



**Supreme Court**  
of New South Wales

# IN THE SUPREME COURT OF NEW SOUTH WALES BANCO COURT

## ADMISSION OF LAWYERS\*

1. I would like to warmly welcome you to the first virtual admission ceremony at the Supreme Court of New South Wales to celebrate your admission as a lawyer of this Honourable Court last Friday, 14 August.
2. As we gather for this celebration physically dispersed, I would like to recognise the various traditional lands on which we meet. This ceremony is streamed from the land of the Gadigal people of the Eora nation. I acknowledge and pay my respects to the Elders – past, present and emerging of the lands on which we all work and live. As we celebrate your admission to the legal profession, I recognise the role which law played in the traditional societies of Australia's First Nations Peoples – the first legal systems of our country. I acknowledge that our laws failed to recognise the cultural heritage and rights of Aboriginal and Torres Strait Islander peoples for many decades and the dispossession and disempowerment this caused.
3. Present with me on the Bench today is Justice Bell to my right who is the President of the Court of Appeal. To my left is Justice Basten who is a Judge of the Court of Appeal. Behind me is Justice Hoeben who is the Chief Judge of the Common Law Division of the Supreme Court, and to his right is Justice Ward who is the Chief Judge of the Equity Division of the Supreme Court and to his left is Justice McCallum who is a Judge of the Court of Appeal.
4. In these unusual times, you have all completed your admission formalities remotely. You swore an oath or made an affirmation that you will truly and honestly conduct yourself in the practice of a lawyer of the Supreme Court of New South Wales and that you will faithfully serve as such in the administration of the laws and usages of this State according to the best of your knowledge, skills and ability. On Friday, your admission was recorded on the Supreme Court Roll of Lawyers.

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

5. This is a time for celebration. Friday marked 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 your carefully tabbed and annotated case summaries with the aid of an entire rainbow of highlighters, the many hours in lectures spent analysing carbolic smokeballs, eggshell skulls and snails in bottles, and just when you thought your student days were behind you, a few more months spent squeezing in PLT assessments. There can be no doubt that you have all worked incredibly hard to get here.
6. 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 seemingly endless years of study, and have also, no doubt, been on the receiving end of your finely-polished skills of argument and persuasion. Today is also a day for them to share in your success. I hope you take the time today to thank them for their support.
7. In participating in this ceremony today, you have become part of a tradition which dates back to the twelfth century when it first became common for those representing others before courts to swear an oath before being allowed to practice.<sup>1</sup> The first admission ceremony in this Court was held almost 200 years ago in 1824.<sup>2</sup> Testament to the enduring nature of these ceremonies, young lawyers just like you were admitted even during the midst of the Spanish Flu,<sup>3</sup> and World Wars.
8. You have made a commitment to uphold the rule of law, to administer the law competently, and with honesty and integrity, as have centuries of lawyers before you. It is out of respect for this long history that we mark your admission to the legal profession with the swearing of oaths or making of affirmations and for that matter our somewhat strange choice of fashion. Around Christmas time last year, when

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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) 295–304. See also Carol Rice Andrews, 'The Lawyer's Oath: Both Ancient and Modern' (2009) 22(1) *Georgetown Journal of Legal Ethics* 3, 10.

<sup>2</sup> J M Bennett, *A History of Solicitors in New South Wales* (Legal Books, 1984) 47, citing *Sydney Gazette* (Sydney, 27 May 1824) 2 <<https://trove.nla.gov.au/newspaper/page/494858>>. See also Carol Rice Andrews, "The Lawyer's Oath: Both Ancient and Modern" (2009) 22(3) *Georgetown Journal of Legal Ethics* 3.

<sup>3</sup> See Attorney General's Department, *New South Wales Law Almanac for 1921* (William Applegate Gullick, Government Printer, 1920) 62 <<http://www.lawalmanacs.info/almanacs/nsw-law-almanac-1921.pdf>>.

these ceremonies were held in person, one young member of the audience asked if we were doing Santa photos after the ceremony. I was very sorry to disappoint.

