

Reflections on the transition from law student to legal practitioner

Address to James Cook University Inter Alia Law Ball, Cairns, 17 September 2022

Good evening. Thank you Taylor, Mykaela and the Inter Alia Committee for your kind invitation. It is always refreshing to be back among law students, even more so in a social setting. It of course triggers fond memories: reminders of the freedom and excitement of life as a student and reminders of the exhilarating era of transition from law student to legal practitioner about which I now speak.

It has been 37 years since I made that transition. In the interim I have observed many hundreds of other lawyers do likewise. I have pondered at length the variable journeys of such lawyers, identifying a very broad mix of potential advice to guide you in your coming journey into the profession. At first, I listed many pages of potential advice; an amount that would have overwhelmed you. Better, I thought, to keep pondering, keep culling and distilling, with the object of arriving at but three pieces of advice, three “gems” of real value to the law student when becoming a legal practitioner.

So it is I culled away many obvious tips, such as don’t get precious about having to perform mundane tasks early on, look the part, stay off social media when you are working and don’t bad-mouth your colleagues. Such advices are helpful, to be sure, but they are Polonius-like, generic to anyone embarking on their working life.

Polonius, you may recall, was Lord Polonius of Shakespeare’s play, Hamlet. Polonius’s son was leaving for France when Polonius advised him with a list of sententious maxims. They included such pearls of wisdom as:

“Take each man’s censure, but reserve thy judgment”; and
“Neither a borrower nor a lender be”.

And his famous culminating advice:

“This above all: to thine own self be true.”

That latter tip was a thread among many other associated thoughts which coalesced into the three pieces of advice to which I now turn.

The first is this: It’s not a race. It’s not a race. Sometimes education makes it feel like you are in a race. You progress from school grade to school grade, being marked, assessed, compared

to how the rest of your cohort is performing. The process continues at university, particularly for full-time students, who progress together from “first year” law to “second year” law and so on, often comparing how they fare in each subject with how other students fare, as if opponents in a race. This can result in some flawed thinking when the time comes to enter legal practice.

Many times I have seen law students seek work in large so-called top tier law firms, because that’s what their friends are doing. Such work has the downside of grindingly long hours but the upside allure of prospectively very lucrative reward within the firm in the long run. It’s not for everyone. Time and again I have witnessed students rushing to apply for jobs in specific fields of the law, because that’s what their university rivals are doing, or avoiding other fields of the law because none of their cohort seems interested in those fields. In a like vein, all too often I have noticed students being picky, not pursuing work in less well paid jobs or in smaller towns, because that would somehow make them appear less successful than their friends chasing the big city bucks.

Our working life is inherently part of our life generally and, as in life, so too in our choice of work there are a multitude of variable considerations of variable importance personal to each of us: happiness, security, friendship, support, stimulation, well-being, a sense of purpose, contentment, fulfillment. It’s a choice personal to you. So, as Polonius put it, be true to yourself. Pursue your first steps into the working profession with an open mind, uncluttered by what others are doing or what others might think.

Also bear in mind that few lawyers land and continue in the same employment from the start to the finish of their career. Some enjoy great early financial reward but decide they don’t like the job. Some work in poorly paid positions but accumulate invaluable experience which will bring its own rewards later. Some learn and evolve. Some sample a field of speciality, decide it’s not for them and move to another field. Some move between branches of the profession. Some move towns. All of this is a product of living their own lives according to their own personal choices. It is not the product of having to keep up with others in a non-existent race. Could you seriously imagine fifteen years from now deciding to look for work in a Perth solicitor’s firm specialising in personal injuries law because that’s what you heard one of your student rivals from your uni days was doing? You won’t do it then, so don’t do it now.

The importance, in your pursuit of work, of being true to yourself and looking to your own thinking heralds my second piece of advice. That advice is: think for yourself. Think for yourself.

Picture this, the transition is afoot. You have just started working in a law firm. Your job leads to there being a file in a real-life case in front of you. As with any real-life legal case there is a problem or issue to be addressed or advised on. Panic sets in. “I’ve never done this before. How would I know what to do?” Let’s explore this sliding door moment and look at two of the ways it can go. There is a third, but I will come to it later.

One way is that you take the file off straight away and disturb your boss, saying “I don’t know what to do? What would you like me to do?”

