

University of Queensland, Law Students Orientation
10.30 am, Wednesday, 17 February, 1999, Abel Smith Lecture
Theatre

The Hon. Paul de Jersey, Chief Justice of Queensland

I am of course very pleased to address you today, and it is a privilege. I lead a profession you will be nurtured to join.

I am especially pleased to see you here. I have great affection for this University, and particularly its law school. This institution has been a sort of tertiary cradle for all my family. My wife and our older daughter each completed a Bachelor of Arts here, as did I. I also graduated in law from this law school. Our younger daughter will soon complete her Bachelor of Laws, and our son is in third year of the same course. My brother is Professor of Biochemistry. We all see this University as a great place of learning.

I hope you enjoy your years here. The qualifications you have the chance to gain will serve you well throughout your lives.

Before going further, let me congratulate you on your academic achievement! You must have done well to gain entry. I hope that success continues!

The first year of university will be an important transitional stage in your careers. I offer a warning. The step from school to university sees the fall of some students and the blooming of others. Some students coming from school become complacent or dangerously self-confident in the wake of school success and an expectation of further success. You are all high achievers - if you were not, you would not have gained admission. Remember you are all of similar intellectual ability. You can all succeed. But your goal should be to surpass the average: to excel. To do that, will require considerable diligence.

The marked difference between school and university is freedom. The days of teachers supervising your study are gone. In many subjects here your contact with lecturers and tutors may be much reduced, and assessment will sometimes be in the form of a once only, "make or break" type test at the end of the semester. I note the law school has progressively taken steps to decrease the pressure of that approach, by adopting the policy of continual assessment, under which at least 30% of the assessment must be completed through the semester. This undoubtedly has a positive effect, by discouraging "cramming" and heightening long-term retention - the sort of cramming of which I confess I was myself guilty as a student. Don't follow my example! The effort you devote to your studies is entirely up to you. But I urge you not to abuse your new found freedom.

Your recent three month holiday probably consumed a lifetime of TV and video games. Now you enter a new regime. But having said you need to be disciplined, I say that of course you must still have fun, and lots of it. Enjoy your years at university. Lectures and tutorials are arranged so you have ample leisure time. If you learn to manage your time efficiently, you will easily involve yourselves in the exciting extra-curricular activities offered around the campus. Participation in those is an excellent way of meeting other students and developing yourselves. Music, sport, debating, politics, attending balls, drinking a little beer if you like: depending on your taste, these are the things that inject the spice and really make university one of life's great experiences. And I believe balance of work and play will give you the best overall result. But don't take drugs - they are not part of the passage to fulfilment.

Now what about the study of the law? This will be like nothing you have previously encountered. It will certainly be nothing like "LA Law" or "Law and Order", and very little like "Rumpole". It will be absolutely nothing like "Judge Judy". No doubt you have already been subjected to the usual rather tiresome forecasts - Andrew should do well because he debated at school; Jane is sure to succeed because she argues about everything. The community unfortunately does not have a precise conception of the law and the judicial system. You will often be challenged with stereotypes, and ultimately, if you become barristers, with the repeated query: But how can you defend someone you know is guilty?

A lot of public misconception about your prospective profession has been fed by the more absurd aspects of the American experience, of which my colleague Justice Thomas once offered these examples:

"a New York gentleman ... was stung by a wasp when sitting outdoors at his country club. He suffered a serious reaction from anaphylactic shock, sued the club for negligently allowing unaccompanied wasps into the grounds, and collected \$1.5million in damages ... a passenger on an aeroplane took a rise out of his fellow passengers by declaring that the aircraft was going to crash. One of the passengers thereby suffered severe emotional distress. She successfully sued the airline for damages and obtained an award more than sufficient to settle any jagged nerves ... a New York man, tired of living, decided to end it all by leaping into the path of a subway train. The train driver was exceptionally alert and managed to stop without killing the gentleman although it was impossible to avoid hitting and injuring him. The attempted suicide then sued the railway company. What do you think happened? a British journalist, upon hearing of this law suit, assumed it must be based on some fancy cause of action, such as frustration of the plaintiff's democratic right to make away with himself. He was quite surprised to discover that the claim was actually for damages for personal injuries, and

even more surprised to hear that the plaintiff won the case and was awarded \$600,000."

You will soon realize we fortunately have little prospect of going down that path here.

What then is the law? Why is it important for society? The law is the community's best attempt to assure what is sometimes called a "civil" society; a framework of known or predictable regulation necessary for our civilized interaction as sophisticated human beings. That may sound like rhetoric. But do not underestimate the pivotal significance to society of the legal system. And it is in this context, as you will be told, that the judiciary is indeed the third "arm of government", along with the legislature and the executive.

