

ADDRESS TO NEWLY ADMITTED PRACTITIONERS, 19 DECEMBER 2013

President of the Court of Appeal
The Hon Justice Margaret McMurdo AC

I warmly welcome you to the legal profession and congratulate you on your admission. You have each demonstrated a high level of intellectual ability, determination and resilience. I also warmly welcome to the Court your families and friends who have contributed to your success. I suspect they have earned their share of your reflected glory this morning. What a wonderful start to the festive season for you all!

Whether you practise as an advocate or in the traditional solicitor's role in a firm; whether you become a sole practitioner, join a suburban practice, or become a member of a national or international megafirm; whether you join the corporate world, the public service, academia, or a community legal service; as an admitted legal practitioner you are now a member of the legal profession with its 800 year old tradition dating back to 13th century England.

It is a very long time since Justice Gotterson, Justice Morrison and I were admitted as legal practitioners – but not quite 800 years – even between us!

For those of you who will practise in the legal profession, remember always you are officers of the court. That means you must place your duty to the court and the administration of justice before your own interests or those of your clients. In particular, you must never mislead the court.

As members of the legal profession, together with the assistance of an independent judiciary, you play an institutional role in Queensland's precious democracy. The independent legal profession operates as a check on the abuse of executive power and ensures that every citizen has access to the rule of law which provides equal justice for all, regardless of gender, race, skin colour, religion, sexual preference, power or wealth. As Justice Kirby explained: "The rule of law will not prevail without assuring the law's principal actors – judges and practising lawyers and also legal academics – a very high measure of independence of mind and action."

I was proud to see that independence exercised by the President of the Queensland Law Society, Ms Annette Bradfield, who is about to finish her highly successful term. On behalf of Queensland solicitors she presciently raised members' concerns about recent amendments to the *Criminal Law Amendment Act 1945* (Qld) which, she argued, transferred judicial power to the executive government. She was not alone. The former President of the Bar Association of Qld, Mr Roger Traves QC, raised the Bar's strong misgivings about the legislation. These concerns were well founded. This Court in *Attorney-General (Qld) v Lawrence*¹ found the amending legislation to be beyond Queensland's legislative power and invalid.

¹ [2013] QCA 364.

But you do not have to be president of your professional association to play an active part in a vibrant, independent legal profession defending judicial independence. For example, sentencing has been much in the news.

Recent reported calls on Queensland courts to act according to community demands appear to arise from a regrettable community perception that judges give soft sentences, especially in violent and sex crimes. This perception is fed by some media reports which refer only to selected facts about a case or give incomplete extracts from, or précis of, the judges' reasons, creating a picture which is neither accurate nor informed. Queensland courts sentence thousands of offenders every year. The vast majority of sentences are uncontroversial. Only a tiny proportion are challenged in the media or found on appeal to be manifestly inadequate or excessive. In truth, the community can be confident that judicial officers are not soft on crime.

That view is supported by the recent Tasmanian Jury Sentencing Study. In Tasmania, too, judges had been criticized for perceived soft sentencing. The jurors in the study listened to sentencing submissions in cases in which they had delivered guilty verdicts. Before sentence was pronounced, they were asked the penalty they would impose. Most jurors would have given a sentence of the same or lesser severity than the judge. The Study provides useful support for the proposition that judges' sentences do appropriately reflect informed community expectations.

As practitioners with expert knowledge of the workings of democratic institutions and the criminal justice system, you can explain controversial issues to family, friends and community members. Next time you hear someone expressing surprise or disgust at a sentence or a judicial ruling, point out that the media report may not reflect all the material facts or accurately state the judge's reasons. Encourage them to go to the Supreme Court Library website and read the sentencing remarks or ruling. If necessary, explain it to them. Remind them of the Tasmanian Jury Study and of the thousands of uncontroversial sentences imposed in courts each year.

And when the Legal Affairs and Community Safety Committee Enquiry into crime and sentencing, headed by former Queensland Law Society President, the Hon Ian Berry MP, is underway in the new year I encourage you, as new members of the independent legal profession, to make informed submissions to this Enquiry and to help community members do likewise. It may make a real difference to the Queensland community. You might help keep the justice in the criminal justice system!

For those of you who are interested in human rights and international law, I note that last week the United Nations Human Rights Declaration turned 65. It is not about to retire: it has too much work to do!

I wish each of you a long, successful and prosperous legal career. I urge you to find time in your busy lives to take on pro bono legal work. It is not widely known or recognised, that many lawyers donate scores of hours of service to pro bono work. I recommend it. It benefits the recipient and the community.

It promotes community confidence in the legal profession and re-affirms the legitimacy of the profession's institutional role. And it gives the individual lawyer personal and job satisfaction; it is the 21st century lawyer's drug-free remedy for the blues. The National Pro Bono Resource Centre encourages lawyers to do 35 hours of pro bono work each year. Your health professional might recommend this, too.

With hard work you will ultimately achieve your aspirations, including your financial goals, but do this with the highest professional standards and with compassion for your fellow human beings. That way you will help the legal profession remain where it belongs: at the centre of relevance in 21st century Queensland. And when you are old and retired from practising the law, you will be able to reflect with pride, knowing that you have given your professional best to the community.