

University of Queensland TC Bierne School of Law

Welcome to New Students

Schonell Theatre 10:30 am Wednesday 9 February 2000

The Honourable Paul de Jersey Chief Justice of Queensland

Salutations.

May I say how pleased I am to be here to speak with you today. A most enjoyable aspect of my duties as Chief Justice is to speak with those embarking upon new and exciting stages in their lives to new law students such as yourselves, to law graduates about to enter the world of work, and to new barristers and solicitors upon their admission into the legal profession. Each new chapter brings fresh challenges, and opportunities seemingly greater than those of the last. No doubt you feel great excitement at leaving school behind and entering a more liberated and diverse environment.

I at once congratulate you on your entrance into this particular law school. Your attaining a place here reflects outstanding personal academic achievement and much hard work! I hope you enjoy your time here.

I certainly remember fondly my university days. My own orientation week was as long ago as 1966. I graduated a far richer person for the learning, the buzz of university life, firm friends, and ultimately I should add my wife, whom I met when she was working as a law librarian!

University life brings many opportunities for enjoyment. I encourage you to become involved during your time here. I would be surprised if there were not a club, sport, musical group or society of interest to each of you. You probably groan to hear parents and teachers advising that these are the best years of your life, but it is true that student life brings unique opportunities not to be missed! No doubt most of you have worked very hard during the last couple of years of school, and I hope you will enjoy having more time for leisure for debating, sport, music and simply for making new friends.

Of course this free time can be dangerously tempting! You will no longer have teachers to monitor your progress on assignments and encourage revision. Your lecturers won't monitor your attention my Associate tells me her psychology

lecturers actively encouraged students to pass notes, so that they wouldn't talk! In my day, subjects were assessed by 100% exams at the end of the year. By the final term, students filled the libraries, trying to "cram" a year's worth of study into a few weeks. Bad practice! Things have changed, and you will experience much more continuous assessment throughout the year, as well as undertaking semester-long, not year-long, subjects. You will do best by establishing a consistent study strategy as early as possible. No doubt you are well qualified at studying by now! I remember from my own school days, and I am sure that the same is still true, that there were always those who seemed to sail through exams without much study at all. I admit I was not one such lucky person! I rather doubt they really exist. If they do, they in particular must now be warned: practically all you learn from now, in Law at least, will be entirely new information. You will need to read cases and texts, and to attend lectures, or you will find yourselves wondering if you have entered the right exam room! Also, much of what you now learn will be information you will need to use as lawyers later on – be mindful of that and study to retain, not merely to pass exams. But most of all, you have a unique opportunity to study alongside many great minds, to discuss concepts with academics highly acclaimed in their fields, and work in an environment where intellectual achievement is highly valued – do not waste this wonderful opportunity.

And don't play too much sport: quell your natural Australian psyches and don't let it seduce you. You are here to cerebrates, to develop intellectually. Don't be tempted away from that primary focus. During the break I visited the University of Zurich in Switzerland. That institution has produced no fewer than 15 Nobel Prize winners, including by the way Albert Einstein. Yet it apparently has no playing fields! This university rightly boasts its own Professor Doherty. Do we have, what, as many as 45 ovals here? There is no particular point to this beyond my reminding you that sporting prowess is not central to intellectual prowess, and you are here to develop the latter.

But enough advice – what of studying law? Some of you may come from so-called "legal families", and know about the law. Others may have just completed school-level legal studies. Many of you probably know very little. Don't worry – you have plenty of time to catch up! You will find our legal system – and our lawyers – vastly different from the picture painted in such television shows as *Ally McBeal* and *Judge Judy* – did I hear you say "thank goodness"?! You will soon learn all about our legal system, with its roots in English history. You will also come to see the law as dynamic – changing to reflect the values and needs of society. Our legal system, and the law in force today, are an interesting blend of tradition and change. Some of the cases you will hear mentioned will date back to the 1800s. In such cases, the facts might seem amusing today, despite the legal principles still applying. On the other hand, you will also study topical, even contentious recent cases. And you will of course learn much statute-based law as well. You commence your studies at a time of interesting legal debate within the community – constitutional change, Aboriginal reconciliation and social welfare issues are topical.

This blend of tradition and change is echoed in the workings of the Courts.

Tradition is evident in the robes and wigs worn by Judges and barristers – a practice sometimes criticised, but I believe important in maintaining the dignity and serious nature of legal proceedings. You might find amusing the traditional opening of the court – "Oyez, oyez, oyez. All persons having any business before this Honourable Court will now draw nigh and give their attendance and they shall be heard. God save the Queen." But again, these words are of important legal effect – it is not meaningless tradition.

On the other hand, our Courts are changing dramatically. Proceedings – for example the taking of evidence from child witnesses – are reviewed to ensure maximum fairness and to streamline the trial process. Technology has revolutionised many aspects of trials. It is usual these days for at least one witness in a case to give evidence by telephone-link, saving public expense and witness inconvenience. A particularly interesting innovation is the use of computerised virtual crime simulations, where, for example, the house in which a murder occurred is recreated, the jury can "walk through" each room, rather than relying on multiple, sometimes confusing, photographs. At a time when the cost of litigation can be a real disability to many, the Courts strongly promote alternative dispute resolution mechanisms, like mediation: faster and much less expensive. So you see the Courts are far from behind the times!

