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THE UNIVERSITY OF QUEENSLAND

GRADUATION CEREMONY, MAYNE HALL, BRISBANE

WEDNESDAY 21 DECEMBER 1983

WILL OUR LEADERS MEET THE CHALLENGE?

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The Hon Justice M D Kirby CMG
Chairman of the Australian Law Reform Commission
Deputy Chancellor of the University of Newcastle *
Chancellor-Elect of Macquarie University

CONGRATULATIONS TO GRADUATES

Precedent requires me to do a number of things. I am sure you are aware that following precedent is, for a judge. doing what comes naturally.

First, I have to express my sincere pleasure at being invited to take part in a ceremony at this fine university. The pleasure is multiplied by the opportunity to be present when Vice Chancellor Willett and Miss Felgate were honoured, as they have been.

Secondly, I must remind you of the significance of the occasion. This ceremony is at least as old as the Christian era. It is inherited, as are the festal robes, from the early Christian Church. The graduates are sent forth into the world in the way the Church sent forth its new recruits — by the laying on of hands. Authority was, in this way, transmitted from one generation to the next. We should reflect for a moment upon the seemless continuity of education to which we are heirs.

Thirdly, we must congratulate the graduates. This is a watershed in their lives. They are permitted a moment of fleeting self-congratulation before being sent out to the bracing wind of economic uncertainty.

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* Personal views only

In most cases the educational burden has not been borne alone. The family, parents, friends, husbands and wives, children and colleagues, have all played their part. The reward is here. This is an occasion of proper, shared pride. That is why universities involve the families and friends of the graduates in these ceremonies. It is a recognition of the very real contributions they have made to the achievement that is signalled by this occasion. The formal, structured education which began at a local kindergarden ends, for most of the graduates here today. Only the education in the school of hard knocks lies ahead. Australia is proud of its graduates. We need more of them. We anticipate their service in the great changes that lie ahead.

AVOIDING THE OBVIOUS

Having discharged these primary tasks, it is now my function to say something of general significance. The only requirement is that I must be brief in the process. For five years I sat on the platform of the Great Hall of Sydney University as a Fellow of the Senate. In that time I attended at least 30 ceremonies such as this and I have attended many since in the University of Newcastle. Sixty times an Occasional Speaker has risen in his place to address the assembled throng. It is a sobering thought, as I stand before you today, that I cannot call to mind a single utterance of the 60 distinguished speakers : not one item of distilled wisdom, no aphorisms, not a single gest or pearl. People in my position do well to bear in mind the transiency of Occasional Addresses.

In the dim recesses of my mind I can recall that most Occasional Addresses at university graduation ceremonies were about education. But this has always struck me as a worthy but banal attempt of well-meaning educationalists to indulge their latest theories. They tend to pander to this or that professional whim. Often the dialogue is an incestuous one, directed more at the colleagues on the podium than the quizical faces in the audience. I will not indulge myself in that way. I believe it should be left to Vice-Chancellors to instruct us in the errors of our educational ways.

I also dimly remember that the parade of graduation speakers generally fashion the speech to the discipline of the graduates before them. I have been guilty of this myself. To medical audiences I have spoken of the law and human tissue transplants upon which Sir Zelman Cowen had such important views. To computer graduates, I have addressed myself to the impact of informatics on society and its laws. To law graduates, I have spoken about the needs of law reform. The last time I spoke to economics graduates was in my own Faculty at the Univesity of Sydney. With deep scholarship, I gave them all a hearty lecture on cost/benefit analysis in legal change. To Arts graduates, of course, you can talk about anything at all and get away with it.

Well, I now forsake this rather predictable course. A somewhat early New Year's resolution is to be less obvious. After all, the last thing the graduates want is a post-graduate dissertation in the subject of their discipline. Almost certainly, they know more and more up-to-date information than the speaker. In any case, they have passed their exams and the prospect of another lecture is an unkindness which Christmas spirit should dispel. As for the parents and friends, they have their rights. Well may you ask yourself : what possible relevance is it to this occasion to listen to a graduation address at all — let alone a critique of Milton Friedman's economic theories on law-making or Richard Posner's views on law reform.

THE GREAT ISSUES

I asked myself : would it be too obvious, on the brink of 1984, to talk about Orwell's warning and the dangers of Big Brother in the modern Australian community? After all, the Queensland Government has introduced new legislation to establish a Privacy Committee and the Australian Law Reform Commission last week delivered a major report on privacy protection. That report tackled the impact on the lives of all of us of computerised personal data, electronic listening devices, optical surveillance and telephone tapping.

Certainly, these are great issues for our time. 1984 is something of a cliche already, even before it has arrived, but the year does stand as a warning of the need for us to act positively to protect the individual against the dangers posed by new technology and authoritarian attitudes.

Reflecting upon my New Year's resolution and on this issue led me at last to my theme. It is a simple one. In the complexity and dangers of the world presented to us by science and technology, will our institutions and our leaders be up to the challenges that lie ahead?

