

Speech for law, business and economics graduation

University of New England: 20 March 2004

Congratulations to you, who are no longer students as of today – the graduands who have put in years of study and hard work. You graduate in a special year for the University of New England – its fiftieth anniversary, and your law school celebrated its tenth anniversary last year, so I congratulate the University and the law school for their longevity.

You may wonder why you are called graduands. The simple reason is, until this ceremony is over, you are not yet a graduate.

I do not wish to lecture you – I know that you are revelling in the belief that you never have to attend lectures again – but let me give you a brief grammar lesson:

Graduand derives from Latin – it is the gerundive form of the verb *graduare* (to graduate). It is a verbal adjective or noun. English uses it as a noun. It expresses the idea of necessity (you must graduate – no one can stop you now!) or fitness (you have fulfilled the requirements to graduate) and it is transitive (you are about to graduate). The word *graduate*, on the other hand, is the past participle of the same verb.¹ Let me repeat – once you are a graduate, it is past, finished.

¹ *Oxford English Dictionary Online* <http://www.dictionary.oed.com> visited 27/02/2004; Goldman, Norma *English Grammar for Latin Students* Michigan, Olivia and Hill Press: 1983 at pp 90 – 93.

You have been a student, you will be a graduate – but for the time being you are a graduand; you stand on the cusp between student life and professional life.

For many of you, this day is a poignant symbol of your transition – movement from one life and into another. You can comfortably look behind you with the wisdom of hindsight, and look ahead of you with eager anticipation. It is a time for introspection.

Some of you may already have professional positions awaiting you – whether they be in law, government or another field entirely – and some of you will still be deciding what the future holds.

But for all of you, but particularly those graduating in law, there is one essential, unavoidable idea: through your degree at the University, you have been imbued with the values of a lawyer – of integrity, learning and honesty – and you should use your knowledge to enhance humanity.

As Woodrow Wilson² has said,

“You are not here merely to make a living. You are here in order to enable the world to live more amply, with greater vision, with a finer spirit of hope and achievement. You are here to enrich the world, and you impoverish yourself if you forget the errand.”

Today, I want to provide you with a little insight into what you learned during your years at law school, and what you have ahead of you as a person privileged with legal knowledge and skill.

² 28th President USA, 1913 – 1921.

Law School (looking behind) –

Law school has been described as a place for the accumulation of knowledge. Your law studies have provided you with practical and theoretical skills. You have made great friends, discovered which student hides the case books, how to doggedly locate texts and where to get the best coffee on or near campus. Theoretically, you know how to write an essay, although there was a law school where students operated a "bank" of papers that were assigned from time to time. There were papers to suit all needs and, as it would look odd if an average student suddenly handed in a brilliant essay, there were papers for High Distinction, Distinction and Credit. A student, who had spent the weekend on pursuits other than his assignment, went to the "bank". As his grades were average, he took out a paper for an inconspicuous Credit, retyped it and handed the work in. In due course he received it back with the lecturer's comments "I wrote this paper myself twenty years ago. I always thought it worthy of a High Distinction, and now I am glad to give it one!"

Your law studies have given you insight into how society works and the rules by which people should live their lives.

Your studies have taught you about people – not only your fellow students or even your lecturers, but about people everywhere.

One of my children is now a doctor. When she told me that she wanted to become a doctor, instead of a lawyer, I asked her, "Why?" She replied, "No offence, Mum but have you ever heard anyone in a crowd yell frantically – Is there a lawyer in the house?"

Law graduates may not be needed in emergencies, but law graduates can and should work for the public good.

Think back to those halcyon days before you started your law degree. Consider, particularly why you decided to study law. The reasons may have included getting a job, getting the right entrance score, wanting to emulate Tom Cruise in *A Few Good Men* or Julia Roberts in *Erin Brockovich*, being the persuasive advocate in *Law and Order* – but I am certain that underlying all the surface reasons there was another, more important reason. That reason had to do with justice, social change and making the world a better place.

You have gained knowledge that enables you to have material well being and an interesting life, but with that comes great responsibility. As you progress through life, you can change the world a little.

Eleanor Roosevelt has well summed up what you really learn through law school –

“Men and women who live together through long years get to know one another's failings; but they also come to know what is worthy of respect and admiration in those they live with and in themselves.”

Enough of law school and law studies – you have had many years of it already and you are best placed to know what you learnt.

Let me now tell you more about what I know – the legal profession.

Tomorrow, you will be equipped with a law degree.

So, what can you do with it?

There's one very important difference between being in law school and being a lawyer: as a lawyer, you need never adhere to word limits; after all, lawyers can write a 10,000 word document and still call it a brief.³

Professional Life (Looking ahead)–

You enter a profession both respected and reviled. Presently, there are many concerns about lawyers' ethics – some recent notorious examples include document destruction by a large national firm, tax avoidance by barristers and overcharging of clients. These are among the catalysts for reforms to the legal profession, in all states, for the last decade.

