

OCCASIONAL ADDRESS

UNSW Faculty of Law & Justice

GRADUATION CEREMONY – 30 NOVEMBER 2022

John Basten

I am deeply grateful to our esteemed and long-serving Chancellor David Gonski AC, the University Council, and Deputy Dean of Law and Justice, Melanie Schwartz, for the honour conferred today.

I also appreciate the presence of the Hon Justice Andrew Bell, Chief Justice of New South Wales, the Hon Justice Julie Ward, President of the Court of Appeal; former High Court judge the Hon Virginia Bell, my older brother and our family patriarch Emeritus Professor Tony Basten AO (the first in our family to receive a doctorate), my life partner, Gillian Moon, a Senior Visiting Fellow in the Law Faculty, other members of our family; friends from the Law Faculty and other members of the University community.

I acknowledge that we meet on the traditional lands of the Gadigal people of the Eora Nation, a people who were dispossessed of this land generations ago without due process of law, but whose descendants still live nearby in a vibrant community at La Perouse.

Fellow graduands, may I add to the congratulations of your Deans and the Chancellor my congratulations on your achievements celebrated today and add my welcome to your families and friends. For you, this is a turning point in your lives. The long years of institutional education are largely at an end. Institutional education works by providing set standards and imposed time periods. From now on, you will act

according to your own values, mark out your own careers and work on balancing personal interests and societal responsibilities. That will be a lifelong process, but the state of the world where you start is important.

I am sure your beliefs and values have already been shaped by the world you have inherited. Mine certainly were, though in ways which I did not always understand at the time. My university years ran the course of the Vietnam War. Did we support it or not? We couldn't avoid it: for young men, you could be chosen, by a random process of conscription and sent to fight overseas.

You, graduating today, have spent recent years in the midst of the worst global pandemic since the 1918-1919 influenza epidemic. The communal life of the University has been rent apart by lockdowns and remote learning. Normal social life has been disrupted. The State has imposed large constraints on our lives in the interests of the community. For people brought up in a culture founded on individual freedom, this has challenged basic assumptions as to the foundations of the social contract. I am not being critical of the steps taken; nor doubting the costs to some, but rather reflecting on the causes of the sense of injured entitlement expressed by a significant minority. Importantly the law is central to the operation of the fundamental principles by which we live. A rebalancing in favour of public responsibilities over self-interest may be overdue.

Perhaps worse, though not unrelated, the world you inherit faces a growing catastrophe of a changing climate. If the causes were cosmic forces beyond our control, we might unite to resist and adapt, while conscious of the havoc that the changes will play on natural and human environments. However, because the causes lie largely in our own activities (and largely the activities of some of us) the demands

for change require a reassessment of self-interest, which is harder because of the growth, especially in the western world, of a belief in the infallibility of individuals pursuing their own views of their own self-interest. When translated to the national level, urgent cooperative action seems almost beyond our socio-political structures.

You have grown to adulthood in this fraught environment. If the answers seem obvious, but the means of achieving them obscure, take notice, because the law is the mechanism for social organisation and if the law governing our activities and our institutions of government needs to change, we lawyers will be an essential part of that process. And when I say “we”, I really mean you. And I have great confidence in your willingness and ability to be involved in this task. That may sound like wishful thinking, but I have grounds for my confidence in you. First, I understand the process because I have lived through an earlier time which witnessed dramatic changes, and young lawyers were a catalyst for change. Secondly, because for each of the last 17 years I have worked with young law graduates who have spent 12 months as researchers and judicial assistants in our Court. Thirdly, I have met and talked with students at law schools, including your own.

So, congratulations on your graduation. The learning process will not stop here, but for most of you, the institutional structure will be new. Use your qualifications mindful of the responsibilities they engender. And remember, as Socrates reputedly said, in somewhat perfunctory terms: “The unexamined life is not worth living”. Thank you.