

# REMARKS ON THE OCCASION OF SILK BOWS

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CHIEF JUSTICE OF NEW SOUTH WALES

WEDNESDAY, 19 OCTOBER 2022

1. I begin by acknowledging the Gadigal people of the Eora Nation as the traditional owners of the land on which we meet, and I pay my sincere respects to their elders, past and present.
2. Thank you all for attending today (including Mr Guy Newton who is appearing by video from the Netherlands where he is on prosecutor exchange).
3. I also warmly welcome the families and friends of this cohort of new silks. They, perhaps more than anyone, appreciate the hours of dedication and commitment that have led to these richly deserved appointments. I hope and am sure that the new silks equally appreciate all the support that their families have no doubt given them over the years.

4. To the new silks, on my own behalf and on behalf of my colleagues, we congratulate each of you on your appointment as senior counsel. It is a propitious day and a signal achievement on your part to have been recognised by your peers and members of the judiciary as worthy to be marked out as leaders of the profession.
5. Having sat on the silk selection committee not so many years ago, I can assure you that it is an extremely rigorous process involving extensive consultation; detailed interrogation of data; careful verification of applications and conscientious debate, overseen and audited by two eminent community representatives.
6. You are the 30th cohort with the rank and title of senior counsel – SC – to have made your bows before this Court. Historically, in New South Wales it was the Governor-in-Council, acting on the advice of the Attorney General, who exercised the Crown’s prerogative in the appointment of learned and experienced counsel to the ‘Inner Bar’.
7. This changed in November 1992, when the then Liberal Attorney General, the Hon John Hannaford MLC, published an issues paper titled *The Structure and Regulation of the Legal Profession*, which began by asking whether the title of Queen’s Counsel should be

retained at all. Singapore had instituted the office of SC in 1989 and many other Commonwealth jurisdictions have done so since.

8. Shortly after the issues paper was released, Premier John Fahey announced that the New South Wales Government would no longer appoint QCs, thus severing the legal connection between the Crown and the office. It was left to the profession to devise a system for the designation of eminent counsel by some new description.
9. On 10 December 1992, the last QCs took their bows before Chief Justice Murray Gleeson. You can read about the history of the transition in the 1993 edition of *Bar News*.
10. The following year, on 22 November 1993, the Bar Association announced the appointment of the first cohort of senior counsel with the postnominals “SC”. That cohort included Bret Walker AO SC.
11. Although Chief Justice Gleeson was at pains on the occasion of the silk bows in 1993 to quash any suggestion that the office of Queen’s Counsel had been abolished, for my own part, and speaking in 2022, the designation “SC” is completely appropriate and suited as a means of recognising and signalling excellence in a mature, *independent* legal profession in which the decisions of English

courts have no superior status in terms of precedent than those of any other common law jurisdiction. Indeed, that has been clear since the 1986 decision of the High Court in *Cook v Cook* (1986) 162 CLR 376; [1986] HCA 73.

12. The designation SC rather than QC or KC is also consistent with the motto of the New South Wales Bar Association, adopted in 1959, namely “Servants of all, yet of none”.
13. Prior to the Queen’s recent death, this State last had KCs at a time when its Bar was a fraction of its current size, at a time when, according to the Law Almanac, it had only two female members (one of whom, Joan Rosanove, was in fact a Victorian and neither of whom was a silk), at a time when the great wave of post-war migration to this country was in its infancy, and at a time when our society was not the richly diverse multicultural one it has become in the ensuing 70 years. The profession and the nation have changed.
14. Your appointment as an SC *does* designate you in an eminently recognisable way, both nationally and internationally, as leaders of the Bar.

15. The leadership that is expected of you has a number of dimensions: first leadership as skilled but always responsible advocates whose first duty is to the Court and the administration of justice; secondly, ethical leadership, as you draw on your experience, wisdom and judgement to guide and assist younger members of the profession; and, thirdly, leadership of the profession more generally by supporting the valuable and essential work of the New South Wales Bar Association, through its Council and diverse committees as well as becoming leaders of your chambers.
16. Once again, I congratulate you on your appointments and wish you well as you enter a new and exciting phase of your careers.
17. The Court will now adjourn.