's department.<sup>2</sup> It is out of respect for this long and proud history that we mark today's occasion with the unique formalities you have just witnessed – including our somewhat strange choice of fashion. I have heard that one young member of the audience once asked if we were doing Santa photos after the ceremony – I was very sorry to disappoint.
6. While we continue to respect these ancient traditions, the law and the profession must also evolve, keeping pace with changes in society. When it does not, injustice results. This year we celebrate the 100th anniversary of women being admitted to the profession. In 1902, Ada Evans became the first woman to obtain a law degree in Australia, but she was never able to practise, because of unjust laws excluding women from public life.<sup>3</sup> She campaigned tirelessly, the laws were changed, and Marie Byles later became the first woman admitted as a solicitor in this State.<sup>4</sup> Marie was told she would only ever be a typist. Instead, she ended up with her own practice in Eastwood.<sup>5</sup> As legal advisor for women's organisations in the 1930s, she helped change legislation which discriminated against women in marriage and property rights.<sup>6</sup>
7. We have come a long way since that time – the Chief Justices of Australia, Queensland, Victoria and the ACT are women, as is the President of the

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<sup>1</sup> James A Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (The University of Chicago Press, 2008) 295-300.

<sup>2</sup> *Sydney Gazette* (online), 20 May 1824 <<http://trove.nla.gov.au/newspaper/page/494854>>.

<sup>3</sup> Susan Purdon & Aladin Rahemtula (eds), *A Woman's Place: 100 Years of Queensland Women Lawyers* (Supreme Court of Queensland Library, 2005) 10.

<sup>4</sup> *Ibid* 22.

<sup>5</sup> Joan O'Brien, 'The Remarkable career of Marie Byles, first female solicitor in NSW' (1984) 22 *Law Society Journal* 558, 559.

<sup>6</sup> See Anne McLeod, *The Summit of Her Ambition: The Spirited Life of Marie Byles* (2016).

Court of Appeal and Chief Judge in Equity in this State. However, there is still a long way to go in improving both gender *and* cultural diversity in the profession. Community confidence in the administration of justice is enhanced when the people applying and enforcing the law are representative of the wider community. You each bring your own background and unique experiences to the profession, and in doing so, you strengthen it. But we should not forget the difficulties faced in the past, and this should encourage us to support initiatives that celebrate diversity in the profession today.

8. Now in joining this profession, you have agreed to uphold particular ethical rules and values. The role of lawyers as officers of the Court means you are subjected to a body of ethical rules that is different from, and more demanding than those that are imposed on ordinary members of society. At a time when mistrust in institutions is rife, it is your duty to foster and preserve public confidence in the profession. You can do this by conducting yourself with honesty and integrity in your everyday practice. You must be always be prepared to give the same answer to the same questions for the same reasons, no matter who asks it, for what purpose, or in what context.<sup>7</sup>
9. Today you also become a trustee of the rule of law. When I use that phrase, I am referring to the idea that everyone is both bound by the law and entitled to the benefit of the law.<sup>8</sup> Thankfully, most of us have never been arrested without cause, detained without charge or denied representation. But many people around the world do not have this experience, and the protections that have been won in this country cannot be taken for granted or whittled away. You now have a duty to ensure they are not.
10. One group of lawyers lived out this duty in the 1970s and 80s by travelling up to the Northern Territory to help enforce the rights of indigenous people in remote communities. Frank Vincent, who later

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<sup>7</sup> Stephen Gageler, '2011 Graduation Speech' (Speech delivered at the Australian National University, Canberra, 15 December 2011).

