

**Commencement speech to law graduates**  
**University of Technology, Sydney Law Graduation Ceremony**  
**Tuesday 17 May 2011**  
**The Honourable Justice Ian G Harrison**  
**Supreme Court of New South Wales**

Pro Chancellor, Deputy Vice Chancellor, Dean, university staff, distinguished guests, graduates, family and friends.

We have all arrived here today at this wonderful ceremony in different ways. We come from different homes and different backgrounds and in many cases from different countries. We bring different experiences in life, different cultural traditions and many of us speak in a language other than English as our first preference. One significant unifying theme, however, is that in varying ways we all share an interest in the conferral of an important academic recognition on a loved one or friend in a field of study that is fundamental to the functioning of our society and to the administration of the instruments and institutions of government that form part of it.

I completed my law degree at Sydney University in 1974. I was 23 years old. I had always wanted to do law but my family had no background in that line of work and careers advisers had always told me that you couldn't do law or medicine unless you had studied Latin. I had not studied Latin. In fact the only Latin I knew for sure was that *prima facie* was a kind of exterior undercoat and that *carpe diem* meant fish of the day. I thought a *post mortem*

was a dead mailman. I am glad that despite this I chose to follow my instinct as it sent me on a path of almost daily adventure.

It is therefore a wonderful privilege for me to have this opportunity to address you. As a barrister for 30 years I am not used to speaking in public. For free. But I know how hard you have all worked and what pressures you and your families and friends have endured. I never fail to be amazed and inspired by the constant work and dedication that you all must have shown to arrive where you are now. I understand only too clearly from watching my own Associate, who graduates here today along with some others from the Supreme Court staff, just how onerous it is to finish work at 5.00 o'clock in the city in July and have to head down to campus on the bus in the rain for three hours of lectures. The subject matter is often difficult and tedious and the old judges who give guest appearances as lecturers are not always patient like me! Today is the payoff.

It is also therefore a day of relief and celebration. It is a day for reflection and decision. Many of you will leave here and enter the world of the law. Some of you will become solicitors and some of you will become barristers. This may not happen immediately. Some of you will go into commerce or journalism or the public institutions of government. You will all take with you a precious understanding of the fundamental principles that guide the society that we live in, including the rule of law, due process and the right to a fair trial, the right to silence and the privilege against self-incrimination, the presumption of innocence and proof of guilt beyond reasonable doubt. These are things that we often take for

granted. We must not do so. The line between order and tyranny is very thin and very fragile. The people of Egypt and Fiji, of Burma and Bahrain will confirm this. There are even some countries that dismiss judges who make decisions that the rulers do not like. Such countries are destined for poor outcomes, if not complete chaos.

I hold the view that the practise of the law is just about as interesting and inspiring a career as you can ever hope to follow. Every day is different. I suspect that in the years to come many of you may be required to master other disciplines like obstetrics or neurosurgery, mechanical or civil engineering and tax accounting. You may become proficient in accident reconstruction and weapons ballistics. Believe it or not, I was once even in a case that went to the Court of Appeal that was all about curtains and knife pleats. You may defend men and women charged with the most horrible of crimes or appear for those who are fighting for the right to keep or see their children. You will share the joys of their triumphs and the desperation of their defeats. You will enjoy their praise and you will feel the cold winds of their disappointments. Fortunately you will get better at dealing with all of these things as your experience grows.

One thing that you must never forget is that for all of these people, you become their voice. I know from my years as a barrister that those for whom you appear see you as their saviour. By the time they need your services they have usually travelled a hard road and are hopeful of some respite. They will look to you for the answers.

