

Pride in Law Address: 20-3-24

1. It is a great honour to be here this evening in the Banco Court. I pay my respects to the Gadigal of the Eora nation on whose unceded land this event takes place. I acknowledge the elders of our First Nations people: past, present and those coming forth. I recognise their unending connection to and care of the lands and waterways surrounding the place upon which we meet today. I acknowledge too their living culture and its essential contribution to the diverse nation we have become on their land.

2. Chief Justice, Justice Kirk, Justice Adams, Madame Director, Justice Kirby, distinguished guests and colleagues. This is an intensely personal moment for me. That this event is occurring in the Banco Court in the Supreme Court of our State, in and of itself shows the great distance we have travelled toward the attainment of justice and equality in my lifetime. I would like to provide some historical context, so that this wonderful event can be put in perspective.

3. I grew up in Canada, where homosexual activity between consenting adults was decriminalised in June 1969. When introducing the legislation in 1967, then Justice Minister Pierre Trudeau famously said that “the state has no business in the bedrooms of the nation”. It was not until 1984 that homosexual activity between consenting males was decriminalised in New South Wales. It was apparently not thought to ever criminalise sexual activity between women.

4. The 1960s and 1970s saw incremental acceptance of gay men and lesbians. Across the Western world, appreciable civil rights achievements were made through the so-called “liberation” movements of those decades. Then in the early 1980s, at a time almost co-incidental to the decriminalisation of homosexual activity between males in New South Wales, a great calamity occurred – the emergence of the HIV/AIDS epidemic. Not until the advent of combination antiretroviral therapies in about early 1996, more than a decade later, was the contraction of that disease not thought to be a death sentence. It was a very challenging time to be a gay man. In many respects we were treated as lepers, as many in the greater community had no wish to understand the disease or the way it was transmitted. Even after the disease was well understood, we endured discrimination in housing and employment, including in the law. And so, after the great strides of the 1970s, in the 1980s it became more difficult to be an out and proud gay person. It was truly a time of great adversity. Tonight I remember my friends who did not make it: Bruce Brisson, Will Adler and Remo Mazzantini, amongst many others. They would be amazed at how times have changed – so much for the better, and better than they could ever have imagined.

5. It was not then widely understood, but in fact the adversity of the HIV/AIDS years made us stronger as a LGBTIQ+ community. The hardships we experienced during those years forged coalitions between the gay and the lesbian communities, the trans community, the injecting drug user community, the sex worker community and with our straight allies. A new era of advocacy emerged, giving birth to extraordinary

organisations like ACON and ACT-UP, so that by the mid-1990s, when combination therapies became available – due almost entirely to the relentless advocacy of our community – we emerged in a far more advantageous position than we had been during the early 1980s. We were energised, organised and courageous, and ready to do the work in order to achieve equality under the law. It is truly remarkable – looking backward – how important those dark and frightening years were, but I repeat that adversity made us stronger – much stronger – notwithstanding the loss of many of our bravest and most eloquent friends.

6. I became a barrister in 1993. A couple of years later, at about the time of the emergence of the combination therapies, I met my husband Richard Benedict. We have been together for almost 30 years. Our love and devotion to one another was not celebrated at the Bar until the later part of my career as a barrister. I often felt like the only gay in the Phillip Street village. The floor on which I practiced for the entirety of my career did not invite Richard to floor functions until 2004, and then only after the wives of some of my colleagues refused to attend a floor dinner unless he was invited. On at least two occasions I was called a poofter in open court by other barristers in the presence of a judge, a court officer and other legal practitioners. Throughout my career, with some few exceptions, I was briefed only by the women solicitors of New South Wales and other states.

7. And yet, times got better. I recall fondly my straight male allies who would embrace me on Phillip Street without a second thought. They

deserve a mention tonight. I name only a few: David Catterns KC, Richard Lancaster SC and Judge Nick Manousaridis. There are many others, and I apologise for not mentioning them by name. I mention also the women barristers of New South Wales, the vast majority of whom supported me, personally and professionally, throughout my career. They all deserve credit for helping to make things better for all of us in our profession.

8. By the late 2000s and early 2010s the NSW Bar Association, which had historically seen the advancement of LGBTIQ+ rights as a political issue with which it wanted no involvement, began to champion LGBTIQ+ rights as part of its diversity and human rights mandate. LGBTIQ+ discrimination suddenly became a matter for discussion at the Equality and Diversity Committee and at Bar Council. In 2017, the Bar Association took a principled stand during the marriage equality debate, notwithstanding significant pushback from some of its members. In that same year, I became the first Advocate for Change in the LGBTIQ+ space. All of this activity constituted significant and meaningful change, much to the credit of a new generation of barristers.

9. However, there is still more to do to achieve diversity, equality and justice. As Justice Simpson recently remarked, at my swearing in ceremony in February 2023 in this very room, an Attorney-General for the first time publicly acknowledged the same sex spouse of one of the court's judges.

10. We are here to celebrate diversity and inclusion in the legal profession. To say that the profession is more diverse and inclusive than it once was is very much an understatement. It is a testament to the leadership of many, including the Chief Justice, Justice Kirk, and current and past members of the bench and bar who are present here tonight, that we are gathering in this space for this purpose. I express my gratitude to all of you who have made this possible – for me and for those who have and will come afterward.

11. To paraphrase Benjamin Franklin, justice is achieved only when those who are unaffected by injustice are as outraged as those that are. Look around us. We have apparently succeeded.

12. So let me conclude these remarks by saying this. Be true to yourself – always. Be proud – always. Be courageous – always. And never forget that as lawyers, we - individually and collectively - have the privileges and responsibilities which come with understanding the language of the law, and that the law's *raison d'être*, that is its reason for being, is the attainment of justice.

13. May Pride in Law thrive and flourish.