



## Indiana University School of Law-Indianapolis Law Alumni banquet

Indiana State Museum, 650 West Washington Street  
Thursday 24 October 2002, 6.30pm-9.30pm

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### **The Hon Paul de Jersey AC Chief Justice of Queensland**

I am very pleased and honoured to have been invited to deliver an address this evening – and in these grand surroundings. Delivering invariably diverting addresses forms a large part of the public commitment of a Chief Justice – but not often before such distinguished and, if I may say, exotic companies as this, so far from my own home. My great State, in length north to south roughly the same as San Francisco to Dallas, is more than 6,000 miles away: thank goodness for the Wright brothers.

Our respective nations are bound by a warm tie of friendship: so are our professions. But may I observe at once that we in Queensland are a tad resentful of your depriving us of the progressive Professor Tony Tarr! We appreciate I suppose that he has beneficial work to do throughout the world!

We certainly do have wonderfully enduring links, you and us, not the least, mutual respect for the rule of law and representative democracy, and a lively disrespect for pretension. Our progenitors the British should be proud of us! Another link concerns the compositions of our societies.

In Australia, to a degree pretending magnanimity, we proclaim multiculturalism, but that is a feature which has unselfconsciously characterized your society since



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its inception. In that arena, we in Australia still have a good American mile to go!

And then there is our natural spirit.

We generally, we Australians, applaud the generosity of spirit which characterizes you North Americans – a grand quality after which we yearn. Why should we still after a couple of hundred years be so yearning? As I have rather presumptuously pointed out, my State – Queensland – is five times larger than Texas, 40 times larger than Indiana. Big areas, but we lack the people, we lack the water and we run a risk of cringing. Less so as we assume an international persona of influence, of course. But inevitably, the experience of 100 years of nationhood tends to pale behind yours of more than 200. If you are confidently middle aged, we are, in world history terms, exuberant young adults.

Self-confidence is increasingly a feature of our developing Australian psyche, but we are still inhibited, I fear, by a deal of inherent conservatism, probably traceable to those British roots. We have had our share of real heroes, but in popular terms, Paul Hogan did a fair bit to dispel the inhibition: more recently has your hero the Crocodile Hunter, Steve Irwin – better known here I understand than in his native Queensland! Our fate in Australia, absent ameliorating experience, is inevitably affected by isolationism – even allowing for the world-wide web.

From my own professional aspect, and that of my Judges, experiences like the Australian Bar Association conference in 1998 in New York City – an Australian Bar Association conference in New York? That did much to broaden perspectives into the global, beyond those of merely the largest island continent in the world.

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Previous Australian Bar Association conferences, by the way, were held in London and Dublin: the subsequent, this year, in Paris! Our Bar knows where it's going!

My wife and I spent a few days, pre-Indianapolis, in New York City and Chicago. A New York meeting with Chief Judge Judith S Kaye was a most interesting experience. What an extraordinary thing, thinking back 30 years to the time of my own admission to practice: then it would have been necessary, in order to meet that engagement, to travel for months by ship, for days even if by air; and to arrange the appointment, by course of post.

Something else we share tonight is our debt to fine institutions of tertiary study. As alumni, as persons advanced from the point of graduation, you look back this evening to the point of being endowed with the qualification which has, I hope, since served you well. Mine came from a law school where we entered through portals adorned with the utterances of Justinian. Once inside we studied hard of course, equipping ourself to the point where, like you, we could, if questioned, offer off-the-cuff, lucid and completely correct explanations of the rule in *Dearle v Hall* and *Shelley's* case; and compelling summaries of counsel's submissions in abstruse constitutional cases.

And then, historically, there have been colourful cultural links. Australians of my age were, in the 1960's when I attended Law School, rather influenced by North American culture – those of us deeply inspirational by The Beach Boys; those a bit more flippant by The Lovin' Spoonful; and those of us inherently shallow, by Crosby Stills and Nash. The more seriously inclined of the 60's, the 70's, in Australia, were kneeling at the feet of Lord Denning as he developed the concept



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of promissory estoppel, while reflectively acknowledging the earlier wisdom of icons like Oliver Wendell Holmes Jr..

My experience of your alma mater over the last few days has been uniformly enthralling: the students, the staff, the programmes – the spirit of inquiry, optimism, vibrancy. I hope your memories of the Law School of the University of Indiana, your sense of its beneficial influence upon your subsequent lives, professionally and otherwise, are equally enthralling.

Our tertiary institutions, American and Australian alike, accorded our professional letters. They grounded us well in the valuable talent which now serves us well. They reminded us, from early on, of the features which pivotally endure in the law, we hope for the public good: and essentially, our utter dependence on respect for the basal stipulation of the rule of law.