9. Despite this time-honoured tradition, this ceremony is a first. Never before has the Supreme Court of New South Wales welcomed a new cohort of lawyers into the profession by a virtual ceremony. This is what you could call a 'pandemic special'. You have all made history through your participation in this ancient, yet undoubtedly modern ceremony.
10. Of course, this is not the admission day you had imagined. You would be more familiar watching cat videos, beauty tutorials or food hacks on YouTube, rather than your admission ceremony. This is as strange for you as it is for me. I didn't know what a Vlogger was until last week, but I guess I am one now.
11. This virtual ceremony reflects the agility and dedication of the profession you are entering to delivering justice outside a bricks and mortar courtroom. Throughout history, our profession has proved itself adept at change and never more so than now. We transitioned to a virtual system of justice at a previously unimaginable speed. As you are experiencing right now, dining tables have become the new bar tables, family dogs the new courtroom security, and interrupting children the new rowdy members of the public. This transformation was only possible due to the commitment of the profession to ensuring that the wheels of justice continue to turn. This is something for which we should all be immensely proud.
12. Of course, this is not the only change that has occurred in the legal profession. For almost 100 years after the first admission ceremony was held in New South Wales, women were not allowed to be admitted into the profession.<sup>4</sup> A century later, in this state today, more than half of solicitors with a practising certificate are women,<sup>5</sup> and many of the most senior positions in the law are held by women including the Chief Justice of Australia and the Chief Justices of Victoria, Queensland and the ACT.

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<sup>4</sup> See Joan M O'Brien, 'The Remarkable career of Marie Byles, first female solicitor in NSW' (1984) 22 Law Society Journal 558, 559.

<sup>5</sup> 52.06% of solicitors with a practising certificate are women as at 30 June 2019. See The Law Society of New South Wales, *Annual Report 2019*, 20 <<https://www.parliament.nsw.gov.au/tp/files/77222/Law%20Society%20of%20NSW%20Annual%20Report%202019.pdf>>.

The profession is more diverse than ever before, and this is something we should celebrate.

13. Of course, there is still a long way to go in improving the diversity of our profession. I am the first to admit that there are more people that look like me in senior positions in the law than look like anyone else in the community. Systemic barriers, inappropriate workplace behaviour and prejudices continue to hinder women and those from diverse cultural and socioeconomic backgrounds from fully and equally participating in the legal profession. This must change.
14. Our profession is only so strong as it is diverse. Public confidence in our legal system is founded on the profession serving the entire community, rich or poor, privileged or vulnerable. An inclusive profession also strengthens access to justice by providing culturally and gender sensitive services. No one, irrespective of their gender, sexual orientation, ethnicity, religion, disability or socioeconomic background, should be left out or left behind from pursuing a career in the law.
15. But when we look back at how far we have come, I am confident that these barriers can also be overcome. This is a period of great change in the legal profession. There is an increasing recognition that more must be done to ensure all lawyers have a safe workplace free from sexual harassment, discrimination and bullying. The normalisation of working from home will make the profession more family-friendly long after the pandemic passes and recent changes to the Legal Services Award will better protect the wellbeing of graduate lawyers.<sup>6</sup> I believe that the pace and scale of this change is cause for great hope.
16. You are becoming lawyers at a time like no other. Our world is reeling from the turmoil of a global pandemic, which has generated fear and uncertainty, destroyed livelihoods and curtailed movements across suburbs, states and countries. Despite the crisis, the rule of law has not been suspended. In fact, it is more important than ever. History has taught us that human rights are at their most vulnerable in times of crisis. When significant decisions are necessarily made with great speed and without precedent, parliamentary sessions are suspended, and unprecedented powers are given to Executive Governments and their agencies, the role of lawyers in upholding the rule of law is more crucial than ever.

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<sup>6</sup> See Fair Work Ombudsman, *Legal Services Award 2020*, 2 July 2020 <[http://awardviewer.fwo.gov.au/award/show/MA000116#P70\\_2318](http://awardviewer.fwo.gov.au/award/show/MA000116#P70_2318)>.