<sup>8</sup> See Tom Bingham, *The Rule of Law* (Penguin Books, 2010) 8.

became a judge of the Victorian Supreme Court, tells how he came across police officers in Court who had never been cross-examined in their entire careers and the routine practice was for Aboriginal people not to dispute police evidence or even contest their guilt.<sup>9</sup> On one occasion, he travelled to the remote community of Yuendumu, stood up in the courtroom, announced that he was appearing on behalf of all the accused and today everyone was pleading “not guilty”. He had never seen a more obvious look of horror than he saw on the face of the magistrate that day.<sup>10</sup> On the surface, it might have looked like people were being dealt with according to the rule of law – they were pleading guilty and being sentenced. But the lack of access to representation meant it was done in a fashion that was quite unfair to a great many people.<sup>11</sup>

11. It may seem that these days are long past. Unfortunately it is still the case that many people, too often, do not have access to adequate advice or representation. Ten thousand people each year go without representation, often against well-resourced legal teams.<sup>12</sup> Just in 2016, thousands of lawyers around the country took to the streets in their suits, robes and wigs to protest cuts to legal aid funding, as part of an ongoing campaign called “Legal Aid Matters”.<sup>13</sup>
12. The legal profession’s collective stance on this issue brought it national attention. It is an example of how each one of you can contribute to achieving greater access to justice and in turn, protect the rule of law. You can also do this by offering your skills pro bono, or volunteering in community legal centres. The worth of any society can be found in the

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<sup>9</sup> Jon Faine, *Lawyers in the Alice: Aboriginals and Whitefellas’ Law* (The Federation Press, 1993) 157-8.

<sup>10</sup> *Ibid* 157.

<sup>11</sup> *Ibid* 157-8.

<sup>12</sup> Law Council of Australia, *Legal Aid Crisis* (16 May 2016) <<https://www.lawcouncil.asn.au/media/media-releases/45-000-people-faced-courts-alone-due-to-legal-aid-crisis->>

<sup>13</sup> See Law Council of Australia, *Legal Aid Matters* <<http://legalaidmatters.org.au/facts>> .

extent to which the rights of its citizens are protected regardless of whether they are rich, poor, powerful or vulnerable, and especially when they are subject to disability or disadvantage, and unable to enforce it themselves.

13. In performing this function, you may not always be adored, like the Harvey Spectors or Jessica Pearsons of the world. Public criticism is often directed towards lawyers who abide by the rule of law, for example, by insisting on upholding the rights of the unpopular. But if lawyers do not, the courts cannot, and if the courts cannot, then nobody will.
14. You also protect the rule of law by sharing your understanding of the system with others. One of the most significant problems facing our society is the notion that knowledge is a bad thing, and that ill-informed or ignorant opinions are just as valuable as informed ones. When it comes to the law, this can result in reactionary legislation with unintended and far-reaching consequences. With your legal training, you now have the ability to articulate your opinions in a way that is understandable, listen to those who have concerns about our legal system, and where it is appropriate, correct ignorance in public debate. This is particularly so for those of you who end up using your legal skills outside the legal profession – perhaps in journalism, business or NGOs.
15. Those of you who do go into practice must also uphold a duty of competence. You now have the privilege of conducting yourself as a lawyer because you have proven you are capable of understanding our complex system of law. But the knowledge you gained at law school is worthless unless you retain it, strengthen it, and increase it. By continuing to update your knowledge you will be in the best position to serve your clients, and the wider legal system will benefit.
16. I must also warn you that failure and disappointments inevitably lie ahead. Fortunately, collegiality far outweighs competitiveness in this profession, and the support of your peers will prove invaluable.

17. Although you might find it hard to believe, I was admitted quite a long time ago. I lost my first case, and I lost many more after that. Throughout my 35 years in practice, 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.
18. Finally, when you become overwhelmed or disheartened, turn to the enduring things, like your family, partners or friends. Taking the sensible decision to cut back on your workload is not a sign of weakness, it is essential to longevity. From personal experience, I can tell you that this is how to sustain a lifelong career in the law.
19. On behalf of all of the judges of the Supreme Court, I once again congratulate you on your admission and welcome you to the legal profession.
20. The Court will now adjourn.