

**IN THE SUPREME COURT
OF NEW SOUTH WALES
AT NEWCASTLE**

**BARRETT JA
Friday 22 February 2013**

ADMISSION OF LAWYERS

HIS HONOUR: Now that the orders of admission have been made and the oaths and affirmations of office have been administered, I would like to say a few words of welcome to the newly admitted lawyers.

It is a special pleasure for me to preside today in this grand old courthouse which has gazed solemnly down Bolton Street towards the harbour since 1892ⁱ and which I used to pass as a boy on my daily travels to and from school at Waratah. It was in the public gallery here, fifty years ago almost to the day, that, as a university student home on vacation, I first sat through a criminal trial and watched our adversarial system steadily bring the facts to the surfaceⁱⁱ.

Today is a day of celebration for the new lawyers. You have persevered, and your perseverance has been rewarded. You are to be congratulated on your achievement. On behalf of the Chief Justice and judges of the Supreme Court and, I venture to say, on behalf of judicial officers and lawyers generally, I welcome you as officers of the Court and to the ranks of the legal profession.

Congratulations are due also to your families and friends who have shared with you the trials and anxieties of study and examinations.

You acquire today the privileges of membership of the legal profession. More significantly, I suggest, you have acknowledged in open court your acceptance of the duties and responsibilities that that membership imposes.

You are now part of the machinery of justice. You owe duties first and foremost to the court and to the law. You owe duties of candour and honesty in your dealings. You are bound to assist the court in its administration of justice. You owe duties to your clients – duties of loyalty, duties of confidentiality, duties of skill and diligence, duties to put their interests above your own. No part of these duties is optional or merits mere lip service. The duties as a whole must be at the forefront of the consciousness of every lawyer as he or she goes about the practice of law day by day.

It is the voluntarily assumed commitment to higher values that distinguishes your profession from a business or a trade where there is no objection if self-interest predominates. And it is the mutual acknowledgement of that commitment that equips lawyers to interact together as part of the machinery of justice. Lawyers know that an undertaking given by a fellow practitioner will be honoured; that money entrusted to a practitioner will be kept safe and applied only as the client has directed; that an opponent will not knowingly mislead the court. In these and other ways, lawyers have mutual trust and confidence in their dealings together.

Some of you will no doubt practise here in the Hunter region and follow in the footsteps of notable predecessors. Henry Baker is said to have been the first permanent solicitor in Newcastle. He set up practice here in 1843ⁱⁱⁱ. But at that time it was Maitland that was the administrative and commercial centre of the Hunter.

The first circuit sittings of this Court took place only five years after its establishment^{iv}. During August 1829, Mr Justice Dowling sat at Campbelltown, then at Windsor and finally at Maitland. Court business at Maitland was brisk. Thirteen trials involving nineteen accused were completed in the space of four days^v. Five men were sentenced to death, with the executions scheduled for 1 September. The Catholic chaplain, Father Power, had to cancel Sunday services in Sydney on 30 August so that he could be in Maitland to minister to the condemned^{vi}.

Maitland was then a raw frontier settlement three days' ride from Sydney and not yet served by shipping^{vii}. I doubt that any lawyer was based there when Mr Justice Dowling visited in 1829, but it is clear that Henry Inledon Pilcher had set up in Maitland by 1832^{viii} – a decade before Henry Baker opened his office in Newcastle – and that Maitland had at least one other solicitor by 1840^{ix}.

Returning to Newcastle, let me mention just a few of your notable predecessors in the legal profession. The first is Godfrey Millard^x who established his practice in 1892 and later entered into partnership with W M Sparke. His books on the law of property were for many years a staple of law students.

Then there is Basil Helmore^{xi} who qualified in Newcastle, was admitted as a solicitor in 1920 and practised here for the whole of his long and distinguished career. By what can only have been tremendous tenacity and drive, he earned as an external student of London University a Bachelor of Laws degree and later a doctorate. He did this while engaged not only in legal practice but also in civic, political and commercial affairs. Helmore, like Millard, is remembered for his publications on property law; and his name, with that of Sparke, lives on in the title of what is now an Australia-wide successor firm.

Counsel for the accused in the trial I witnessed here in February 1963 had qualified in Newcastle and was a member of the then fledgling Newcastle bar, with chambers at 22 Church Street. His name was Michael McHugh^{xii}. He went on, of course, to a brilliant career as Queens Counsel and a judge, gracing the bench of the Court of Appeal and then the High Court of Australia for a total of more than twenty years.

Kevin Lindgren, after qualifying as a solicitor in Newcastle and practising here, followed a similar path, but with a detour into an academic career at the University of Newcastle. He later commenced practice at the bar in Sydney, took silk and went on to serve with great distinction as a judge of the Federal Court of Australia for sixteen years^{xiii}. Most of you will have consulted one or more of his books on commercial law subjects; and some of you may have read his informative and entertaining account in the Newcastle Law Review of legal education in the 1950s by remote learning through the Solicitors' Admission Board and as an external student of London University^{xiv}.

