

Speech to Applicants for Admission to the Legal Profession – 21 August, 2020

His Honour, Justice Stephen Estcourt, AM

Welcome everyone. I pay respect to the traditional and original owners of this land, the Muwinina people, I pay respect to those who have passed before us, and acknowledge today's Tasmanian Aboriginal people who are the custodians of this land.

On behalf of the Chief Justice and the Judges of the Court, I congratulate each of you, and I congratulate the members of your family, and your partners and friends who have come to witness this admissions ceremony.

They have no doubt helped very considerably over your journey to this destination and this is a day of celebration for them as well. This ceremony, which normally occurs over two or three sessions before a Full Bench of seven Judges in this our ceremonial court, Court Number 1, is today occurring over nine separate sessions in this Court and in Court 7. I pause to interpose that the term 'global pandemic' is a tautology.

The Supreme Court of Tasmania is the oldest Supreme Court in Australia. It first sat 196 years ago now, on the 10th of May 1824. On that day only three practitioners were admitted, all men of course. The first Chief Justice John Lewes Pedder admitted George Cartwright, Hugh Ross and Frederick Dawes. Sadly, it was to be 111 years before a woman was admitted as a practitioner of this Court, as a barrister, a solicitor, proctor and attorney she was admitted: that is a mouthful.

On 7 February 1935, legal history was made when Ms Nancy Helen McPhee, a daughter of a former premier of Tasmania Sir John McPhee and Lady McPhee, became the first woman admitted. Ms McPhee was educated at Lesley House which was at the time known as Cleaves College, and afterwards became the Collegiate College, and perhaps some of you may have attended there.

She obtained her degree of LLB at the Tasmanian University as it was then referred to. From January 1932 she was articled to Mr F W Dennis Butler's firm, a long-established firm known as Butler McIntyre and Butler. Mr Butler moved her admission; perhaps one of you may be joining that firm.

It too was established in 1824 and is the oldest law firm in Tasmania continuing to operate, and perhaps the oldest in Australia. Its founder, Gamaliel Butler, was admitted to this Court on 3 September 1824. In admitting Ms McPhee, Mr Clark J said it was always a pleasure for a presiding judge to admit any person to the practice of the Court, as in making such an order the judge was setting the person concerned on a career and a great profession, and the knowledge of that fact naturally excited a great sense of gratification, a sense that I feel also today I might add.

His Honour mentioned that it was at the time 30 years since the legal barrier against women practising in the Court had been removed. Why such a long time had elapsed before a woman practitioner came forward, Mr Clark J said he could not say. He felt sure however, that no-one could better be fitted to lead the way than Ms McPhee. Since then of course there have been many women admitted in this Court, and the Court has had the benefit of many female associates, one of whom is our present Governor, Her Excellency Professor the Honourable Kate Warner AC, and of course two female judges: the Hon Justice Shan Tennent (who retired in 2017) and the Hon Justice Helen Wood, who is the presiding judge in this Court today.

I should add that by my count there have been some nine female magistrates appointed since Wood J was first appointed to that Court in 1994. I mention all of this not to intimidate Mr Lonergan, but rather because my new associate is your colleague, Ms Gartlan, and her admission was moved by Mr Ashby, my outgoing associate, who has kept my nose to the grindstone for the last two years.

Today is his first appearance in this Court as a barrister, indeed in any Court; such trust Ms Gartlan. All six of you: Ms Lewis, Ms Khoo, Ms Gartlan, Mr Lonergan, my neighbour Ms McCullough and Ms Ooi, are now members of a great profession, and you are all officers of this Court, a court with a long and strong tradition of striving for excellence in the service of justice.

Since that day in May 1824, 4438 practitioners have been admitted; some have fallen by the wayside. By the end of today that number will be 4488, surely an auspicious number. When I say that you are all officers of the Court, that is no mere flourish of language on my part, you are indeed as of this moment part of this Court, in law and in custom.

As officers of the Court you enjoy great privileges: you are entitled to wear the garb of the Court, the wig and gown (until further notice at least) and you enjoy the complete trust and confidence of the judges. In return you owe a duty of frankness and honesty in your dealings with the Court, indeed as officers of the Court you have a duty to it that comes even before your duty to your client.

As practitioners you have the exclusive right of appearance before the Court, and you enjoy the unique privilege and obligation of being able to serve the rule of law. You alone are entitled to stand on this place as a bulwark between the State and its subjects. You are able to access the Court at any time of day or night to ensure that the rights of your fellow citizens are protected from any misuse of power and to ensure that injustice is always checked.

Now I know there are many lawyer jokes out there, and I know that the cynical would say that lawyers only serve their fellow citizens for a fee. Well, that's not true. There is a well-established tradition in Tasmania, as elsewhere, of lawyers performing pro bono work. In my own experience there is nothing more rewarding than acting without fee for someone who would otherwise be left without a voice in the face of injustice. I encourage all of you to experience that feeling wherever and whenever you can.

Now I appreciate that not all of you know which area of the law it is that will bring you most satisfaction. Some of you might wish to prosecute, some of you might wish to defend, some of you may have no desire to appear in the Court in either its civil jurisdiction or its criminal jurisdiction, and you may wish to engage in commercial work. Well, my advice to you is to make sure that you do not get stuck working in a field that you do not enjoy.

Move on, make a change, find something that challenges you and pleases you, and remember, the best lawyers are those who acquire a breadth and depth of experience across all fields. My tip is: let specialisation come later. But it is up to you to choose your own course.

Of course many of you will be starting work as admitted lawyers next week if you have not already started. That was not the case 46 years ago when I graduated from the legal practice course. I was required to sign articles of apprenticeship for 18 months following the course. The deed of apprenticeship was a fancy document with pink ribbons and red seals, a document that enjoined me to work diligently for \$1500 a year, not to steal my master's pencils or stamps, and always to wear clean underwear. Well, all of that is old hat now – well, perhaps except for the clean underwear.

So to the newest members of the Bar of this Court, I say congratulations, and welcome. I hope the law serves you and gives you as much great pleasure as it has given me. Remember, while hard work almost invariably is repaid by success in this profession, you need to be vigilant to ensure that you maintain a work life balance. Psychological and emotional wellbeing are every bit as important as success.