

Ceremony for Admission of Lawyers

**Speech delivered by Chief Justice Terence Higgins
On 21 August 2009**

Ladies and Gentlemen, newly admitted practitioners, on behalf of this court and the Judiciary of the ACT, represented here today by myself and the honourable Justice Gray, welcome. The two of us sit here today, rather than a full bench, due to the pressures of business, as you will have read in the Canberra Times. I also apologise to those of you forced to stand up the back. I begin by paying my respects to the Ngunnawal people, the traditional owners and continuing custodians of the land on which we gather this morning.

Congratulations on your admittance to the legal profession. After 5 years or so of law school and further studies qualifying you to be admitted you are now one step closer to practicing law, that is, you still require a practicing certificate (a sobering thought). Once attained, parties will become real people rather than just fictional characters on a page and your daily work will affect the lives of others rather than just your grades.

For the duration of your legal studies and probably your working lives in the law, you have, undoubtedly, been inundated with years of advice and lectures by professors and employers on legal ethics, court procedures, negotiation tactics and court etiquette. Whilst none of this should be taken lightly today I instead wish to instil in you some 'what not to do' advice.

Firstly, and this may be a given, don't fall asleep in court. Judges frown upon it and attempt to avoid it. One of the more famous cases of counsel not following this advice was the 1984 American case of Calvin Burdine, whose defence counsel fell asleep for long periods of time during the questioning of witnesses, not by him I should add. Mr Burdine was convicted of murder and sentenced to death. On

appeal the court held that ‘sleeping counsel is equivalent to no counsel at all’ (an astute observation one might think).¹

Secondly, it is best advised to arrive at court sober. You might otherwise be charged with contempt of court. As was an American attorney in 1968 upon arriving at court late one morning and addressing the judge in an erratic manner. The judge asked the attorney if he’d been drinking to which the reply was ‘I had a cocktail at lunch’. A difficult response because not only did the incident take place in the morning but the attorney was addressing the wrong judge in the wrong case.²

Thirdly, don’t read magazines at the bar table. Your clients might not feel they are getting their money’s worth. Recently a New York court ordered a retrial after it found a defence lawyer had, during the original trial, fallen asleep three times, spent significant periods of the trial reading health and fitness magazines and made a number of eccentric speeches unrelated to the trial. The court heard that ‘the quality of representation was so insufficient that “the integrity of the judicial system was placed in jeopardy”’.³

And lastly, don’t invent facts. Whilst it may result in media attention it can also result in you being struck off the roll of legal practitioners. As happened to one of Shapelle Corby’s lawyers, Robin Tampoe, who boasted in a documentary that he had ‘invented’ a defence. The court held that fundamental to the solicitor-client relationship is that a legal practitioner will not reveal confidential information and that ‘it is hard to think of a more egregious breach than to do so on a national television program’.⁴

¹ Weinstein, Henry. ‘Ruling on Sleeping Lawyer’. LA Times, 14 August 2001.

² Taken from Gary Slapper’s Weirdest Cases, 3 July 2009. see also:
<http://lawactually.blogspot.com/2009/07/advocates-achilles-heel-cocktails-at.html>

³ People v Irizarry 2009 NY Slip Op 51258(U) [24 Misc 3d 1204(A)]

⁴ Pelly, Michael. ‘Schapelle Corby lawyer Robin Tampoe struck off for misconduct’. The Australian, 12 June 2009.

To not follow my advice not only places your career at risk but also undermines the integrity of the legal profession as a whole. We have all heard the numerous lawyer jokes out there. No good is achieved by inspiring the formulation of new ones.

You are now advocates of the rule of law and representatives of the legal profession. Your clients will place their trust, finances and even their liberty in your hands. Do not let the lure of billable hours or work pressure dissuade you from your duty as a lawyer or from striving to uphold the highest ethical standards.

In a moment, you will be leaving this courtroom, and for the first time enter into the community as a lawyer. Congratulations once more on that achievement. Take with you pride in the knowledge that your years of study have culminated in recognition by this Court that you are entitled to participate in the legal profession as a lawyer. Also take with you an understanding of the privileges, and responsibilities, that you now bear. From today you will be called upon to serve the community as a lawyer, as an advocate, as the upholder of persons' legal rights. This is not to be taken lightly. It imposes duties as well as conferring privileges. Unwavering integrity and honesty in dealings with other practitioners, clients and the court is essential. So with that in mind, I wish each of you the best of luck, and await with interest the development of your careers. I hope to see all or at least some of you appearing before me in the future.

END OF SPEECH