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In 1974, there were 37 Supreme Court judges; 27 District Court judges and 35 magistrates of what were then known as the Courts of Petty Sessions. There are now (excluding acting and associate judges) 53 Supreme Court judges; 87 District Court judges and 151 magistrates. There was no Judicial Commission no Land & Environment Court, no Federal or Family Court, and no NCAT or AAT in which so many disputes are resolved.

The nature of practice has also changed significantly. I don't consider myself all that old at the age of 58 but when I started practice:

- My chambers had a shared fax machine which was how urgent documents were communicated;
- I had a Texas Instruments 286 laptop which was not connected to the internet;
- There were only two female barristers on my Floor;
- There was no Austlii;
- Email was not used nor were PDFs;
- Most people did not have mobile phones;
- I kept a note of my invoices in a paper Collins notebook;
- Unreported cases could only be found in hard copy in the Bar library;
- The courts did not use AVL and even as the technology developed, there was a great hostility to, and scepticism about its use;
- The Bar had a great hostility to mediation; and
- There was no CPD.

So much has changed, including in the number of law schools and young people being admitted to the profession. In 1974, some 595 people were admitted as

solicitors.<sup>8</sup> In the 2022/2023 financial year, 3,007 were admitted to the profession and the Court conducts more than 50 admissions ceremonies a year.<sup>9</sup>

Newly admitted lawyers reflect the diversity of contemporary Australia, and concerted efforts are being made to encourage indigenous Australians to enter the legal profession. Diversity is important to fostering inclusiveness, which in turn builds trust in and respect for both the judiciary and the legal profession.

As ever, the subject matter of the work of the courts reflects the changing nature of society. Personal injury and motor traffic accidents are now principally dealt with administratively whereas they used to dominate the work of the Common Law Division and District Court. Within the criminal sphere, the explosion in the use and illegal distribution of drugs has had an enormous impact with ramifications not only for property theft to fund drug habits but also leading to the commission of terrifying crimes of violence by those under the influence of particular narcotics such as ice and methylamphetamines. The growth of the drug industry is also closely associated with the growth of organised crime.

Other features of our changing society have been the marked increase in sexual assault or at least prosecutions for sexual assault. There have been over 500 sexual assault trials each year in the District Court of New South Wales since 2020.<sup>10</sup> It is now, regrettably, the staple work of the District Court in its criminal jurisdiction. Another significant change has been the development of terrorism offences and related high-risk offender litigation.

More change was forced upon the profession and the Courts by the pandemic, memories of which are still current although perhaps already fading. The pandemic had two principal impacts: on how we worked and how we coped with the impact of lockdowns.

As you know, the pandemic necessarily forced Australian lawyers and judges to begin working “remotely” from home, although the extent of that varied from State to

<sup>8</sup> New South Wales Bar Association, *New South Wales Almanac for 1975* (Report, 1975) at 116-276, available at <<https://www.lawalmanacs.info/almanacs/nsw-law-almanac-1975.pdf>>.

<sup>9</sup> Legal Profession Admission Board, *Annual Report 2022-2023* (Report, 2023) at 9, available at <<https://www.lpab.justice.nsw.gov.au/Documents/Annual%20Report%202022-2023.pdf>>.

<sup>10</sup> District Court of New South Wales, *Annual Review 2022* (Report, 2023) at 16, available at <[https://districtcourt.nsw.gov.au/documents/reports/22351\\_-\\_District\\_Court\\_2022\\_Annual\\_Review\\_v3.pdf](https://districtcourt.nsw.gov.au/documents/reports/22351_-_District_Court_2022_Annual_Review_v3.pdf)>.

State and region to region. Some practitioners left the cities and moved regionally to work remotely<sup>11</sup> and continue to do so.

The use of remote technology provided increased flexibility and cost savings for practitioners, whilst also increasing the reach of court proceedings to the public through livestreaming.<sup>12</sup> However, as I noted in my swearing-in speech as Chief Justice in March 2022, COVID-19 brought with it the risk of an “unintended but insidious depersonalisation of the legal profession”, because, as I explained:

“...the absence of practitioners from chambers and solicitors’ offices will sap them of vitality and will stunt the personal growth and professional development of young lawyers in particular.”

