

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

**SPEECH DELIVERED BY JUSTICE HILARY PENFOLD**

**12 DECEMBER 2008**

On behalf of the Court, I congratulate the newly admitted practitioners. I also acknowledge the traditional owners of this land, the Ngunnawal People. As I am sure you are aware, as a result of today's ceremony, you are now entitled to obtain a practicing certificate and, on doing so, to offer your professional skills to the community as a lawyer. Legal practitioners are, of course, officers of the Supreme Court and we sit, Justice Gray, Justice Refshauge and I as a Full Court to emphasise the fact that this is an important occasion for the court, as we trust it is for you and those who have come to share the occasion with you.

By your admission today you have become members of the legal profession and accepted the privileges and responsibilities the profession attracts. You have attained the goal toward which you have been working for some years. You are entitled to feel very proud, as no doubt do your families and friends. Indeed, that pride may be exceeded only by your relief, and the relief of your family and friends. As the mother of a current law student, I speak from the heart.

You enter the legal profession at an interesting but challenging time, and at a time when there are more career options than ever before for those with legal skills. This is just as well, because most of you also belong to a generation that, because of demographic and economic changes, as well as changes in expectations, will have to work far longer than your parents and grandparents ever contemplated. However, most of you will have several careers during that extended working life, and you will not need to abandon your legal training in order to do that.

As we approach the season of giving, or at least, what our government hopes will be the season of buying, it is an appropriate time to reflect upon the value of us as lawyers giving back to the community. Although there is a common perception of lawyers as money-grubbing, disagreeable individuals who care little for the clients they serve or the causes they fight for, most of us here understand that the legal profession often engages in more honourable behaviour. As the Victorian Attorney-General, Rob Hulls, said in a speech to final-year law students,

*It is a fundamental that people or groups who can otherwise not afford to assert or defend their rights have access to quality legal services and representation...a good lawyer aims to use the law as an instrument of change to better the lives of the most vulnerable and disadvantaged members of our community.*

Service to the community is one of the great traditions of the legal profession, even though the service ideal is sometimes obscured by the many other demands placed on lawyers, whether those demands are related to billable hours, efficiency dividends, continuing legal education or other things.

Many legal services are provided free of cost by Legal Aid bodies across Australia. In a recent interview with the Law Society Journal, the CEO of Legal Aid NSW praised the involvement of private practitioners in supporting the agency, noting that only about half the legal assistance provided by Legal Aid is provided by in-house staff. Participating practitioners in NSW perform work which “never has been, and never will be” paid at market rates, and no doubt this is also true of the ACT.

Solicitors and barristers also provide community legal services outside of the Legal Aid framework, whether for people who are not eligible for legal aid or in matters that are outside the scope of legal aid funding. The most common form of this assistance is the “pro bono” system. Pro bono work has been defined by the Law Foundation of NSW (now the Law and Justice Foundation) as:

- *services provided for people who can demonstrate a need for legal assistance but cannot afford the full cost of a lawyer's services at the market rate without financial hardship;*
- *services provided for non-profit organisations which work on behalf of members of the community who are disadvantaged or marginalised, or which work for the public good; and*
- *services provided in public interest matters, being matters of broad community concern which would otherwise not be pursued.*

The principle of providing free legal services "for the public good" has existed for some time in Australia, but the development of a formal pro bono structure is a fairly recent phenomenon. The first pro bono clinic was established in Perth in 1989, and the well-known Darlinghurst Legal Centre was not created until 1993.

Pro bono legal work is now a vital method of providing legal services. In September 2008, the National Pro Bono Resource Centre reported that "\$48.5 million of work was undertaken on a pro bono basis by 25 of Australia's largest law firms in the past year". The median amount of pro bono work was 21 hours per lawyer per year.

Of course, organisations involved in pro bono work are conscious of the risk that legal aid funding might be reduced in reliance on the willingness of lawyers to do pro bono work, and justifiably seek to remind us all from time to time that pro bono legal services, however significant, **"are not, and cannot be,** a substitute for properly publicly funded legal services; pro bono services can only supplement them".

Finally, you should never forget that another of the great traditions of the legal profession is that of supporting each other, even while acting on behalf of opposing parties, or competing for work. I encourage you to seek advice from experienced practitioners if ever you encounter legal, or indeed personal, challenges in your legal career. It is no accident that the proper way of referring to another lawyer in court is "my friend".

On behalf of the Court, I congratulate you again on your admission today. I hope that your future careers will bring you success, but more importantly that they will bring the personal satisfaction and fulfilment that comes from a feeling that you are, in some small way, making the world a better place.