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THE INTERNATIONAL ROLE OF THE PROFESSIONS IN THE FUTURE -

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The Hon. Justice Michael Kirby, CMG*

PAROCHIAL BROTHERHOOD

Until now most professions have been rather parochial. They have had their local schools of instruction, clubs, societies, and eating places. In a sense, this collegiality has added to the brotherhood. Brotherhood it has been until lately for few sisters entered the old professions. No women priests. Few women silks or judges. Scarcely a woman engineer. Medicine alone (save for the oldest) welcomed women into its ranks.

The stimulus for change comes from universal education, new social attitudes and above all the impact of science and technology on the professions.

When the history of our time is written, it will be seen as a time of the coincidence of three amazing developments of science and technology: nuclear physics, informatics and biotechnology. All of these have an international dimension. It is this consideration which dramatically increases the international perspective of future professional activity.

NUCLEAR PHYSICS

With nuclear physics, it is easy to see the chief implication. Unless we can develop an international regime to

control nuclear weapons, who can be optimistic about the long term future of mankind? Accident, mistake, folly or wickedness will surely overtake us unless the professions of lawyers and diplomats can attain an effective international regime of control.

BIOTECHNOLOGY

With biotechnology, the international perspective is only slightly less self evident. If mankind can experiment with basic life forms (of animals, plants and of the human species itself) there is a danger that the delicate balance of nature may be disturbed. There may be a peril to the whole of mankind. Certainly, in many scientific developments, the whole of mankind has a legitimate interest.

Take for example cloning of the human species. A recent report from Denmark suggests that a scientist, Steen Willadsen has found a way of cloning large numbers of animals by manipulating calf embryos. Willadsen is reported to have taken early calf embryos, each made up of eight cells, isolated the cells from each other and then to have grown new embryos from each of the eight cells. Each of these eight embryos was also disassociated, yielding 64 single cells each capable of producing a complete healthy calf. Progressively each of these 64 could be disassociated at the eight cell stage, yielding 512 embryos. As reported, a number of live calves were produced using surrogate mother cows. The potential to produce human clones in this way cannot be far off, if the report from Denmark is true. But do we want cloning of the human species?

Questions of this kind pose live moral issues for the medical and scientific professions. The speed with which people

and scientific information now circulate in the world gives an international dimension to discussion of these themes. The impact of developments such as this gives an international dimension to professional concerns. We can see the mobilisation of the international medical and scientific professions when a world epidemic strikes, such as AIDS. But before the epidemic, and on the brink of world impacting developments such as cloning, in vitro fertilisation, genetic engineering, surrogate parenthood, foetal experimentation and so on, a world perspective is required. International meetings of professional people are not enough. Communication and consultation outside the comforting circle of university friends will increasingly become the order of the day for the professional of the future.

INFORMATICS

And as if these developments were not enough, there is now also the impact of informatics. The linkage of computers and telecommunications present a tremendous potential for the good of mankind. Already the efficiency of hospitals, law offices, engineering calculations and architectural designs are enhanced by computer systems. But there is no doubt that the new information technology presents a challenge to the old professions and requires a new international perspective.

Take my own profession, the law. In the good old days, law was very much limited to a local jurisdiction. In a Federation such as Australia, lawyers are admitted to practise in their own State alone. Except in Federal courts, they still cannot practise in Australia across the border, in another State. Yet information technology laughs at these borders:

- * privacy protection cannot be secured in computer profiles without effective legislation that controls transborder data flows.
- * freedom of information laws may permit transborder access to data which is secret in one jurisdiction but accessible over the border.
- * one country may be rendered vulnerable by electronic data stored in another country.
- * evidence from one jurisdiction may be needed in a trial - but how do you cross examine a computer?
- * manipulation of a data base may occur in one country but result in anti social consequences in many others. Whose criminal law will apply? Whose police will investigate? Whose courts will try the case?

INTERNATIONALISM

Just as informatics is international, so the problems and perspectives requiring attention by the professions of the future will be international. International law will develop more quickly. Already international bodies such as the Organisation for Economic Cooperation and Development (OECD) have drawn up guidelines on the protection of privacy. A recent Bill on privacy protection, introduced into the Australian Federal Parliament, based on the OECD Guidelines, demonstrates the way of the future. Laws and professions will develop their rules from international efforts to cope with new international problems.

All of this may seem a bit far fetched. But the speed with which information technology is invading professional offices indicates the pace of change. Such changes may be

uncomfortable for some. But it will stimulate a new internationalism - in the professions and beyond. Even in the apparent safety of the South Pacific, we Australians and New Zealanders cannot any longer afford complacent isolationism. In the world of nuclear bombs, cloning, laser, jumbo jets and informatics, we are all thrown together. Shaking off the old provincialism and self satisfaction of the past will be difficult for many professionals. But we will be under the goading stimulus of remarkable development of science and technology.

A NEW RUNNYMEDE

We should look on our time as akin to the world of King John and the Barons at Runnymede in England. The overweening power of the sovereign state is breaking down. The development of a world community is happening - because it must happen for survival's sake. The professions, which serve many of the key activities of life, are engaged in disciplines which increasingly have an international dimension and international organisation. These are healthy signs. Let us hope that they bear fruit before the dangers of neglecting them envelop us.

*Justice Kirby is President of the Court of Appeal, Supreme Court, Sydney, Australia. He is the former Chairman of the Australian Law Reform Commission. He is a Commissioner of the International Commission of Jurists, a member of the Executive of the CSIRO and was Chairman of the OECD Expert Group on Transborder Data Barriers and the Protection of Privacy. He will visit New Zealand in 1987 as a guest of the New Zealand Futures Trust.