

Ceremony for Admission of Lawyers
Speech delivered by Chief Justice Terence Higgins
On 20 February 2009

Ladies and Gentlemen, recently admitted practitioners, on behalf of this court and its Judiciary, represented here today by myself and the honourable Justices Gray and 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.

I would next like to offer my congratulations to our newly admitted practitioners. Today, you join the ranks of a profession rich in history and tradition. This history dates back many centuries, as do the various roles within the profession. The role of judge, for example, was initially a part-time one taken on by political leaders in the course of their duties, namely kings, princes and chiefs. It was during the Greco-Roman civilization though, between 200bc and 600ad that a class of legal specialists, distinct from judges, first emerged.¹ These legal specialists acted as advisors due to their superior knowledge of the law. They were, however, not permitted to receive fees of any kind. You may be gratified to know that times have changed!

The history of the law and indeed the legal profession has brought with it many traditions. One such tradition is court attire. Robes date back to the mid-fourteenth century, at a time when they were commonly worn by wealthy and educated men in Europe. Legal practitioners continued to wear them long after they ceased to be fashionable in order to distinguish themselves from other members of society. Horsehair wigs on the other hand were first introduced to the English legal profession by the Royal Court of King Charles II, having adopted the fashion from the French court of King Louis XIV. The wigs of this period were grand and became known as the 'full-bottomed wig' or more colloquial 'big wigs'.²

¹ History found under 'legal profession' in the Encyclopaedia Britannica. Available online at: <http://www.britannica.com/EBchecked/topic/334873/legal-profession>

² Muir, Claire. Wigs and Gowns: A Lasting Tradition. Victorian Law Foundation, 1st edition, 2005. Available online at: www.victorialaw.org.au/books/Wigs_and_Gowns.htm

Looking at the bench here today it may appear that some of these traditions have been lost. This court ceased the practice of wearing wigs in civil matters in 2002, and in 2003 ceased wearing wigs altogether.³ Whilst we continue to wear robes, they have been updated and specifically designed for this court. The coloured band running down one side of the front of the robe and continuing down the back of the robe uses the three colours of the ACT flag. The three horizontal tucks in the robe, of varying size, reflect the variety of work handled by the court and the several levels of original and appellate jurisdiction exercised by the court. These robes were first worn here last month, at the ceremonial sitting to mark this court's 75th anniversary and in fact this is the first occasion on which they have been worn for an admissions ceremony. The ACT Supreme Court has not been the most progressive when it comes to court attire, other courts in Australia and the UK have also done away with the traditional wigs and robes. Since 1988, for example, members of the High Court have worn robes, but not wigs. Then, in 2007 the then Lord Chief Justice of England and Wales, Lord Phillips, announced that the wigs will no longer be worn by judges for civil and family cases. This news accompanied the announcement that the allowance for newly-appointed circuit judges of £2,595 to buy full-bottomed wigs would be scrapped.⁴

That said, judges still take court attire very seriously. In 1993, a Victorian judge criticised a solicitor, Ms Sue MacGregor, for her ensemble of polka-dot stockings, above-the-knee skirt, and a ponytail of bright red hair. In fact, the judge declared the outfit 'prevented him from thinking clearly' and he was so 'shocked' that he threatened to leave the court room in order to 'recover'. Might I mention this incident led to an inquiry by the Australian Law Reform Commission.⁵

The legal profession is likewise a proud profession. A profession whose members include Abraham Lincoln, Ada Evans, Clarence Darrow, Nelson Mandela, Mohandas

³ Supreme Court, Practice Direction No 4/03 'Wigs' 22 Aug 2003. Available online at: <http://www.courts.act.gov.au/supreme/content/PracticeDirectionsNotesToPractitioners/Practice%20Direction%204%20of%2003.pdf>

⁴ Frances Gibb, Wigs and gowns to go in judicial dress reforms, 12 July 2007. <http://business.timesonline.co.uk/tol/business/law/article2064566.ece>

⁵ Muir, Claire. Wigs and Gowns: A Lasting Tradition. Victorian Law Foundation, 1st edition, 2005. Available online at: www.victorialaw.org.au/books/Wigs_and_Gowns.htm

Ghandi and Barack Obama. These lawyers have helped shape history. It is fitting to mention Barack Obama, who was inaugurated last month as the 44th President of the United States, and the first black American President. (Coincidentally Barack Obama not only studied the law but was a constitutional law professor for 12 years⁶).

In Australia, we celebrated our own inauguration this month with the inauguration of Justice Virginia Bell to the High Court of Australia. Her Honour likewise makes history, not only is her Honour the fourth woman to serve in the High Court but is the third on the current bench.

Despite these developments and changes, the fundamental concepts of justice - fairness and equality remain unaffected. These are principles that you have today undertaken to uphold. To ensure the practice of those in the law continues to serve society and the court, there are various rules and obligations which you must take on after gaining your practising certificates. I guess it is a sobering thought to realise you don't have one of these yet. In this jurisdiction these are outlined in the *Legal Profession Act 2006* and Solicitors' Rules of the ACT Law Society. The rules identify a number of duties you have: You have a duty to your client - to seek to advance and protect their interests to the best of your skill and diligence, uninfluenced by your personal view of them or their activities and notwithstanding any threatened unpopularity or criticism. You have a duty to the court - to act with competence, honesty and candour. You have a duty to other practitioners - to act with honesty, fairness and courtesy, and adhere faithfully to your undertakings. You also have a duty to third parties - to conduct your dealings with members of the community according to the same principles of honesty and fairness which are required in relation to the courts and other lawyers and in a manner that is consistent with the public interest. It is the public, after all, that our profession exists to serve.

I will return again to the High Court's most recent appointment. The honourable Justice Bell began her legal career as a solicitor in Sydney's Redfern legal centre, defending people charged over the first gay Mardi Gras in Sydney in 1978 and later Her Honour went on to become a leading figure in the prison reform movement.

⁶ Kantor, Jodi. 'Teaching Law, Testing Ideas, Obama Stood Slightly Apart', New York Times, 30 July 2008. Available online at: <http://www.nytimes.com/2008/07/30/us/politics/30law.html>

I mention Justice Bell once more as an example of a lawyer that took an interest in social justice issues. You do not need necessarily to work pro bono, or in Legal Aid, to have an understanding of social justice. The principles of fairness, equality and human rights pervade our legal system, and can equally find expression and application in every-day legal practice.

While today marks your entry into the professional legal community, it is also symbolic of the culmination of many years of study and hard work. I recognise the commitment that you have each made to the law, and note that it is this commitment which has seen you arrive here today.

I also recognise that this commitment is one that has been made not only by you, but also by those friends and family who supported you throughout your studies, many of them no doubt are proud to see you here today. To them, thank you, and to you, again I offer my congratulations, and that of the Court.

I wish you the best of luck, and await with interest the development of your careers. I look forward to seeing some of you appear before me in court, as practitioners, that is.

END OF SPEECH