Idealistic dreams characterized those early years, as I now recall them.

Law school experiences aside, many of us are left still dreaming. The Australian Aboriginal culture, borne of 40,000 years, is rooted in what is called the “dreamtime”: an aspiration which the European people would presume to interpret as contemplating respect for the land and each other, equality of treatment and opportunity, fair treatment under God and the law. These are not unfamiliar concepts in the United States of America, and the dreams of Martin Luther King deeply characterize your psyche – as we read it from afar.

What are my dreams? They are like yours...I dream of real not presumed equality of opportunity and treatment; of reliable justice according to law; more fundamentally, justice under law which is consonant with the reasonable

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expectations of most people; even more fundamentally, true access to justice according to law.

And then there are dreams rooted very much in our daily fare. I dream of Judges who do not assume that their attempts at humour always hit the mark. I dream of Judges, assuming the role of “guest speaker” within other jurisdictions, who at least try to entertain. I dream of being more amusing than Billy Connolly; more incisive than Ozzie Osbourne; more lateral than Edward de Bono; more lively than Larry King; more interesting than the Queensland lawyer who took a copy of *Fearne’s Reminders* on his honeymoon. And we dream of relief from those irritants which persist world-wide – the scourge of ungrateful clients; the claimed judicial monopoly on clear-thinking jurisprudence; deeply somnolant Judges who claim merely to have been concentrating; the public’s indubitable wisdom as to the level of sentences the criminal courts should impose; those American Judges – dare I be so direct – who insist on giving judgment in rhyming couplets.

But in all of this, of course, we Judges, we practitioners, we lawyers, are the servants of the law, servants of the administration of justice. It is justice according to law which we seek to ensure. And how dependent we are, by the way, on those who for the most part prescribe that law!

Australia is in your terms probably an adolescent culture. To foster a spirit of intellectual enquiry tonight, may I share with you one of the more engagingly youthful productions of which I have recently become acquainted? It is the work of the Australian national parliament, s 213(1) of the *Commonwealth Electoral Act*, which prescribes how to determine the order for listing candidates on ballot papers. I offer this delightful piece of Australiana:



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- “(1) Where under section 210 or 212 a person is required to determine in accordance with this section the order of the names of candidates or of groups in ballot-papers to be used in an election:
- (a) the person shall, at the declaration time for the election, at the place where nominations for the election were publicly produced and before all persons present at that place:
    - (i) prepare a list of the names or groups, as the case may be, in such order as the person considers appropriate;
    - (ii) read out that list;
    - (iii) place a number of balls equal to the number of candidates or groups, as the case may be, being balls of equal size and weight and each of which is marked with a different number, in a spherical container large enough to allow all the balls in it to move about freely when it is rotated;
    - (iv) rotate the container and permit any other person present who wishes to do so to rotate the container;
    - (v) cause a person who is blindfolded and has been blindfolded since before the rotation of the container in accordance with subparagraph (iv) to take the balls, or cause the balls to come, out of the container one by one and, as each ball is taken or comes out, to pass it to another person who shall call out the number on the ball;
    - (vi) as each number is called out in accordance with subparagraph (v), write the number opposite to a name or group, as the case



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- may be, in the list prepared in accordance with subparagraph (l) so that the number called out first is opposite to the first name or group, as the case may be, in the list and the subsequent order of the numbers in the list is the order in which they are called out;
- (vii) place all the balls back in the container;
  - (viii) rotate the container and permit any other person present who wishes to do so to rotate the container;
  - (ix) cause a person who is blindfolded and has been blindfolded since before the rotation of the container in accordance with subparagraph (viii) to take the balls, or cause the balls to come, out of the container one by one and, as each ball is taken or comes out, to pass it to another person who shall call out the number on the ball;
  - (x) prepare a list of the numbers called out in accordance with subparagraph (ix) set out in the order in which they were called out in accordance with subparagraph (ix); and
  - (xi) write on the list prepared in accordance with subparagraph (x) opposite to each number the name or group, as the case may be, set out opposite to that number in the list prepared in accordance with subparagraph (l); and
- (b) the order in which the names or groups, as the case may be, are set out in the list prepared in accordance with subparagraph (a)(x) is the order of the names or groups, as the case may be, determined by the person under this section.”
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Now are you clear on that, or should I go through it again? Were we, I wonder, relying on mature American precedent?

My warm thanks again for your wonderful welcome. Kaye and I have enjoyed immensely our time here with you in this splendid State. Your being here, I can see, predisposes you to successful careers and fulfilling lives. Our very best wishes to you all!