I remember being reminded once of just how foreign and even frightening the law and the legal system really can be to most members of the community. After many years at the bar and thousands of cases, I was briefed to appear for a woman who was terribly concerned about her own case. I noticed that she was obviously very nervous as we walked together to court for the trial. As we did so she said to me: "Oh Mr Harrison, I am so scared." She said, "I just don't know what to expect or how I will handle this I have never been to court before." I said to her: "Well actually Mrs Smith, this is my first time too so we can learn together!" The poor woman nearly collapsed on the spot. But when she recovered she realised I was joking. She relaxed after that and all went well.

I also remember once appearing for a young corporal in the army. He had had a motor vehicle accident and the other driver was suing him for the cost of repairs to his damaged car. My client was uninsured. I asked him how he would pay the damages if he lost the case. He told me that he had saved up some money to take his family on a little holiday for Christmas so he could use that money if he had to. The holiday would have to be forgotten however if that happened. I distinctly remember the pressure of defending what was in truth only a small case for me in the scheme of things but with enormous significance to this man and his young family. He needed me and placed all his trust in me. Fortunately the result was the one he had hoped for. There will be many people much like him that you will encounter in your careers who will also need you in just the same way. The importance of

helping them, and the satisfaction of doing so, cannot be overstated.

Of course not all perceptions of lawyers are positive. I suspect that you will have to endure a career of jibes for as long as you hold a practising certificate. That is as may be. However, in my view it is not advisable to tell jokes about lawyers on occasions like today. I remember our own Chief Justice speaking about this once. He referred to the practice, when addressing a mixed audience of lawyers and non-lawyers, to tell the usual kind of joke about lawyers who are nasty, greedy and unethical. He said he had stopped that practice because the lawyers in the audience didn't think the jokes were funny and the non-lawyers didn't realise that they were jokes.

I am sometimes approached by young and enthusiastic graduates who ask me how I ended up as a judge or how I became the president of the Bar Association. What did they have to do to be successful? What advice could I give them? I always tell them the same things. First, don't think about how much money you can make or what you might achieve for yourself. All that you have to do is be good at what you do and the rest will follow. I never started out with the aim of getting anywhere in particular. I never once considered that I would join the ranks of the judges I appeared before. Besides they were all old and grumpy in those days. Thank goodness they are now mostly young and friendly!

Secondly, always remember that you have only one reputation. You are responsible for building it and if you are not always careful

you may be responsible for destroying it. You will by now all have studied ethics. You will soon develop a nose for what is right and what is not. You will ignore the smell test at your peril. People in general and in the law in particular have long memories. Doing the wrong thing to win a case at the expense of your own reputation is always going to hurt you and your career. Please bear that in mind.

Thirdly, regret what you do, not what you don't do. Stand for election for the Bar Council or the Law Society. Do *pro bono* work at your local community legal aid centre. Take on cases for causes. Come to the bar if that is what you aspire to. Don't die wondering.

The other thing that is important is that **you** should have faith in our legal system. You need to promote its importance at every available opportunity. Terrible events and terrible crimes are reported regularly in our papers and on our television screens. Sometimes these involve deaths of vulnerable people and often children. Far too often publicity is given to rabid vigilante groups screaming like banshees outside police stations or holding up placards and thumping on paddy wagons as accused people come and go from court. Remember, we all have a tendency to form views about guilt or innocence of accused people but our ill-informed views are not based on evidence and are not sound or reliable. The legal system often appears to move slowly and to afford more protection to accused people than seems warranted. But believe me, what comes out in court is often, and in my experience usually, much different to the rubbish that is regularly

peddled as news. Please do not ever lose sight of the fact that the next mother or father charged with the death of a child could be related to you. The protections that the law offers would take on a very different complexion in those circumstances. It is critical that the fringes of hysterical debate are not sanctioned or legitimised in the name of the criminal justice system.

