

Ceremony for Admission of Lawyers

**Speech delivered by Chief Justice Terence Higgins
On 17 April 2009 at 10am**

Ladies and Gentlemen, on behalf of this court and its Judiciary, represented here today by myself and the Honourable Justice Penfold, welcome. 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.

Next I would like to offer my congratulations to each of you on your admission and to welcome those of you who have gathered to witness this special occasion.

Special words of apology for those of you forced to gather on the stairs, the ramp and any spare corners of the court room. Unfortunately this building, built more than 50 years ago, is no longer capable of accommodating ceremonial events, of providing appropriate facilities even to juries or even housing a working air-conditioning system. Further, might I gently suggest you take your photos at the front of the building as the back is currently a construction site – that is not due to the construction of an extension or of refurbishment but rather it is a preventive measure to ensure this historic building does not collapse. In addition to the under resourced building we find ourselves in, the court is also faced with an ever increasing case load. The demands of a growing jurisdiction have meant an increasing criminal case load over the past five years and the lapse between judicial appointments has created a backlog of cases. Since the appointment of a fourth resident judge 12 years ago, an additional jurisdiction, the ACT Court of Appeal, has been established. The time has come, and probably past, for the appointment of a fifth resident judge. Indeed the fact we can only present two judges today is indicative of this. While we await this much needed appointment, practitioners and their clients are frequently forced to wait 8 to 9 months for hearing and trial dates. There is no indication of this time decreasing.

It is with those thoughts in mind that I welcome you today. By virtue of today's admission you have become members of this court, and will be an integral part of the operation of our legal system as members of the legal profession. Your membership is to a mature profession, complete with its own history and shared tradition. Some have suggested that the emphasis placed on this tradition by the law has made it irrelevant, or out of touch with the realities of today's society.

It is easy to see why such suggestions are made when:

- Running an abortion advertisement can land you in jail for a year in Louisiana¹,
- Homosexual acts are considered 'gross indecency' and are illegal in Singapore, punishable by imprisonment²,
- You are forbidden from having more than one child in China³, and
- In Saudi Arabia, penalties imposed by a court shall be personal and at all times in accordance with Shari'ah law⁴.

It seems like a fitting time also to mention that it is a right in the United States to keep and bear arms.⁵

While ordinarily you would be forgiven for thinking '...only in America!' or 'not in Australia', it must be noted that indeed some of our own laws could be considered out of proportion to the mischief to be addressed. The Migration Act, for example, provides that a stateless person who has committed no crime, who has requested removal from Australia, who is cooperating with the authorities but who is unable to be deported or removed may be kept in immigration detention for the rest of their life.⁶ The Anti-Terrorism Acts are yet another example. Under a 2004 amendment a person commits an offence if they make funds available to a

¹ RS14.87.4 added by Act No 76, 1973.

² S377 of the Singapore Penal Code

³ China's One Child Policy is incorporated into the 1980 Marriage Law, the 1992 People's Republic of China (PRC) Law on the Protection of Women's Rights and Interests, the 1994 PRC Law on Maternal and Infant Health Care and art 49 of the 1982 PRC Constitution.

⁴ Article 38 of Saudi Arabia's 'Basic Law of Governemnt'.

⁵ 2nd Amendment to the US Constitution

⁶ Al-Kateb v Goodwin [2004] HCA 37; see also s183 of the Migration Act 1958

person who intends to use the funds to engage in a terrorist act even if the person providing the funds was no more than reckless as to what that person might use the funds for and no terrorist act occurs. The penalty for that offence is imprisonment for life.⁷

I must point out, of course, that judges do not make the law, that is for Parliament. What we do here is determine that which is just in accordance with the law. Therefore, my point is, the world needs more lawyers. Today, we are doing our bit to assist.

So whilst it may be true that at times the law lags behind current social, moral and cultural values, its applicability can not be questioned. It is a diverse profession. This is evident in the face of the changing business world. At a time when economists are predicting world wide recession and rising unemployment lawyers remain valued. Until recently the most profitable and most glamorous areas of practice were corporate law, mergers and acquisitions, trade law and real estate. Now, you are best advised to begin your practice of the law in bankruptcy, labour law or litigation in its many forms.

You cannot avoid lawyers in a recession. The choice is whether to see one now or later.

Whatever path your legal career takes you in – be it advocacy, commercial law, government practice or some more exotic path – ensure that you retain the value of the fundamental principles of our profession. 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 duties as a lawyer or from striving to uphold the highest ethical standards.

⁷ S 103.1 of the Criminal Code 1995 (Cth)

In a moment, you will be leaving this courtroom, and for the first time enter into the community as a lawyer. Again, congratulations to you 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. And 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. Do not take this duty lightly. It imposes duties as well as conferring privileges. Unwavering integrity, 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.