The second way is that you remind yourself you are aspiring to be a lawyer and you try to think like one. So, you proceed to get your head around the facts and remind yourself of the relevant law and, hey presto, you realise you are approaching the problem with skills unwittingly implanted in you at law school – identify the relevant facts, ascertain the relevant law, apply the law to the facts. You do that and you reach a preliminary view about what needs to happen but you are troubled about some uncertainty or a gap in the facts or how to fill it or by a nagging concern at there being two competing lines of relevant legal authority or by some ambiguity in a statutory provision. So, you go to your boss and you say “I need to check something with you. This is the problem” – you explain it – “This is my tentative solution” – for reasons you briefly state – “But I have come to you because I am uncertain about” – and you proceed to explain the area of specific concern on which you seek guidance.

Which of those two ways do you think your boss would prefer? Of course, the second way! The first way is guaranteed to annoy your boss and teach you little. For many years I mentored young lawyers and no ‘way’ annoyed me more than the first way. When it happened, I would invariably inquire about some factual detail which was in the file but the junior lawyer had not bothered to master the detail of or I would ask what the authorities and relevant statute said on the topic and sure enough the junior lawyer had not yet identified it. Back I would send such junior lawyers to go away and do their job properly before returning to me for guidance.

I rush to point out I always made it clear they should come back to me if in need of guidance for reasons which will be apparent as I now explain a third “way” the sliding doors moment can go. That way is that you are too proud or embarrassed to seek advice. So, you forge ahead with your own action on the file, even though you are not certain it is the right action to take. I assure you that way will also make you very unpopular with the boss when, eventually, your folly sees the light of day. If you are thinking for yourself and you identify uncertainty, then the professional result of thinking for yourself is that you will seek advice.

I add finally on this topic that thinking for yourself will sometimes result in you identifying a flaw in how your employer has previously approached a problem. It might be with an earlier action in the life of the file, it might be in your employer’s usual draft wording of a particular type of legal document. Thinking for yourself means you do not just assume something is right because it has already happened that way or because “that’s the way we always do it”. Mistakes can happen. Drafting errors can creep in. A professional does not blindly follow what has been done before. If you suspect something may be incorrect, then apply your mind to it. Think for yourself.

I come finally to my third piece of advice. It is this: balance matters. Balance matters.

It matters at every level of being a lawyer. Balance matters in your approach to your client’s view of things, ensuring you appreciate the alternate viewpoint or competing argument. Approaching individual cases with a balanced perspective helps make sure you do not miss things or act without thinking through the real array of potential consequences.

Balance matters in the real-world experience you bring to your task. The best lawyers are those who are interested and interesting people. They read widely and pursue other interests beyond the law. Their balance of learning and life experience beyond the law equips them with worldly knowledge and experience of the human condition, making them more effective communicators and wiser, more informed and lateral thinking lawyers than legal training alone can provide. In a similar vein, a cross-section or balance of experience in different legal fields makes for a better lawyer than confining your working lives to one narrow specialization.

In his book, *Range: How generalists triumph in a specialised world*, David Epstein wrote of how valuable breadth of experience and training can be now in equipping us for better

performance later. He explained how mental meandering and personal experimentation are sources of power, and that head starts and hyper specialization can be over-rated. In an observation which unites the last of my advices - balance matters - with the first – it's not a race - he wrote:

“Don't feel behind. ...Compare yourself to yourself yesterday, not to younger people who aren't you. Everyone progresses at a different rate, so don't let anyone else make you feel behind. You probably don't even know where exactly you're going, so feeling behind doesn't help ... approach your own personal voyage willing to learn and adjust as you go, and even to abandon a previous goal and change directions entirely should the need arise. ... Even when you move on from an area of work or an entire domain, that experience is not wasted.”

You would appreciate from what I have said of the legal setting that such experience is not wasted because it adds to your balance of mixed experience, thus enhancing your performance in whatever field of work your journey in the law takes you.

Ladies and gentlemen, that completes my three advices. I part with a personal observation. I always wanted to be a lawyer but I did not particularly enjoy studying law. Oh, how my attitude changed once I started working in the profession. Everything clicked into place. I was relieved and thrilled at what a wonderful experience it turned out to be. I wish for each of you that you likewise experience such joy and exhilaration in your professional journey ahead and, that along the way, you remember, it's not a race, think for yourself and balance matters.