In a related sense as well, I implore everyone here today, not only the graduating lawyers, to be slow to form views about the perceived adequacy or inadequacy of sentences given by the courts to people who are convicted of crimes. It may surprise you to learn that studies have shown that members of the community who reacted to newspaper reports about sentences pronounced for murder and other terrible crimes, and who concluded with only the questionable benefit of such limited information that the sentences were too lenient, in almost every case changed their views when given all of the pre-sentence information that was available to the sentencing judge hearing the case in the courtroom. Even more interesting is that these studies have shown that in a large number of cases these same people would have given sentences that were lighter than the sentences actually imposed by the Courts.

Nor does the length or severity of a sentence bear any meaningful relationship to the likelihood that the crime concerned will not be repeated. You will have heard politicians and some organisations purporting to speak on behalf of victims telling interested groups whose support they seek that there should be an increase in the length or severity of sentences for this or that crime. They

mindlessly promise to bring down crime rates by this method. The media and apparently many voters love this stuff. But it is nonsense. People do not regularly commit crimes with a clear or even muddled thought about how long they might be in prison if they are convicted. This is because in the greatest majority of cases people who commit crimes don't plan on getting caught. A recent Bureau of Crime Statistics study shows that 8 out of 10 young people and more than half of all adults who were convicted of a crime 15 years ago have since reoffended. This is so despite the fact that penalties have in many cases been increased for certain offences over that period. Fear of detection is much more important in reducing criminal activity than fear of punishment. Retribution may have its place, but it is not the only factor in the sentencing equation.

Also please bear in mind that people are sent to gaol as punishment, not for punishment. I don't know how many of you may have been inside a prison in this country, or even overseas. I have seen prisons here and they are not pleasant. When next you listen to anyone calmly arguing that someone has not been sent to prison for long enough, take a little time to reflect upon just how horrible it will be for them. Reflect on the effect this will have on his or her own family, effectively losing a father or mother or son or daughter. And never be too confident that one day it might not be your family that experiences the horror. We need to remain a compassionate society, not a punitive society, if we are to be a civilised society. We need to consider this as well when we ponder what drives someone in one of our detention centres awaiting processing as a refugee to make the drastic and often



tragic decisions we see them take, for which it seems popular and even fashionable to demonise them.

Those of you who are graduating today are very important people. You are now qualified in a very important professional discipline. With the benefit of your studies you will learn to appreciate that there comes a time when democracy must confront populism. We see many examples these days of the loudest voices capturing the attention of the lawmakers. You must stand up for principles over popularity. You must explain, for example, why fetters on the judicial discretion to grant bail to people awaiting trial are an erosion of the presumption of innocence. You need to educate those in the community who don't have your educational advantage that we should treat our system of justice as we would our greatest and most treasured possession.

You also have unprecedented access to all manner of information. The way that you process it can have a significant and profound influence on the single lives of isolated individuals and upon the collective lives of every one of us. And so to the extent that the criminal justice system, and those who find themselves caught up in it, becomes part of your stock in trade in the years to come, I would ask you to treat the loudest cries of public opinion with considerable caution. As Professor Henry Mayer used to tell his students at Sydney University in the 1960s, the news is what gets reported. Nothing qualifies as news before that occurs and nothing becomes news if it doesn't. The so-called refugee crisis may look to some like news but I am not so sure. All I ask is that you leave here with an understanding and appreciation of just how

significantly what you do in your chosen careers can and inevitably will affect the lives of the people with whom you deal. It would be a sad irony if potentially new and valuable members of our nation who arrive here from failed or failing states where the rule of law has perished, and after enduring extreme adversity, were to be left without access to the fundamental protections we all presently enjoy and which you as conscientious legal practitioners ought to be able to provide.

Finally, for those of you who are headed for the practise of law, I look forward to seeing you in my Court. If you are not headed for the practise of law but end up in my Court anyway, I advise you to plead guilty at the earliest opportunity! You are all graduating today from a very fine law school that produces very fine lawyers. Unfortunately some lawyers don't know what they think until they hear what they say. Try not to be one of them. Remember that you are an advertisement for this law school every time you speak, whether in court or otherwise.

Congratulations and good luck!

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