



The Institution of Engineers 2003 Breakfast Series Wednesday, 5 March 2003

“Times Change: The Professions Endure”

Chief Justice Paul de Jersey AC

Introduction

Ladies and gentlemen, I am honoured to have been given the opportunity to speak to you this morning. I also admire your courage. Yielding the floor to a lawyer in this setting is potentially dangerous, for at least two reasons.

The first reason is that professionals tend to find jokes about other professionals a tad hilarious, and I expect, it being the early morning, that you wish me to attempt some humour; though my capacity in that regard is somewhat limited, and I may need to take refuge in Oscar Wilde’s let-out that “only bores are brilliant at breakfast.”

In any event, you need only be mildly concerned about this problem this morning, for I intend to be tactful, and limit myself to a selection of only the most outstanding engineering jokes. You’ll probably be able to immediately identify these jokes, because they’ll be accompanied by the sound of my laughter in an otherwise silent room.

The second, more significant danger is that for most lawyers, the engineering profession is a mystery about which they know very little. This is exacerbated by



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the difficulties faced by an inquisitive lawyer seeking to understand engineers. For example, after lengthy research, one might eventually discover the erudite views of Alexander Solzhenitsyn. In *The Gulag Archipelago*, he wrote:

“An engineer? I had grown up among engineers, and I could remember the engineers of the twenties very well indeed: their open, shining intellects, their free and gentle humor, their agility and breadth of thought, the ease with which they shifted from one engineering field to another, and, for that matter, from technology to social concerns and art. Then, too, they personified good manners and delicacy of taste; well-bred speech that flowed evenly and was free of uncultured words; one of them might play a musical instrument, another dabble in painting; and their faces always bore a spiritual imprint.”

And so, you see, I have in fact come here to deliver compliments. But while Solzhenitsyn’s prose is clearly outstanding, certain people, particularly architects, may be unwilling to accept this summary as a fair and accurate depiction of engineers. Nor do modern works provide a more reliable picture. One is, for example, reminded of the film *Jurassic Park*, in which a trembling character voices his apprehensions: “God help us. We’re in the hands of engineers.”

The average citizen’s attitude towards engineers and engineering is probably not reflected in either *The Gulag Archipelago* or *Jurassic Park*. However, it may be that those works do reflect the average citizen’s limited understanding of the intricacies of your profession. That conclusion, of course, applies as much to lawyers as any other citizens. While we lawyers often deal with engineers as clients or opponents, our appreciation of the engineer’s role is necessarily



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derived from observation or from books. It is largely not derived from practical experience.

All of this, of course, supports the sentiment that yielding the floor to me today is indeed very dangerous. And it is certainly true that a lawyer could never presuppose to advise an engineer on certain technical issues. However, I do feel that a cross-industry forum such as this is mutually beneficial. That is because, beyond the obvious mechanical differences that exist between the law and engineering, the two pursuits are united in a more fundamental sense: both belong to the group of activities we describe as professions.

The Nature of Professionalism

Most people would identify certain pursuits as professions without hesitation: the law, medicine, dentistry, engineering, architecture, accounting and teaching would all fall into this category. Other pursuits, though equally worthy and valuable, are not recognised in the same way. Yet on what basis is such a clear distinction made?

Professionalism is, by its nature, a vague concept; attempts to distill its specific elements are ultimately doomed to fail. What is apparent, however, is that professions share certain characteristics or traits.

Most would agree that these include the exhibition of special skill and learning, and the involvement of a professional body in overseeing and regulating the conduct of practitioners. Such traits are clearly evident in both the legal profession and the engineering profession. However, I would argue that while institutional characteristics like these are important, the *sine qua non* of



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professionalism is a fundamental ideal of public service to which the members of the profession are committed.

Historically, this altruistic attitude has been apparent in both legal practice and engineering. The legal profession’s contribution to the community has always been the maintenance of stability and harmony, through the swift and effective resolution of disputes. In some cases, fairness requires the provision of legal services on a *pro bono* basis, and the profession has a proud tradition of addressing that need.

Similarly, the engineering profession, by its very nature, has advanced society through the development of vital infrastructure. Historically, engineers have often demonstrated an unwillingness to compromise the needs of the community for the benefit of the individual. Comments made by the English engineer Sir John Fowler reflect this attitude. In his view,

“Engineers ... are not mere technicians and should not approve or lend their name to any project that does not promise to be beneficent to man and the advancement of civilisation.”

Similarly, in his memoirs, former United States President and engineer Herbert Hoover wrote that:

“It is a great profession. There is the satisfaction of watching a figment of the imagination emerge through the aid of science to a plan on paper. Then it moves to realization in stone or metal or energy. Then it brings jobs and homes to men. Then it elevates the



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standards of living and adds to the comforts of life. That is the engineer's high privilege.”

Equally grand statements have been made in relation to any number of other activities. And provided that those statements, and the associated actions, bear out a compelling regard for the public interest, each of the relevant activities has a valid claim to the title “profession”.

Threats to the Endurance of the Professions

The concept of professionalism has been prevalent in our society for a very long time, and has faced and withstood previous challenges to its legitimacy. Recently, however, challenges to professionalism have become increasingly prominent. In today's world, statements such as Fowler's or Hoover's would be greeted with sceptical furrowed brows, rather than warm, appreciative approval.