Queensland has just recently passed a new *Legal Profession Act*, implementing years of discussion and consultation, and coming at the end of a tumultuous year for Queensland lawyers. The Queensland Attorney-General, Mr Rod Welford, has indicated that this is only the first step in a series of reforms to the Queensland legal profession, reforms that are part of a national movement.⁴

New South Wales, also, has implemented recent changes to its legal profession rules and regulation.⁵ All Australian states are in a constant process of vigilance and reform.

These reforms and media criticism of the legal profession indicate a paradigm shift in the role and perception of lawyers. A lawyer – whether practising or not – is much more than a disinterested adviser with a duty to the law and to the court. Although the duty to uphold the law and to

³ Franz Kafka

⁴ *Explanatory Note to the Legal Profession Bill 2003.*

⁵ The last significant and substantive changes to NSW rules were in 1995.

assist the court must always be paramount, at the heart of the idea of a profession is the notion of public service.⁶

Your public service will involve meeting many interesting people; whether they are clients, other lawyers and judges or other professional people.

If clients, it will be your task to represent their concerns in the legal arena. You must therefore be able to understand their story, to appreciate diversity and to incorporate ideals of pluralism and tolerance. That is, as Justice Bertha Wilson of the Canadian Supreme Court has said, you must have “an understanding of what it means to be fully human.”

Because you will meet such a variety of people, you must never make assumptions about them. They will surprise you. We should ensure that we use our specialised knowledge to lessen disadvantage and encourage respect for true equality.

A diminutive lawyer – a lawyer whom I would consider probably just the right size – appeared as a witness in one of the courts. She was asked by the opposing lawyer, who was a gigantic two metres tall, what she did for a living.

The witness replied that she was a lawyer.

“You? A lawyer?” said the larger lawyer. “Why, I could put you in my pocket.”

“Very likely you could,” replied the first lawyer. “But if you did, you’d have more law in your pocket than you ever had in your head.”

⁶ Pound, Roscoe: “pursuing a learned art as a common calling in the spirit of public service” in *The Lawyer from Antiquity to Modern Times* Minnesota, USA, St Paul: 1953 at p5.

Another key factor that makes the legal profession, a profession is its collegiality. You will find that, although we have an adversarial system, your best friend in any legal matter is probably also your opposition. This is why barristers call each other ‘my learned friend’, after all – they’ve probably done most of the research for you.

Lawyers may not be the most well loved profession but without lawyers or a lawful and law-abiding society, we would return to the dark ages when arguments were resolved by duels, battles or war. A society where the strongest, the mightiest or the most powerful prevails by sheer brute force is not the society for which we should strive. Instead, lawyers assist in peaceful and intelligent dispute resolution, in public and private law, and nationally and internationally.

I have been informed that your Law School is launching a new journal this year. Journals are an excellent vehicle through which intelligent debate on broader issues of law and justice can be brought to the fore; in which disadvantage can be highlighted and solutions mooted. I am sure that the University will produce a journal that is intellectually rigorous and socially responsible.

As society becomes increasingly complex and diverse, as we uncover disadvantaged and disempowered groups, as the numbers of dispossessed peoples rise and as the methods of repression multiply, public service must mean so much more than representing an individual client’s interests.

Public service must mean, in Woodrow Wilson's words, enriching the world; it must mean, in Quentin Bryce's words⁷ 'helping in an active way'; it must mean ensuring that every human being is entitled, regardless of race, ethnicity, gender, social status, sexual orientation, religious affiliation, disability or political beliefs to a fulfilling personal and professional life; it must mean, in short – enhancing humanity.

Who is better positioned to enhance humanity, to help in an active way and to ensure all are free from arbitrary discrimination, than those very people who best understand how society works: Lawyers and Law Graduates.

A law school in Ecuador is taking this to heart, creating legal clinics staffed by law students doing pro-bono and legal aid work.⁸ The aim of the legal clinic is to inculcate a generation of lawyers with an ethic of public service and to increase access to justice, by raising awareness of rights and by reducing fear of the legal system.

Society and Law are interdependent. Law is much more than a set of formal rules; it reflects society's values and concerns. Law is therefore an effective tool by which to improve those values and concerns,⁹ whether through development of the common law or by legislative change.

⁷ Jopson, Debra "From Radical to Regal" *Sydney Morning Herald* 31 May 2003.

⁸ Dakolias, Maria "Legal and Judicial Development: The role of Civil Society in the Reform Process" *Fordham International Law Journal* (2000) 24 S26 at S43.