These are appropriately grand concepts. To comprehend their detail is demanding. The study of law is a challenge not only conceptually, in that you will be exposed to some complicated notions, but also practically: there will be many hours of reading, a lot of it not terribly stimulating. Law, above many other areas of study, requires a high level of stamina. But like the law itself, legal studies are reasonably predictable, and once you have developed a system for approaching one subject, you will find that most often it will be useful for others as well.

Let me dispel another misconception. We are commonly led to believe that lawyers have difficulty with anything relating to mathematics or science. There are stories of cases where the judge and two counsel have worked out simple interest only to arrive at three different figures. Some lawyers claim coyly that they studied law just to avoid such exercises. We are generally branded as "humanities" people. But you will find law is logical and best approached in a methodical, quasi-scientific manner. You will see the best students devising "formulae" for approaching different parts of the law. a methodical approach will serve you well in practice.

The generalisation about lawyers and science is by the way historically inaccurate. A number of current Judges first studied science or engineering. And long ago, Queensland's first Chief Justice, Sir James Cockle, was a mathematician and Fellow of the Royal Society. His judicial style involved an overtly scientific approach.

Now what of the prospects of being able to apply the law you will come to understand? The culture of most law schools, including T.C. Beirne, reflects the highly competitive nature of the profession. The competition to find employment within the profession is fierce. I saw some sign of this at the last admissions ceremony. Of the 114 solicitors admitted, 8 held University Medals, 14 had obtained first class honours and 49 had second class honours, leaving 43 with pass level degrees. This may confirm that employers are naturally enough favouring graduates with high academic results. So be under no doubt, law school

is competitive, hence my saying earlier, you should try to excel. Graduates from this Law School, I should say, have traditionally done well.

Many of you, probably most of you, have chosen to study law to enter legal practice as such. This is an interesting time for that. No doubt you are familiar with computers and the wonders of the Internet. If not, you will have to acquire those skills. The profession is changing rapidly, with the wealth of available information and improvements in legal research techniques afforded by information technology, like CD-Roms. This increase in information means the level of knowledge desirable for practice in any particular area has also increased, in a practical sense. None of us wants our client to lose because our opposite number can pull out the definitive case of which we've never heard.

Information technology is dramatically changing the way the legal system operates. Let me illustrate. Twenty years ago the thought of giving evidence in court by telephone link-up would have been considered extraordinary. But now this regularly occurs. One of the most remarkable innovations we have experienced in Queensland is "real-time" reporting, to this stage used only occasionally in large complex cases, where the reporter produces a transcript of evidence almost immediately available in electronic form on screens before judge and counsel. This is fascinating when one realises that only about 15 years ago, all transcripts were done by pen writers. Another is computer based crime scene simulation. The capacity to walk a jury around a crime scene, through a house, along alleyways - stopping from time to time for closer inspection - all on screens within the courtroom, is invaluable, both with respect to the economic use of resources and also to enhance appreciation of relevant facts. Another modern approach worthy of particular mention is the reduction of paper records in cases - voluminous documentation, including exhibits, pleadings, submissions, and as it accrues, evidence - into CD-rom format. To give you an idea of the advantages of a "paperless" court I quote the descriptive reference of a commentator to the style of presentation of two major recent cases in the Supreme Court of Victoria, the Estate Mortgage case which was computerised, and the Pyramid Building Society case done in the old fashioned way:

"On the first floor, the court is wading knee deep through the paper trail... Every time a document is mentioned there's a mad scurry as everyone rifles through shelves and leafs through pages looking for the right piece of paper. Downstairs... the atmosphere is strangely serene for a court ploughing its way through more than 30,000 documents ... The only sound punctuating the drone of the presenter is the occasional click of a mouse button." (K. Derkley, "Netting the Paper Deluge" (1997) 71 L.I.J. 8-9)

To pursue a legal career is a great ambition. It is not to be undertaken lightly. Lawyers carry a substantial public burden; but it is a burden we willingly assume. Solicitors and barristers work together with the judges in the administration of

justice. As I have said, the justice system is a critically important component of our social fabric. It protects all members of the community from harm. It ensures peace, order and good government. It secures personal freedom. It guarantees to the individual citizen the impartial, a-political adjudication and securing of his or her rights.

But justice must by definition be available to all people equally - regardless of rank, wealth, race or religion. It is up to the profession with the judges to ensure legal services are accessible to all: there is not only equality before the law, something implicitly guaranteed, but also equal access to the law. If we are able to do this, justice will exist, prevail.

