

Ceremony for Admission of Lawyers

**Speech delivered by Chief Justice Terence Higgins
On 20 April 2007**

Ladies and gentlemen, congratulations to all of you who have now been admitted as lawyers of the ACT Supreme Court before my brother Justice Crispin and Master Harper on this the traditional land of the Ngunnawal People.

From today you are entitled to obtain a practicing certificate allowing you to offer your professional skills as a lawyer to the community. It is a unique and privileged position to be a lawyer, as others place their trust, finances and even their liberty in your hands. There will be trying and testing times when you are uncertain of what action your ethical obligations require you to take. In such moments do not hesitate to call on your colleagues at the Law Society or the Bar Association and ask for advice. Also use the support of your family and friends who surround you today and always retain your humour and humanity.

Undoubtedly, some of you will see this as an opportunity to work ridiculous hours charged in six minutes increments. Others of you may join government departments and get to debate ad nauseam whether a semicolon should be inserted preceding each enumerated traffic offence. Still others will see themselves as defenders of the vulnerable and seek to fight (as a former associate of this court being admitted today does) for human rights in fishnet tights. Regardless of the path you choose to pursue, each of you has become an advocate of the fundamental principles of the law.

In these very interesting times, when ancient and once thought long settled tenets of the law, such as the right to a fair trial and protection from arbitrary detention, are being revisited, it is uplifting to reflect upon the progression of the law and legal profession.

On the international stage the legal community is seeking to end the immunity for those who commit war crimes, crimes against humanity and genocide irrespective of their position. The International Criminal Court has issued six warrants of arrest, including for serving members of government. Situations in the Central African Republic, Uganda, the Democratic Republic of the Congo and Darfur in the Sudan are all being investigated and those believed guilty of such crimes potentially called to account for their activities.

On the home front, at the federal level, we have the work choices legislation, a revolutionary piece of legislation. Whatever the view of that particular tranche of legislation, there has been serious law reform in Australia of which we can be proud. We now have a unified legal profession enabling lawyers, such as each of you, to practice in all Australian jurisdictions.

Also, in a trend started by the ACT, we have two jurisdictions where human rights acts have been implemented. Politicians and public authorities should view the human rights acts of the ACT and Victoria as mechanisms that assist them in exercising their function in a proper manner and not with the hostility that some view the prospect of judicial review. Human rights acts are very helpful tools in declaring and protecting the values of our liberal democracy. For as history and recent events tell us, political power, even if backed by the will of the majority, can and has practised tyranny upon certain of its peoples in many nations.

Undeniably, each step forward the law has made has come from the strength provided by the growing diversity of the legal profession. The changing ethnic, religious and social backgrounds of new lawyers such as yourselves is, as a matter of course bringing new perspectives and experience to our legal system. To paraphrase the now retired Justice Sandra Day O'Connor of the US Supreme Court, each of us brings to our job, whatever it maybe, our lifetime of experience and our values, thereby enriching the law's outlook.

The most obvious change, which has been taking place in the legal profession for over a century, is the growing number of women who are becoming lawyers.

In 1905, Grata Flos Matilda Greig became the first woman admitted to practice law in Australia. It was Victoria that broke the sexist and archaic exclusion of women from the legal profession, beaten to the prize of being the first jurisdiction to do so only by our cross-Tasman neighbours New Zealand. Women have been practicing law in the land of the long white cloud since 1896. Those were bold and brave times when many fine, strong and determined women and men demanded change and ensured that Australia would be at the forefront of law reform.

Sadly we have stepped off the pedestal in elevating women to positions they deserve inside our legal profession. Currently, only one woman is sitting as a Justice of our High Court. It would also be remiss of me to fail to mention that this Court is yet to have a woman appointed to its bench as a Resident judge though we have two female additional judges. If the public is to have confidence in determinations coming from courts then it is important that the bench are seen to be open to membership without discrimination on the grounds of sex, ethnicity or religion. It necessarily follows that without a greater proportion of women serving as judges public confidence in courts will be undermined.

More men and women need to follow the lead of two young women who, at the ceremony welcoming Crennan J, stood outside the High Court with a sign saying "Thankyou Mr Ruddock, can we have some more?" Hopefully the Federal Government, of whatever ideology, will take the upcoming retirements of Chief Justice Gleeson and Justices Callinan and Kirby, as an opportunity to correct the over-representation of Anglo-Saxon males on the bench of Australia's High Court.

Of equal concern are legislative attempts to restrict judicial independence and to confine judicial thought and inhibit the application of human rights and legal

principles. The Military Commissions Act, passed by the US Congress, which seeks to remove US courts' jurisdiction over claims of *Habeas Corpus* from detainees held at Guantanamo Bay, is a conspicuous example. Or the Governments continued tinkering with the jurisdiction of the Federal Court of Australia's jurisdiction particularly in relation to migration matters and claims of asylum.

It should be of concern to the Australian community that while States and Territories are enacting or considering enacting human rights legislation, the Federal Parliament continues to restrict access to justice for legitimate asylum seekers and to restrict at least potentially civil liberties through draconian anti-terror legislation.

It is actions such as these taken by our politicians which highlight the cynicism some in our community, particularly those in the Houses of our Parliaments, hold towards the courts. As Justice Sully of the NSW Supreme Court recently stated, this is cynicism in the sense famously defined by Oscar Wilde as the capacity to know the price of everything and the value of nothing. Far too many of our fellow citizens particularly those with positions of power and influence seem to have forgotten the value of an independent judiciary, of human rights afforded to all and of equality before the law regardless of the circumstances.

Do not forget the value of the fundamental principles of our profession when you walk out the doors of this Court. For, as I stated earlier, you are now advocates of these principles, advocates that must challenge a wrong, argue for their client, honour an unshakable obligation to the court and strive to uphold the highest ethical standards. Do not let those six minute blocks of billable hours dissuade you from your duty to be such an advocate.

I hope you follow your passions and may your advocacy contribute to the maintenance of the law's fine traditions. My congratulations once again to you and those who have supported you throughout your studies. I wish you all the very best in your future careers wherever they may take you.