What precisely is the law? This is a question with a myriad of answers. In fact you may study philosophers' attempts to answer it for an entire semester in the subject "Jurisprudence". In the past I have defined the law in this way:

It 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 civilised interaction as sophisticated human beings.

Our legal system is of pivotal significance to society. The judiciary is the third "arm" of government, separate from the others – the legislature and the executive. This separation of powers is one key principle underpinning our ordered society, and the rule of law is another. The law protects our democratic freedom by conferring limited power upon those who rule. So you see the law is much more than a mere conglomeration of regulation.

Your own understanding of what the law is will be moulded by your reason for studying it. Your reasons no doubt will be many and varied. I have sad news for those who are attracted to the opulent lifestyle popularly attributed to lawyers – any success, monetary or otherwise, comes from many long nights of hard work! But in more serious vein, I do hope that you, as future members of the legal profession, approach it mindful of your duty to the public, and of the traditions of honour and integrity in which the profession is steeped. Much criticism is popularly levelled at

it, and indeed sometimes at law students. However it is a noble profession, and all members must adopt and promote its ideals. Lord Denning summarised a barrister's duty in *Rondel v Worsley* ([1967] 1 QB 443) as such:

"He must accept the brief and do all he honourably can on behalf of his client. I say "all he *honourably* can" because his duty is not only to his client. He has a duty to the court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do as he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously mis-state the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all relevant authorities, even those that are against him. He must see that his client discloses, if ordered, the relevant documents, even those that are fatal to his case. He must disregard the most specific instructions of his client if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honour."

I see the Court's primary concern to be increasing the accessibility of justice according to law. Much has been done in pursuance of this goal, but it is frustrating to see continued examples of justice being inaccessible to members of our community. I urge you also to adopt this goal as you follow a career in the law to give voice to the needs of the weak, the marginalised and the friendless.

On a somewhat lighter note, may I encourage you this morning to pay a visit to the Courts. Many of you will not have seen a courtroom in action, or even have entered the Court buildings! Almost all court proceedings are open to the public, and I am sure you will enjoy observing it will also add a practical dimension to your studies. You may initially find criminal trials easier to follow than civil cases, but you can "look around". You will easily find the cases being heard each day, either on the Supreme Court webpage, or in the law list printed in the newspaper and displayed in the foyer of the Court buildings. I hope that while visiting the Court buildings, you will find interesting the new rare books display outside the ceremonial Banco Court on Level 2. A striking structure of jarrah wood and glass has been constructed to house a fascinating and nationally significant collection of books previously stored in the Supreme Court Library. The room, which will officially be opened this Friday evening, is a splendid addition to our Courthouse.

You may also find interesting some of the history of the Law School you now enter. For example, did you know that the man whose name is commemorated in its title, Mr T. C. Bierne, was not himself a lawyer? He was in fact I think a draper, the proprietor of a large department store. In 1935 he pledged five thousand pounds per annum for four years, for the establishment of a complete School of Law. Somewhat more predictably, the Law Library is named after Professor Walter Harrison, who once occupied the Garrick Chair of Law. The first law classes were held in 1936, and significantly Una Prentice was the School's first graduate in 1938.

An interesting historical chapter covered the role of the School in World War II. From 1942 to 1944, the Forgan Smith building was used by the Australian Army as the advance headquarters of Field Marshal Sir Thomas Blaney. The Commander-in-Chief of all allied ground forces in the south-west Pacific, he occupied what is now the office of the Head of School. In 1989 the Law School was refurbished, and it was discovered that one of the rooms, now numbered W343, was heavily sound-proofed. It was thought that this must have been the wartime operations room, and the site from which some of the most critical land battles were directed.

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 her advice. Of course I presume in listing what I think may be of interest. Last year I heard a murder trial in Longreach, and visited the Longreach State School which I had myself attended as a boy. I was amused by some of the personal questions put to me by the children. How much was I paid? Did I live in a mansion? What did I think of capital punishment? Was I ever caned at school?! I am afraid these following details are probably a little more dry, but nonetheless they may be more relevant to our purpose today.

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 then 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 in London, an avenue for appeal properly no longer available. I was appointed a Judge of the Supreme Court in 1985, and in early 1998, Chief Justice.

My purpose in listing this information is, of course, to assure you that I was very much in your shoes as a young man. While now your legal careers might seem distant and uncertain, you all have the potential to go far. Of course not all will aspire to judicial ranks, although I imagine many will. Your law degree will lead into a myriad of places within the legal profession, as a legal expert in other fields, even simply as a training in intellectual rigour and disciplined and systematic thought, to be applied to your advantage elsewhere.

You enter university at a time of historical significance. What is conventionally regarded as a new millennium fires the imagination: what great change will occur throughout your working lives to society, the profession and indeed the law? Regardless of external change, the underlying values will surely remain the same.

This will be up to you!

But for now, enjoy your time here. I wish you all the very best, and look forward to seeing you professionally. Or as they say "I ll see you in Court!"