“An essential part of being a good lawyer”, I said, “is understanding people and human nature, ... So much of this is lost in a professional practice or hearings reduced to scheduled zoom or MS teams meetings. What hope, moreover, is there for achieving work/life balance in the profession when work takes over the living room or bedroom at home and further blurs an important distinction?”<sup>13</sup>

I am pleased to observe that, although the flexibility of remote work remains, there seems to have been a correction in terms of solicitors and barristers working from the office or chambers. I think that that is salutary and is especially important for the development of young lawyers in not only their inter-personal skills but in developing rapport with clients and understanding and responding to their needs.

Now, having relatively recently emerged from the pandemic, we find ourselves (almost all at once) in the era of artificial intelligence, which poses unprecedented challenges for our justice system. Artificial intelligence has the potential radically to affect the practice of the law in myriad different ways. More generally and perhaps most alarmingly, as the former Australian Defence Force Chief, General Angus Campbell, has warned that:

<sup>11</sup> *Escape from the city: the regional remote-working boom* (Australian Financial Review, 14 December 2020), available at <<https://www.afr.com/work-and-careers/workplace/escape-from-the-city-the-regional-remote-working-boom-20201214-p56n8f>>.

<sup>12</sup> The Hon A S Bell, *Ceremony upon the Occasion of the Swearing in of the Hon Justice Andrew Bell as Chief Justice of New South Wales* (Speech, 7 March 2022) at [23], available at <[https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2022-Speeches/Chief-Justice/Bell\\_CJ\\_20220307.pdf](https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2022-Speeches/Chief-Justice/Bell_CJ_20220307.pdf)>.

<sup>13</sup> The Hon A S Bell, *Ceremony upon the Occasion of the Swearing in of the Hon Justice Andrew Bell as Chief Justice of New South Wales* (Speech, 7 March 2022) at [20]-[21], available at <[https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2022-Speeches/Chief-Justice/Bell\\_CJ\\_20220307.pdf](https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2022-Speeches/Chief-Justice/Bell_CJ_20220307.pdf)>.

“As these technologies quickly mature, there may soon come a time when it is impossible for the average person to distinguish fact from fiction, and although a tech counter response can be anticipated, the first impression is often the most powerful ...

This tech future may accelerate truth decay, greatly challenging the quality of what we call public ‘common sense’, seriously damaging public confidence in elected officials and undermining the trust that binds us.”<sup>14</sup>

I recently explored some of the threats and dangers of the rise of artificial intelligence in a recent lecture entitled *Truth Decay and its implications for the judiciary: an Australian perspective*.<sup>15</sup>

A commonly cited benefit of artificial intelligence is efficiency, and some lawyers and law firms are already taking advantage of these capabilities in relation to what have been described as repeatable “everyday legal tasks”.<sup>16</sup>

The pace of change is rapid and the “quality” of the technology is being constantly refined. As we have seen in other areas, such as the explosion of social media platforms, attempts at regulation frequently lag, often significantly, the development and impact of technology, and that is only exacerbated where one is dealing with technology that does not recognise and or which transcends geographical boundaries and individual jurisdictions.

Lawyers must remain vigilant in the use of artificial intelligence, as persistent “AI hallucinations” remind us that accurate, reliable and critical legal analysis currently remains a solely human capability.<sup>17</sup> But the risks extend far beyond so called AI hallucinations and fundamental quality control. AI has the real potential to

<sup>14</sup> *Defence force chief Angus Campbell warns deepfakes and AI will drive era of ‘truth decay* (ABC News, 15 September 2023) available at <<https://www.abc.net.au/news/2023-09-15/anguscampbell-warns-about-deepfakes-artificial-intelligence/102860418>>

<sup>15</sup> The Hon A S Bell, *Truth Decay and its implications for the judiciary: an Australian perspective* (Speech, 23 April 2024) <[https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2024-speeches/chief-justice/Truth\\_Decay\\_29042024.pdf](https://supremecourt.nsw.gov.au/documents/Publications/Speeches/2024-speeches/chief-justice/Truth_Decay_29042024.pdf)>.

