

Foreword

LAW - A CAREER OF GREAT OPPORTUNITIES

The Hon Justice Michael Kirby AC CMG

I recently chanced upon the Jubilee Book of the Law School of the University of Sydney. Published in 1940, it tells the tale of the first fifty years of the law school I was later to attend in the 1950s and 1960s. According to the description of its early days, nothing much had changed by the time I started my studies. The lectures, the recreations and the preparation for a life in the legal profession, as described, were all basically the same.

Looking back, I often felt an outsider at law school. Arriving there in 1958 from the main campus of Sydney University, it immediately seemed (and was) a very blokey place. There were only a handful of women students, whereas in the Faculty of Arts, then as now, women predominated. In fact, Sydney Law School seemed then mainly composed of young males from private schools, participating in a culture that I did not share. Even today, I am the only Justice of the High Court whose entire education was in public schools, although it is in those schools that 65% of Australia's population is educated.

Two other features of my law school days reinforced an unspoken feeling of alienation. The first was that the 1950s were days of hysteria against communists. My grandmother had remarried and her new husband was a communist. He had fought at Gallipoli and won the Military Cross. A braver, nobler and more humane man I never met. The earlier attempts, by law, to ban the Australian Communist Party and penalise communists had come unstuck in the 1951 decision of the High Court in the Communist Party Case and in the referendum of the electors that followed. These events taught me that law and hysteria were a very dangerous mix. Law had an important function to protect minorities. It did not always succeed; but in the matter of communists, it struck an important blow that left an indelible mark on my memory and on my concept of law.

My sexuality also taught me how oppressive the law could sometimes be to decent people: stigmatised and punished for being themselves. My law school days were times when Australian law was less than just to Aboriginals, women, Asian Australians, people of colour, gays and other groups.

In nearly half a century, since I was at law school, we have improved the attitudes of the legal profession, legal education and the content of Australian law. But things are still far from perfect. Blokiness and the patriarchy still exist in our profession, its institutions and the law we practise. Doubtless, there are still injustices perpetrated in the name of law which we do not even recognise. Back in 1958 most people at law school would have been blissfully unaware of the legal injustices suffered by the groups that I have named.

The good news is that lawyers can play a leading part in society in correcting wrongs, righting injustice and reforming the law to bring it into harmony with changing values. Legal training teaches us how the institutions of society work. It puts the hands of its practitioners on the levers of state power. Whether they venture into the public service, become captains of industry, pursue a life as an advocate or as a solicitor or make their way to the Bench, lawyers have disproportionate opportunities to shape the content and administration of law according to their values. Some will secure the chance to do this by election to Parliament. All of Australia's Parliaments, federal and State, have large numbers of members who are lawyers, perhaps a feature of the federal system.

Even more lawyers get to play a part in the administration of justice. They help to give meaning to the grand theories of constitutionalism and the rule of law. Leafing through the Jubilee Book of my own law school in its early days, its pages reveal a galaxy of the leaders of Australia, in politics, the judiciary, government and the legal profession. The same was true in my day. The same will be true in yours.

One of the graduates who wrote a memoir in the Jubilee Book was Sir Percy Spender. He attended the same Sydney high school as I did. He went on to be a federal Minister, Ambassador to the United States and was later elected President of the International Court of Justice. Writing in 1939, before all these laurels were won, he observed: "The law ... is a fickle jade, and she has not treated all her suitors alike, nor indeed in accordance with their merit. There is another jade called Chance and she is a difficult lass to woo".

Spender was correct to point out how, in careers, chance plays a leading part. So it was with his career, and with mine. So it will be with yours. But the grounding in the skills and techniques of law that you receive at the Monash law school gives you a brilliant start to life. It affords you mighty opportunities to seize the chances that later come along. Those opportunities extend to influencing the very character of our nation and of the world beyond.

My hope is that the new generation of law students and graduates will make the most of their chances.

That they will absorb, and carry into the world, attitudes that are less blokey, more universal and more sensitive to the wrongs that law can sometimes do. With such values in mind, they will surely devote some part of their careers to law reform, to their professional societies, to international voluntary aid or to the agencies of the United Nations and to moulding the law so that it creates a true commonwealth of equal justice under law for all.

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High Court of Australia

Canberra

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