The nature of the practice of the law is changing. In some circles, the law is seen more as a business than a profession. I encourage you, as our future leaders, to avoid focusing too much on economic rationalism. Use your likely position of privilege to help those less fortunate - the weak, the marginalised, the friendless. Some people, probably many, may criticise you, in accordance with the fashion, for studying the law. You will be called upon to defend the profession from attack. It is an honourable profession. You may boldly proclaim that fact. But the fate of it partly - as to the future - lies in your hands. I expect you will do your best to pursue its altruistic objectives with vigour.

There are some among you who may not enter the legal profession as such. A law degree opens the door to many different careers. The public service is one obvious destination for law graduates, in areas such as policy development or general administration. Many students now take on a second degree, such as arts or commerce, and those students often find rewarding careers in a variety of fields. Accounting firms are eager to employ law graduates as consultants. Other law graduates find interesting employment in the human resources industry with recruiting agencies and management consultancy. Some of you may chose to enter the world of academia. High quality educators are essential to the health of the profession. Whatever career you choose, you will find the skills acquired through your law course highly regarded and serving you well.

I was urged to relate some anecdotes of my own time here. One thing I do recall is that in 1st and 2nd years anyway, the "uniform" then for aspiring law students was hush puppies, long socks, tailored shorts and shirt and tie - in other words, the appearance, you would now say, of the quintessential dork. I won't go on. You shouldn't be burdened with middle-aged ramblings about three decades ago. What I will add is that though fashions change, the essence of legal education remains the same, and that covers not only understanding of legal principle, but an appreciation of the idealism underpinning it.

Judges often stress that they do not deliver justice, but justice according to law. Courts stress they are courts of law, not morality. But to leave the impression we

simply apply a sterile set of regulations is captious. Parliaments and courts have crafted the law, as best they can, to reflect the community's moral, ethical, idealistic standards. So in coming to assimilate legal principle, your own morality should strengthen, your own idealism enhance. And a lot of what we do is discretionary, not dependent on fixed rules, but notions of fairness, reasonableness.

As you come to consider the principles, remember this: you may emerge not only as good lawyers, but also as better people. When the Court of Appeal admits practitioners, I remind the new lawyers of some of our current challenges. What I have been saying is this:

"The legal profession faces many sharp and interesting challenges these days: how to make justice more accessible to all people; how to ensure that economic rationalism does not bury the essence of the profession, which is public service; how to assist those for whom it is innately more difficult to progress in the profession; how to ensure that we efficiently uphold the rights of "unpopular" people - the weak, friendless and marginalised; and how to persuade the people that this sometimes unpopular profession of ours is indeed strongly committed to ethical community service."

Probably the challenges will change a lot over the next 5 or 6 years. What will not change is the worthiness of idealism and altruism in what we do. Lawyers are not automatons: they should be true professionals imbued with a deep sense of morality, and commitment to the betterment of their fellows. That will be your challenge!

Before concluding today, I am told I should briefly recount my own career. I hesitate to do this, lest I be condemned as egotistical. But my Associate tells me that it may be of some little interest to you, and I will take his advice.

I attended this University from 1966 to 1971. I graduated in Arts - with majors in English literature and Government - and Law. I spent 5 years in the University Regiment, as a reservist alternative to National Service in Vietnam: those were the days of conscription, and it was a worthwhile experience. For my last year at University, I was Associate to a Supreme Court Judge, Mr Justice Wanstall, later Sir Charles Wanstall, Chief Justice. When I graduated in 1971, I was immediately admitted to the Bar and commenced active practice. I also married my wife. My practice was varied, but with an emphasis on commercial and constitutional matters. After ten years at the Bar I was appointed one of Her Majesty's Counsel. During my 13 years at the bar, I appeared of course before the High Court, and also before the Judicial Committee of the Privy Council, an avenue for appeal no longer available. I was appointed a Judge of the Supreme Court in 1985, and early last year, Chief Justice.

My point is to emphasize that I too was once in your position - excited and a little anxious embarking on legal studies. Let me assure you I was never one of those mythical creatures said to be destined to succeed. I always had to "work at it". I have recounted recently on a number of occasions that my headmaster at Churchie may not have been entirely sure I would succeed. He gave me a reference when I left school. In that reference he said I should do well, as he put it, "with ordinary good luck". Well, I have had a large portion of luck, and obviously I have, to this point at least, done well. Some of you may rise to the position of Senior Counsel, Judge or high in the leading firms. I hope the story of my career may offer you some encouragement. But none of this is to suggest that reaching pinnacles like those is a pre-requisite for fulfilment. You all have the capacity to reach your own fulfilling pinnacle.

Thank you for listening to me. Congratulations on gaining acceptance to this highly competitive course. Strive to excel! I hope we may meet again professionally - often!