⁹ Stoddard, Thomas B "Bleeding Heart: Reflections on Using the law to Make Social Change" (1997) 72 New York University Law Review 967, 971.

Brennan J (as his Honour then was) in *Mabo no. 2*¹⁰ recognised that the law reflects social values when he said,

“Whatever the justification advanced in earlier days for refusing to recognize the rights and interests in land of the indigenous inhabitants of settled colonies, an unjust and discriminatory doctrine of that kind can no longer be accepted. The expectations of the international community accord in this respect with the contemporary values of the Australian people.”

Therefore, the unjust doctrine that considered Australia *terra nullius* was found to be factually incorrect and the common law was dramatically altered.

Using legislation to change social values can be seen in the work of the Law Reform Commissions in each of the states and that of the Australian Law Reform Commission. Law Reform Commissions are premised on the idea that reform of the law can identify and rectify social injustices.

Changes in law can profoundly affect society. Queenslanders embraced the principles set out in the 1991 *Anti-Discrimination Act* despite – or perhaps because of – the unthinking or deliberate discrimination that was uncovered. For example, I was fortunate to have been first member and then first president of the Qld Anti-Discrimination Tribunal. Whilst there, I was surprised and pleased to discover the level of public acceptance of the need to counter discrimination. The most significant case heard was perhaps *Hopper v Mt Isa Mines*.¹¹ What that case demonstrated is that Ms Hopper was, with the assistance of an effective specialist unit in Legal Aid, able to vindicate her right to a workplace free

¹⁰ *Mabo v Queensland [no. 2]* (1992) 175 CLR 1, at 42.

¹¹ *Hopper v Mt Isa Mines Ltd* (1997) EOC 92-879.

of discrimination and sexual harassment. My time on the Anti-Discrimination Tribunal explicitly taught me that change to the law does change society.

Lawyers can also further social justice by ensuring that ideals under law are enjoyed equally by all members of society. Legal representation is not cheap: one of the very good reasons for the cost is that it deters litigiousness. Unfortunately, however, this can often also mean that those people most in need of legal assistance – the unrepresented or under-represented – cannot afford it.

Legal aid and pro bono work are among the many schemes that exist to alleviate problems of access to justice. The encouragement of pro bono work in larger law firms is increasingly becoming an important part of law firm culture. The number of firms that take on public interest law matters is also increasing.

There are a variety of community legal centres that have volunteer opportunities. For example, refugee legal centres¹² have recruited large numbers of volunteers to assist new arrivals – usually from middle eastern countries escaping oppression, terrorism and war – with their visa applications. In New South Wales, there are 41 Community Legal Centres, offering legal assistance in particular areas, such as tenancy; to particular groups, such as women; or generally servicing a locality that may not have sufficient legal support, such as rural and regional areas.¹³

¹² South Brisbane Immigration and Community Legal Centre, Brisbane, Queensland; Refugee Advocacy Service of South Australia; Southern Communities Advocacy, Legal and Education Service, Centre for Advocacy, Support and Education (CASE) for Refugees, Western Australia;

¹³ *Combined Community Legal Centres Group (NSW) Inc.* website <http://www.nswclc.org.au/clcs.html>, visited 4 March 2004.

What the community legal centres additionally provide is representation in a politically and socially aware fashion, so as to ensure structural legal change. Community Legal Centres are often expert resources for law reform bodies about the real impact of laws on people's lives.

Legal change requires the perception of the unjust operation of laws and people with the courage to challenge them. A Victorian fertility doctor, Dr McBain, asked each single woman who approached him for artificial reproductive services to test the legality of Victorian legislation restricting the provision of reproductive services to married couples only. Ms Leesa Meldrum agreed and the controversial IVF case, *re McBain*, was heard by the Federal Court and later the High Court.

Major social changes do not occur without changing the way people think about issues. Cultural shifts, as occurred after the *Mabo* case, or through recognising in legislation and law - and in law firms - that women are entitled to full equality, do not occur very often and usually only after cumulative years of incremental and imperceptible legal, social and political changes. Lawyers, aware of their ethical responsibilities to society and acting on them, are an important element in creating those incremental changes so that the cultural shifts can occur.

What are the challenges that your generation of lawyers and law graduates face? I think they include greater recognition of Australia's social and cultural diversity, humanely addressing refugee issues and confronting our indigenous history.

By being in the law, by being involved in the law and by participating in local, national and international debate on issues important to our times,

you can ensure that rule of law is advanced, human rights are advanced and humanity is advanced.

You may wonder how it is that you can go about changing the world. Margaret Mead¹⁴ has said,

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it's the only thing that ever has.”

Once again congratulations to all of you, graduating class, your teachers, your family and friends.

¹⁴ Anthropologist and Writer, 1901 – 1978.