The foundation for this scepticism is a belief within the community that more and more, professionals are forgoing public service in favour of a take-no-prisoners form of commercialism.

Nowhere is this attitude more evident than in relation to the legal profession. In this regard, the comments of United States Supreme Court Chief Justice William Rehnquist, that nation's highest judicial officer, bear particular consideration. At a 1996 commencement address at the Catholic University of America, he said,

“The practice of law is today a business where once it was a profession ... market capitalism has come to dominate the legal profession in a way that it did not a generation ago ... today the



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profit motive seems to be writ large in a way that it was not in the past.”

The challenges presented by commercialism are probably more pressing in the United States than in Australia. But recent events in this State confirm that at home, among the body of legal practitioners, there certainly exist individuals who blindly pursue pecuniary gain to the detriment of the public interest. While those individuals are clearly not worthy of the title “professional”, their actions unfortunately pervade the broader profession and diminish its reputation.

This reputation effect is borne out by the results of the annual Morgan Poll on perceptions of professions. In 2002, only 30 percent of Australians perceived lawyers to have “high” or “very high” standards of ethics and honesty. In 1976, at the inception of the poll, the comparable figure was 43 percent.

Encouragingly, engineering has experienced an improvement in perceptions over the same period, as have some other professions. This suggests that those professions may be weathering the threat of commercialism more successfully than the law. However, engineering is by no means immune to the threats that face the law; comments made in jest by Baron Rothschild remind us of that. He said,

“There are three principal ways to lose money: wine, women and engineers. While the first two are more pleasant, the third is by far the more certain.”

Some male lawyers would probably object to their exclusion from that list, if not because they’re more than capable of losing clients’ money, then because they



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inaccurately perceive themselves as having an unrivalled attachment to wine and women. Notwithstanding that suggestion, Baron Rothschild’s remarks do serve as a somewhat flippant reminder that engineers and other professionals should be equally careful in avoiding an undue focus on profits.

Changing Times

The maintenance of a spirit of public-mindedness within the professions is important in any climate. But such a spirit is particularly vital in today’s global environment.

In the last two years, the threat of terrorism has thrust its ugly head forward. Indeed, since the bombings in Bali late last year, terrorist concerns are as prevalent in this country as in any other. Combine those issues with ongoing conflict, especially in the Middle East and Africa, and it is clear that the world finds itself in a volatile and precarious state.

It is in this context that the threats to professionalism’s endurance present themselves. And it is precisely this context that makes it so vital for the professions to confront those threats. Now, more than ever, a focus on the needs of society, rather than the needs of the individual, must be evident.

The Endurance of the Professions

One means by which such threats may be combated is the intervention of a strong professional organisation that effectively disciplines its rogue members. In that way, individual lapses in professionalism may be overcome by the collective strength of the membership.



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From the perspective of the legal profession, the Queensland Law Society has been the subject of trenchant criticism in recent months for its perceived failure to do so. Regardless of the merit of that criticism, it does exemplify the emphasis the public places on the importance of effective oversight.

Fortunately, even in the absence of a strong central organisation, it remains possible to maintain a high degree of professionalism. In such cases, the onus falls squarely on individual practitioners. And in this respect, while there are certainly unfortunate examples of indiscretions, I am confident that the professions do continue to serve the public in numerous, often unrecognised ways. According to Justice Michael Kirby of this country’s High Court,

“there remain many, possibly a majority, who are as committed to the ideals of service and dispassionate advice as existed in times gone by.”

As evidence of this within the legal community, witness the ongoing, often unnoticed, pro bono work that continues to be performed. Witness also the preparedness of practitioners to work on a speculative basis for clients in financial need. As Justice Kirby points out, “this is largely unsung work. But it continues in contemporary Australia. It is the mark of professionalism in the Australian legal profession.”

Examples abound of professionals involving themselves in the community. One recent article notes the efforts of the Indiana State Bar Association in the shadow of September 11. That Association organised nearly 500 lawyers to visit schools across the State on the first anniversary of the World Trade Centre attacks, leading one participant to say, “I ... felt ... an intense and deep sense of pride in



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my profession” and to continue, “on Sept. 11, 2002, the lawyers of this state lived up to the most noble ideals of our profession. I am proud of my fellow lawyers, and honoured to be in your company.”

A similar, more local example of community spirit is the Engineers Australian Members Emergency Relief Fund. I understand that this fund was established recently in response to the Canberra bushfires, and is designed to assist those whose homes were lost. Its efforts are equally admirable.

It is this sort of contribution to the community, as much as any degree of competence or skill, that truly entitles a profession to describe itself as such. The challenge for professionals such as engineers, lawyers and others, is to ensure that the idea of contributing to society remains important. If business and commercial interests are permitted to overwhelm that sense of community spirit, then the idea of professionalism will indeed wither and die.

Conclusion

I would like to leave you this morning with that challenge foremost in your minds. While lawyers and engineers may not fully appreciate the details of each others’ work, we are unified in our membership of a profession. That places us in a privileged position in society, but it is a position that does not come without responsibilities. As such, in the face of a global environment that threatens our very existence, it is crucial that we as professionals do not merely assume the privilege. Instead, we must earn respect by always striving mightily to meet our responsibilities.