<sup>16</sup> *Ashurst AI trial shows huge time savings on everyday legal tasks* (Australian Financial Review, 10 April 2024), available at <<https://www.afr.com/work-and-careers/workplace/what-this-law-firm-learnt-from-experimenting-with-ai-20240408-p5fi2k>>; *‘Get the job done’: One in two lawyers use AI* (Australian Financial Review, 16 April 2024), available at <<https://www.afr.com/work-and-careers/workplace/get-the-job-done-one-in-two-lawyers-use-ai-20240415-p5fjz0>>.

<sup>17</sup> **Gen AI tools for lawyers ‘hallucinate’ up to one in three times** (Australian Financial Review, 3 June 2024), available at <<https://www.afr.com/work-and-careers/workplace/gen-ai-tools-for-lawyers-hallucinate-up-to-one-in-three-times-20240530-p5ji09>>; Varun Magesh et al, “Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools” (Working Paper, 2024), available at <[https://dho.stanford.edu/wp-content/uploads/Legal\\_RAG\\_Hallucinations.pdf](https://dho.stanford.edu/wp-content/uploads/Legal_RAG_Hallucinations.pdf)>.

encourage or feed laziness in research and analysis and a loss of essential skills and critical thinking.

These issues also need to be addressed in our law schools and in the way that students are assessed to ensure that legal graduates have demonstrated that they have a genuine and personal understanding of fundamental legal principles.

There are a host of substantive legal issues which are also presented by the rise of artificial intelligence which go well beyond the impact on practice and practitioners. These include the regulation of data platforms from which generative AI technology “scapes” the data that is subject to extraordinary computational processing, as well as related issues of the protection of privacy and personal data.

It is, to my mind, essential to remember that artificial intelligence cannot replace the essential function of lawyers in resolving fundamentally human disputes and controversies. As I note in admission ceremonies for newly admitted lawyers:

“An individual in need of your services as a lawyer will in many cases be an individual facing some kind of great personal challenge or crisis affecting his or her liberty, property, personal wellbeing or health or financial position. There is therefore a need to deliver legal services not only competently but always with courtesy, integrity and sensitivity to the circumstances of the matter. That requires a human being with emotional and not artificial intelligence.”

The NSW Bar Association and the NSW Law Society have been proactive in equipping practitioners with guidelines to ensure that artificial intelligence is used responsibly in the legal context.<sup>18</sup> And the Law Society’s AI Taskforce is a timely and valuable initiative.

Courts across Australia are also grappling with artificial intelligence-related issues. In *DPP (ACT) v Khan*, Mossop J identified that a character reference had likely been generated using a large language model program such as ChatGPT, and discounted its significance accordingly<sup>19</sup> But deep fakes will become more sophisticated, and present real challenges for the Courts moving forward. Fraudsters and criminals

<sup>18</sup> Professional Support Unit, “A solicitor’s guide to responsible use of artificial intelligence” Law Society Journal (online, 14 November 2023) <<https://lsj.com.au/articles/a-solicitors-guide-to-responsible-use-of-artificial-intelligence/>>; New South Wales Bar Association, Issues Arising from the Use of AI Language Models (including ChatGPT) in Legal Practice (12 July 2023).

<sup>19</sup> *Director of Public Prosecutions (ACT) v Khan* [2024] ACTSC 19.

will seek to exploit the growing sophistication and ability of AI tools to further their illicit activities.

Various jurisdictions are beginning to establish practice notes and guidelines to regulate the use of artificial intelligence.<sup>20</sup> Such policies are currently under consideration by the Supreme Court of New South Wales.

Such initiatives highlight that the courts and profession are continuing to work to ensure that emerging technologies are used appropriately and responsibly as a tool to improve, rather than to undermine, the effective administration of justice. Much more than efficiency gains are at stake. The developments have the real prospects of affecting the way law is practised. The leadership of senior practitioners in this area is critical.

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<sup>20</sup> Supreme Court of Victoria, Guidelines for Litigants: Responsible Use of Artificial Intelligence in Litigation (May 2024), available at <<https://www.supremecourt.vic.gov.au/sites/default/files/2024-05/AI%20Guidelines%20SCV.pdf>>. Supreme Court of Queensland <https://www.courts.qld.gov.au/about/news/news233/2024/the-use-of-generative-artificial-intelligence-ai>.