Warren Derkenne's^{xv} special contribution was to the life of the University of Newcastle. His efforts, with those of others, were an important influence in bringing into being the Newcastle law school that has served Australian legal education so well over the last two decades.

Finally I mention Graham Mullane^{xvi} and Ralph Coolahan^{xvii}, long-time Newcastle practitioners who rendered valuable service as judges of the Family Court and District Court respectively in this city.

In singling out these individuals, I do not intend to discount in any way the contributions of many others both to the law and to the community. You become today inheritors of the traditions and values of all the lawyers admitted by this Court during the 189 years of its continuous existence.

By training and often also by personal predilection, lawyers are sensitive to possibilities of injustice. They know that power can be misused. They know that popular clamour can seem to legitimise something that is in truth wrong. They have an ability to probe – to question the accepted, the apparently obvious and the transiently popular.

Everyone is entitled to equal protection under our law. Lawyers must therefore be able and willing to represent unpopular clients and to take up unpopular causes in upholding legal rights. They must be able and willing to ensure that the law is put into action to control the exercise of power, whether by government or by other interests. They must be able and willing to strive for the protection of minority and individual rights. If lawyers do not do these things, no one else will.

I hope that you will enjoy your lives in the law as much as I have enjoyed mine. The comradeship of the profession is something to be valued. The work is fascinating and satisfying – but it can become an enemy if you let it take control. A lot is said these days about work-life balance. All of us have to take care to attend to our obligations to our families and, of course, to our

own health and equilibrium. You are fortunate that these things are better understood and more openly discussed today than they once were.

I wish each of you fulfilment and success in your legal career.

The Court will now adjourn.

ⁱ “The Newcastle Quarter Sessions”, The Sydney Morning Herald, 1 March 1892, p 8.

ⁱⁱ R v Gallienne, 27 February 1963, coram McClemens J; reported on appeal at (1963) 81 WN (NSW) (Pt 1) 94.

ⁱⁱⁱ It is suggested by the Newcastle Law Society in the “History” section of its website that Baker established his legal practice in Newcastle in 1841 (see also “Practice makes perfect”, Newcastle Herald, 25 February 2012). However, the Maitland Mercury and Hunter River Advertiser of 12 August 1843 (p 3) carried a notice dated 8 August 1843 by which Baker announced to “the inhabitants of Newcastle and its neighbourhood that he has commenced the practice of his profession at that place”. Baker, an English solicitor, was admitted in New South Wales in June 1841 (The Sydney Monitor and Commercial Advertiser, 9 June 1841, p 2). He worked for George Cooper Turner, Civil Crown Solicitor, after admission and, in June 1843, commenced practice in Sydney on his own account (Advertisement, The Sydney Morning Herald, 20 June 1843, p 3), a venture that may have been unsuccessful, given his re-location to Newcastle less than two months later.

^{iv} The Australian (newspaper), 5 August 1829, p 2.

^v “Maitland Assizes”, The Sydney Gazette and New South Wales Advertiser, 1 September 1829, p 2.

^{vi} Public notice, The Sydney Gazette and New South Wales Advertiser, 29 August 1829, p 1.

^{vii} Roger Therry, “Reminiscences of Thirty Years Residence in New South Wales and Victoria”, London, 1863, p 117.

^{viii} Pilcher, an English solicitor, was admitted in New South Wales in 1830 (Sydney Gazette and New South Wales Advertiser, 30 August 1830, p1). Advertisements in the Sydney Herald from February 1832 refer to him as “Solicitor, Maitland” (for example, 20 February 1832, p 1; 27 February 1832, p 1; 26 October 1835, p1).

^{ix} John Plaistow commenced practice before February 1840: Advertisement, The Sydney Herald, 21 February 1840, p 3.

^x “Death of Mr G W Millard”, The Sydney Morning Herald, 15 October 1923, p 10.

^{xi} Australian Dictionary of Biography, adb.anu.edu.au/biography/helmore-basil-arthur-10479

^{xii} “A Higher Justice”, The Sydney Morning Herald, 29 October 2005; Ceremonial Sitting, High Court of Australia - Farewell to the Honourable Justice McHugh – Sydney: [2005] HCATrans 840 (7 October 2005)

^{xiii} Ceremonial Sitting, Federal Court of Australia – Retirement of the Honourable Justice Lindgren: <http://www.nswbar.asn.au/circulars/2010/april/lindgren.pdf>

^{xiv} Justice K E Lindgren, “Reflections on Legal Education”, (2005-2006) 9 The Newcastle Law Review 67.

^{xv} “The Derkenne Courtyard”, University of Newcastle Cultural Collections, <http://uoncc.wordpress.com/2012/08/20/the-derkenne-courtyard/>

^{xvi} “Justice Mullane Retires After 22 Years”, Family Court Media Release, 26 September 2008.

^{xvii} “Judge Ralph Coolahan Farewelled”, Newcastle Herald, 2 December 2011.