

Legal Practitioners Admission Ceremony

Speech delivered by Justice Refshauge

Friday 15 August 2008

On behalf of the Court I congratulate you and welcome each of you as admitted practitioners of this Court. I also acknowledge the traditional owners of this land and their contribution to the life of this community, and pay my respects to their elders.

You should take pride in the fact that each of you, after years of study, sweat and tears, have finally joined the ranks of the ACT legal community. Before you step outside the door, however, and plunge headfirst into your aspiring careers, you should remember that although your admission today is the culmination of years of your personal effort, you would not be here today but for the people around you. You might want to take time to consider who has helped you on your way to this day: the family and friends who gave personal support to you; the lecturers and students you have guided and befriended along the way; that mysterious stranger who sold you a torts summary in first year

Many of you will have watched snippets, or even entire days of the 29th Olympic Games in Beijing. The elite athletes that are competing have, like you, devoted themselves to their studies in the pursuit of being the best they can be. I hope you will take that attitude to the practices of law, though, unlike the athletes, it is unfortunately very unlikely that you will receive international recognition for your career achievements. You will, however, receive other rewards, including, I am confident, personal and professional satisfaction in a career which has given me much of both.

By this ceremony you are now admitted to the legal profession and you are now described in the *Legal Profession Act* as a “lawyer”. I hope that does not conjure up a vision of ranks of faceless, grey people. You now become a legal practitioner for the purposes of the Act only when you obtain a practising certificate.

In the past, the titles of legal practitioners were more colourful when the practice of the law recognised its past which encompassed a diversity of callings with some strange titles: barrister, serjeant-at-law, solicitor, proctor and attorney. On the other hand, perhaps we do not miss the demise of some titles and roles such as the ... “proctor”. A separate ecclesiastical jurisdiction in the courts are no longer with us but the inheritors of the jurisdiction, those who practice family law, probably appreciate being relieved of the duty to check the bed linen (as was sometimes once the task of the Queen’s Proctor looking for evidence of collusion in divorce proceedings).

Nevertheless, these callings are the background to the diversity that the practice of the law offers, whether it be the bar, private legal practice, corporate practice, community practice or in the government service. You have this Court’s best wishes for your future endeavours in whatever field of law you make your career. By your admission, as officers of this Court, however, you carry the important responsibility that your admission in this jurisdiction entails. Your admission here will entitle you to admission to practise throughout Australia when you meet the mutual recognition administrative obligations, but the fundamental responsibilities that you are accepting today will, I trust, be maintained over the course of your career in the law.

In these times, as you are aware, the legal profession and the judiciary are both under far more intense public scrutiny than in the past. It is proper that it be so, but it makes it imperative for your own protection that you have a grounding in, and a commitment to, the professional rules that will regulate your practise of law. Those professional rules governing your practice are based on standards of honesty, integrity and courtesy, which the public, the Court, and your fellow practitioners are entitled to expect.

For those of you who have determined to enter the practice of the law, whether as barristers or solicitors, you will be fortunate to enjoy the collegiality that has marked this profession. You will be given not only comradeship but true support and assistance throughout your career. This is one of the great traditions of the legal profession. You should always be open to, and ready to participate in that tradition. Take every opportunity to learn from your colleagues. There will be times when you are faced with ethical dilemmas, and you are uncertain of what action your professional ethical obligations require you to take. During such times, do not hesitate to seek advice and guidance from your colleagues in the profession whether at the Law Society or the Bar Association. They are there to assist you and will do so and it is important that you maintain the proper ethical standards for your own professional reputation and practice but also for the health of the profession. It is, however, not only ethics that will cause you to seek help from fellow lawyers. Just in matters of practice, or even the law, you will need it, should seek it and will receive it.

To be a good lawyer you will spend your lifetime learning the law (just when you thought you knew it all). There are many times when I, too, am reminded of this, both by counsel and by the appeal court. You will, however, be surprised how much, and how soon, people will come to rely upon your skills, learning and integrity. It will soon be brought home to you just how important are your responsibilities to your client, to the court and to the profession itself.

I hope, too, you will approach your chosen profession by questioning its received wisdom and assumptions. You have the discipline and training for that and the training to find innovative ways to solve the problems with which not only your clients but the administration of justice itself are faced.

As a profession, too, lawyers are committed to social justice. It may not be necessary to do pro bono work or work in legal aid or a community legal nature to be a force for achieving this, although I commend those ways of doing so. The legal profession prides itself on implementing the accepted principles of fairness, equality and human rights. You should embrace them. Lawyers like yourselves, must do the utmost to understand the situation of those you deal with, and be always ready to equally uphold the rights of all, more so, if the cause is not particularly popular, whether it be in acting for asylum seekers, alleged paedophiles or even alleged terrorists. I urge you, if called upon, to accept the challenge of accepting instructions to represent all who need representation and to do so without fear or favour.

Those of you who will remain in practice in the Territory will do so in the context of the *ACT Human Rights Act 2004*. As Australia's first Bill of Rights, its purpose is to

recognise and require action consistent with fundamental civil and political rights. I hope that those of you who will practise here embrace the challenges that come with this legislative development.

While at a national level, lawyers have often championed human rights, the local response to human rights, in particular, and our Act has been a little disappointing. Human rights may not to date have been seen as a killer weapon in the adversary armour and if that is the reason they are not more discussed or utilised, it would be a pity.

Human rights are more than just an adversary tool; indeed, they have already been inculturated into bureaucratic policy-making very effectively and I think as lawyers we need to lift our game.

For example, it is high time for Australia to take a higher profile in abolishing the death penalty throughout the world and we now have that opportunity. It is no less a scourge than many of the diseases we seek to eliminate. The polls show consistently low support for it in Australia and it appears that one of the last bastions, Asia is moving towards abolition and we should use our base and these trends to extend this important view to the rest of the world.

As officers of the Court, you all shoulder a heavy responsibility to uphold and support the rule of law. That is because the quest to uphold and respect the principle of human rights for all is ever-present. Ensuring that the written principle is applied in practice is one of the most difficult aspects of human rights. I urge you to use your

positions of privilege and education to ensure that our freedoms as citizens of a democratic community are properly protected, regardless of the legal field you choose.

There are great opportunities in this community and I urge you all to take them.

This is part of the future that awaits you.

Once more I congratulate you and your family and friends upon your admission today. You are admitted today into a great profession and as officers of the Supreme Court of the Australian Capital Territory. No matter where you find your skills employed, you are now part of a privileged community. Enjoy the rest of your day, enjoy a celebratory drink or two with family and friends – but probably not too much more, and especially enjoy the road that being a lawyer has opened for you wherever it may lead.

The Court will now adjourn.