

Opening of Deacons' new premises

Level 17, 175 Eagle Street, Brisbane

Wednesday 21 August 2002, 5.30pm

Chief Justice Paul de Jersey AC

I am very pleased to have the opportunity to perform this pleasant task this evening. The appropriately restrained elegance of the new premises aside, I list a number of the partners of the firm among my very good friends, and I have always been conscious of a nostalgic link with the firm in that it was established in Longreach – a town with which I have a fond childhood connection.

Since 1907, the firm has developed a large range of specialities – although I note personal injuries litigation is not one of them! It interests me to see how important and successful, largish firms evidence determination to match their capacities to contemporary trends: and so, amongst the firm's many specialities, we see pharmaceuticals and biotechnology, franchising, telecommunications, and of course the environment and information technology.

It falls to firms like yours to show leadership within the profession, and by your example especially, you discharge that obligation. I regard upholding and encouraging the profession as an important part of my role as Chief Justice, and my recently publicly reported observations have been made with that in mind. I fear I am repetitious in stressing service to the public as the kernel of our professional responsibility, and your being held out by the court as fit to practise as being the key to your professional legitimacy.

While the Solicitors' Complaints Tribunal immediately monitors professional standards, the Supreme Court intervenes when necessary, and we Judges expect that preliminary investigation of complaints is carried out comprehensively and objectively. I have accordingly been particularly distracted, as have many others, by the current media reporting in relation to "no win–no fee" litigation. I

say nothing of any particular firm or the particular allegations – the allegations have yet to be examined, and I am encouraged that the Queensland Law Society has moved quickly by appointing a retired judge with the eminence, integrity and common sense of Pat Shanahan to carry out that examination, and to review the Society’s way of handling complaints.

I will make a further general comment. These things seem to me to be axiomatic. For a solicitor to encourage a client to pursue a claim, where there were no reasonable prospect of the client’s receiving any substantial return, would be plainly unethical: and in an aggravated sense, if the client were not warned in advance of that likelihood. The overriding purpose of practice is the pursuit and vindication of the client’s rights, not the recovery of professional fees. Acting on a “no-win, no-fee” basis does not attenuate either the standard of care in negligence, or the ethical duty.

I strongly support “no win, no fee” arrangements. They have, over many years now, ensured that very many worthwhile claims have been pursued, and worthless claims weeded out of the system early. With legal aid essentially not available in the civil arena, “no win–no fee” or “speculative” arrangements have generally served the public well. But to suggest a client “wins” if he recovers one dollar beyond the amount necessary to cover his solicitors’ costs is absurd: the client wins if he recovers his just entitlement – in a claim for damages, its real ‘worth’.

I am obviously deeply concerned to hear allegations of conduct which – if established – involve unethical behaviour inimical to the core of our professionalism. They must be investigated comprehensively and expeditiously.

I do have confidence in the high standard of the Queensland profession – and so should the public. Maverick performances by some do not warrant across-the-board condemnation, although I expect, and hope, any current scepticism is

confined to the “no-win, no-fee” regime. In its broad spectrum, the legal profession deserves public support and confidence. I have always considered the plethora of anti-lawyer jokes as a reflection of the “tall poppy syndrome”. Well, we admire and respect that other butt, the Irish, don’t we?

Deacons, I am confident you will continue to display high professional competence and integrity. I know you start from a good base: a number of your partners are devout Anglicans! And yes, Doug Bennett, devout members of the Uniting Church! And you may not realise, but your national chief executive partner Don Boyd is the brother of my former school captain!

I am sure you will all see this change in environment as signalling the firm’s renewed commitment to the excellence which has distinguished its professional service over the last 95 years.

It is my pleasure now to declare these new Deacons’ premises, “officially open”!