17. The scale and severity of the pandemic has raised complex legal issues that strike at the heart of our democracy and civil liberties. How do we balance public health and the right to freedom of assembly? How do we ensure expanded police powers are used in such a way as to protect the community? How do we enable those fleeing persecution to exercise their right to seek asylum in the face of travel bans and border closures?<sup>7</sup>
18. As lawyers, the commitment you have made to uphold the rule of law is critical to ensuring that emergency measures balance public health considerations and civil liberties. This balance can only be struck in an environment of contestation and scrutiny by lawyers bringing matters before the Courts. Our profession plays an essential role in ensuring that emergency measures are transparent, proportionate and applied in a non-discriminatory manner.
19. At the same time, it is more important than ever that we connect the law with its profound human implications. The impact of the law on our lives has never been so pronounced. Lockdowns, border closures and travel bans necessarily impact our freedom of movement and in the process, our access to and enjoyment of many other rights.
20. As lawyers, we have a special responsibility to uphold the rule of law by ensuring that the pandemic does not undermine access to justice. As a profession, we must be vigilant in protecting the rights and dignity of those disproportionately affected by emergency measures. We must ensure that even the most vulnerable have access to quality legal representation and to the full benefit of the law. We do this when we use our legal training to help vulnerable workers navigate their employment rights in times of illness; when we use commercial law as a tool to lighten the pressures on small businesses devastated by the restrictions; and when we help survivors of domestic violence in lockdown with abusive partners access legal services.
21. Our commitment to access to justice requires us to be particularly astute to the injustices facing Aboriginal and Torres Strait Islander communities. The Black Lives Matter movement has brought the racism, inequality and abuses of power that have haunted our nation for so long to the forefront of public consciousness. This year

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<sup>7</sup> See, eg, Kate Ogg, 'COVID-19 Travel Bans: The Right to Seek Asylum When You Cannot Leave Your Homeland', *Andrew & Renata Kaldor Centre for International Refugee Law*, 16 April 2020 <<https://www.kaldorcentre.unsw.edu.au/publication/covid-19-travel-bans-right-seek-asylum-when-you-cannot-leave-your-homeland>>.

marks 250 years since Captain Cook first landed in Australia. Despite this significant passage of time, the Black Lives Matter movement has exposed that our criminal justice system remains a tool of injustice for Indigenous Australians, who are one of the most incarcerated people in the world.<sup>8</sup>

22. The Black Lives Matter and #MeToo movement present a challenge for our profession to ensure that calls for change do not pass without systemic reforms. As lawyers, we are called upon to ensure that our justice system is in fact just for all. This happens when we use our legal training to challenge narratives which sustain injustice, use our advocacy skills to defend unpopular causes or clients whether outside or inside a courtroom, and use our legal knowledge to educate others and better inform public debate.
23. As a member of the legal profession, you are now in a position of great privilege. You will play a trusted role in some of the most testing times in the lives of others. You will be a confidant, an advisor and an advocate to many. As lawyers, we have a responsibility to use our training and knowledge as a tool of change. This year has shown us that there is much for us to defend and strengthen, undo and remake. As the newest members of our profession, you have an unparalleled opportunity to be part of this change for the better.
24. Many of you would have chosen to study law because you wanted to promote human rights, to reform policy or to advocate for the most vulnerable. I urge you today to remember why you decided to study law all those years ago. Irrespective of whether you practice in a commercial firm, a community legal centre or pursue a career outside the law altogether, I encourage you to use your legal knowledge and capacity for critical thinking for the public good.
25. Today, you have joined a profession whose support and collegiality will prove invaluable. It is easy to feel isolated whilst we as a profession continue to work predominantly from home. Remember that even when you are working from home, you are not working alone.

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<sup>8</sup> See Thalia Anthony, 'FactCheck Q&A: are Indigenous Australians the most incarcerated people on Earth?', *The Conversation*, 6 June 2017 <<https://theconversation.com/factcheck-qanda-are-indigenous-australians-the-most-incarcerated-people-on-earth-78528>>. See also Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, March 2018).

26. 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, I could always count on the other barristers on my floor 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 or judges. I must put on record that I do not include any of my fellow judges on the bench in that final comment.
27. Finally, too many lawyers still feel that there is a stigma in talking about their mental health. Looking after your mental health is not something to be ashamed of. There will be times in your career when your work weighs on you to an unhealthy degree, when you feel disheartened or overwhelmed. When this happens, you should take the time to seek professional help and turn to the enduring things in your life, like your family, partners or friends.
28. 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.
29. The Court will now adjourn.