INFORMATICS, BIOETHICS AND OUR INSTITUTIONS

The institutional question is one that is constantly being confronted by the Law Reform Commission. I have mentioned our report on Privacy. It tackles some of the consequences of the new information technology : computers chattering away to computers linked by telecommunications on the other side of the street or on the other side of the world. How can our law makers possibly keep pace with the impact of informatics on societies such as Australia's? A fortnight ago I chaired a symposium of the OECD held in London. It was dealing with the social implications of informatics. Many issues were raised : the impact on privacy was just one.

How would the OECD countries cope with persistent unemployment at high levels caused when computers take over the routine work previously done by men and women? What of the vulnerability of society where absolutely vital data is collected in a single tape, susceptible to loss or destruction, whether by terrorism, industrial disruption or simple accident? What of computer crime involving the manipulation of international data bases? Can our police, indeed can our laws, cope with crimes having elements in many jursidictions? What of the adjustment of contracts, of insurance and copyright laws necessitated by the computer revolution? Some technologists urged the OECD symposium to just 'give up'. Any laws which were created would soon be overtaken by new technologies. The meeting in London took place in the shadow of Westminster Abbey. Across the square was the Mother of Parliaments. As I sat there, presiding over these debates, I asked myself whether it could really be that, in our generation, we had at last reached the ultimate challenge to the competence and will of the elected Parliament.

Serious institutional challenges are also posed by the developments of bioethics : surrogate mothers, test tube babies, cloning of the human species. Some of these issues are now being addressed by Justice Demack's committee in Queensland. They are issues of national, indeed international, importance.

OUR LEADERS

But in Europe the question that was on the lips of most thinking people related to human survival in the nuclear age. It has been the fate of our generation to see, at the one instant of history, three remarkable technological developments : informatics and the microchip, biotechnology and the double helix and nuclear physics and the atom bomb. Even if we can cope with the first two, can mankind cope with the third?

In a sense, we rarely ask this question in Australia. Living around the coast of our vast continent, surrounded by ocean and far from the nuclear arsenals, we sometimes feel a certain smug safety in our Antipodean isolation. It is not so in Europe today. Suddenly nuclear danger is on everybody's lips. The debate has been enlivened, but not caused, by the stationing in Europe of the Pershing and Cruise nuclear missiles. The Russians have now retaliated with their new missiles. One report suggested that Europe, with its cathedrals and universities, its great cities, its people and its civilisation, could all be destroyed in a little more than four minutes. Less than the remainder of this speech.

This is the world into which we send our graduates. It is one upon which all good citizens must reflect. In four minutes, there is not much room for error of judgment. There is a need for leaders of special quality. This truism was vividly brought home to me recently when I read an essay on 'Psychiatric Illness and the Future of Nations'. The author studied the available records of recent world leaders. His studies disclosed a few remarkable facts:

. Five instances of recorded suicide in office of Heads of State during the past 150 years. The cases included Hitler, but also President Vargas of Brazil, who shot himself through the heart in 1954. There have been many more assassinations.

. The research also disclosed numerous cases of Heads of State who attempted suicide and failed. The prize goes to President Deschanel of France who in 1920 tried twice. First he jumped off a train. In a second instance he was pulled out of a pond near the presidential chateau. Our leaders have been rather more reluctant to leave power.

. There are many instances of mental instability, short of suicide. According to Lord Butler, Anthony Eden was 'living on Benzadrine' during Britain's last imperial adventure which ended in the disaster over Suez. He was in a state of 'acute intoxication' in the technical sense of that word for several weeks prior to his resignation.

. President Kennedy was on steroids to treat Addison's Disease. Carefully administered, steroids can produce a feeling of well-being. But there can come a time, if the engine races too much, when enhanced vitality and mood lead to a flight of ideas, irrationality and intellectual impairment. Perhaps it was because of his appreciation of the prescribed psychological effects that John Kennedy always sought a psychological profile of his opponents. He used the one on Kruschev to great effect during the Cuban missile crisis.

. Below the very top there have been many more cases of suicide. Lord Castlereagh, British Foreign Minister, stabbed himself in the throat in 1822. James Forrestal, American Secretary of Defence, committed suicide in office in May 1949. For both of these men the pressures just became too great for their obsessive personalities.

. John Profumo, in the midst of his crisis over the prostitute Christine Keeler, told his famous lie to the House of Commons. He had been summoned back to Parliament after having taken a sleeping tablet. It was to be his undoing.

You will notice I have said nothing about people in public life Australia. Little is written about it, though we all know how Curtin conquered alcohol. Perhaps we have been blessed with uncomplicated leaders. Perhaps we simply have not found out. Yesterday, the White Paper on the Australian Public Service urged Ministers to take to a retreat, once a year, for a short period without bureaucrats to look calmly at the broad canvass of national issues before them. This seems a very sensible idea — and not only for Ministers — if the research on the effect of sustained stress of constant decision-making is taken into account. Clearly judges should do it. Some unkind critics say professors do it all the time.

The point is a simple one. Leaders are human. They seem to survive better than most. They have human foibles and weaknesses. The peril of our time is that the risks to humanity are much greater and the time for correctives becomes ever shorter.

As we send the new graduates and their families out into the sunshine, we should reflect upon the world they enter and will lead. It is a world in which we need all of the qualities of discipline, thoughtfulness and concern for human values that are taught in this famous University.

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