

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY CEREMONY FOR ADMISSION OF LAWYERS

SPEECH DELIVERED BY JUSTICE RICHARD REFSHAUGE

12 DECEMBER 2008

The Court, which on this occasion comprises Justice Gray, Justice Penfold and myself, extends its warm congratulations to each of you on your admission today as a lawyer under the *Legal Profession Act 2006* and welcomes each of you to the legal profession which this admission effects. This is an occasion for celebration and, embracing the spirit of reconciliation, we acknowledge the Ngunnawal people, the traditional owners of the land on which we are gathered and pay respect to their elders and the continuing contribution they make to our culture.

Your admission is the culmination of years of study and hard work which in some cases, no doubt, has been shared by parents, partners, perhaps, even children. It is appropriate that this be recognised formally and this ceremony provides for the occasion the proper degree of celebration and formality. That is why we wear horsehair – known as a wig – as part of that formality, though perhaps we should do away with some of those trappings.

To attain a law degree – and many of you will also have another degree – and to complete the required practical legal training also requires a substantial commitment by you and often also requires sacrifice from your closest family and companions. I am delighted that there are so many friends and relatives here to see this most significant milestone in your career.

This milestone has three valuable and important consequences.

It has brought you to the stage where you are now eligible for a practising certificate and you can then offer your now recognised professional skills to the community as a lawyer.

Has it been worth it? I think the answer is a resounding yes. The practice of law, whether as a solicitor or barrister, whether in private practice, community legal service or in government in a large number of ways, or as an academic or corporate counsel can be a most satisfying career in so many ways. Essentially it is a helping profession and that is one of the most satisfying things that one human can do for another.

Whether it is helping a family acquire a first home, helping a person accused of a crime to respond to the charge, helping someone build or expand their business, helping someone challenge a government decision or helping to keep the community safe and well regulated, the practice of law contributes to an improvement in the well-being of the society in which we live.

As lawyers, too, you are guardians of the rule of law which is the foundation on which a civilised society is built, a society in which the members of the community can live safely and freely and can develop their potential socially, economically, culturally and politically. Without it people can lose their human rights or at least have them ignored and at best fail to be able to develop their potential, at worst suffer poverty, abuse, discrimination, torture or death.

It is your duty to be vigilant to see that the rule of law is protected and promoted even though that may be unpopular and inconvenient.

It is regrettable, to note that the Rule of Law is under such challenge in our world. While we can easily imagine this happening in a developing country, it does happen in apparently civilised countries and hence the need to be continually vigilant is of real concern to all.

In the USA in recent years, there have been concerted attempts to undermine one of the fundamental tenets of the rule of law which is that everyone should have access to and, if they wish, be represented by a lawyer.

Over the last few years, some in the US government have engaged in what is now known as “lawfare”. It has been described as “a strategy of using or misusing law as a substitute for traditional military means to achieve an operational objective” and aims to “gain a moral advantage over your enemy in the court of world opinion, and potentially a legal advantage in national and international tribunals.”

It consists of demonising those who use courts and tribunals to vindicate their rights and, worse, of putting pressure on lawyers to stop them acting for such people.

This can include suggesting, for example, that lawyers who act for terrorists in criminal trials are terrorists themselves and urging their other clients to put pressure on the lawyers not to act in such cases, even by threatening to withdraw their business from them.

This would be troubling enough but for it to occur in a presumably civilised country with a constitutionally entrenched Bill of Rights shows how lawyers can never relax in their professional obligation to protect and enhance the rule of law.

Your admission also entitles you under the Legal Profession Act to membership of the legal profession, and it is a noble profession. There is much interesting learning and debate about what it means to be a member of a profession and I do not want to enter that debate. There are, however, a few marks of a professional that I want to mention.

A profession is committed to the development of the knowledge and skill of its members. It may be a blow to your elation at this moment, but you have not finished your learning; it is only just beginning and will last the whole of your career. Formally you will participate in continuing legal education provided for the most part by professional bodies. At an equally important level, you will have the opportunity to learn from your fellow lawyers.

Every lawyer I know and, I trust, every lawyer, will freely provide advice and assistance and be a source of support and counsel to you. Never hesitate to turn to your colleagues – for such they have now become – and, particularly in your early

years, ask for advice. This is one of the great and important traditions of the legal profession and one from which I hope you will benefit and, in turn, to which you will contribute and which you will carry on. It does not end, though, with your years as a junior lawyer, but this willingness to help and advise should last through your whole professional life.

Professions collaborate in professional associations and I hope you will engage with them, particularly the Law Society or Bar Association, but also associations such as the Law Council of Australia, the Women Lawyers Association, Australian Lawyers Alliance or the Corporate Lawyers Association or the Association of Crown Prosecutors. While Law Societies and Bar Associations are not as well supported these days as they used to be they are an important source of support for lawyers and a protector of their professional interests but also a major contributor to the community in so many ways.

A profession also has an important role in upholding the ethical standards of its members and regulating the practice of law. You should become familiar with the professional conduct rules which bind or guide you and remember that it is only by adherence to them that you become entitled to the privileges that you have as a lawyer.

A profession, too, has a commitment to service to its community and lawyers do this in many ways. Many undertake pro bono work or are employed in legal aid offices or community legal centres, thus becoming a force for achieving social justice.

There are, however, many other ways of doing this. As a lawyer you are committed to fairness, equality and human rights and you should be committed to upholding the rights of all, including, when appropriate, the representation of all however challenging or antipathetic the person or their legal request or unpopular their cause. In these ways you contribute to making Australia a free nation and a respectful and supportive community which is perhaps the best service you can provide to the society.

Thirdly, by your admission today you become officers of this Court and accept the responsibilities and privileges that this brings and which will be maintained throughout your career in the law.

The respect with which you will be treated, despite the popular opprobrium that the detractors of the legal profession bring, your entitlement to audience in the court and your right to carry out many public duties which this status entails all require honesty, candour, frankness and conscientious commitment to the practice of law.

It is popular to disparage lawyers and the legal profession. They are often depicted as stupid, grasping, greedy, uncaring, uninterested in justice, even subhuman. I am sure you have heard many of the lawyer jokes that do the rounds. I find the best thing is to laugh at them, and, if you can, get in first by telling some of the funnier ones. The fact is, of course, that whenever anyone gets into trouble with the law or needs help in negotiating a legal issue, they go to a lawyer if they can. The demand for legal services is growing and is unlikely to abate in the near future. People naturally resent paying for those services, and often paying a lot, perhaps sometimes too much, for legal services, but they grumble too at the cost of going to the doctor, at the cost of electricity, even at the cost of parking.

The lawyers I know in Australia and beyond, and whom you will be proud to call colleagues, are for the most part committed professionals who deliver high quality services with commitment to high ethical principles. You should be proud to join their ranks as you have done today.

The Court wishes you all the best for your careers which I am sure will be satisfying and productive. I congratulate you again on achieving this important next step in your career. I am sure I speak for all the judges and the master of this Court that we would be delighted to have you appear before us as practitioners.

Congratulations, too, to your families and friends who are justifiably immensely proud of your achievements and, no doubt, quite relieved that you have now made it.

This speech has been too long – I am known for that – but there are some important matters that need to be said. I am sure it would have been sharper and shorter if it had been written by that expert in judicial speech writing, the Chief Justice’s research assistant, who has been admitted to practice today and for whose admission I am proud to have been included in the admitting Court.

The Court congratulates you again and wishes you all the best in your future endeavours wherever they may take you. Enjoy this day and be confident that you are now prepared and, I hope, keen to face the challenges of the future.