



## **Launch of the Inaugural Swinburne Legal Year 2015**

*Remarks by the Honourable Marilyn Warren AC, Chief Justice of Victoria, to the Launch of the Inaugural Swinburne Legal Year 2015 and the new Bachelor of Law Degree, Swinburne University, Melbourne*

23 February 2015

### **Introduction**

Good evening.

May I begin by extending my congratulations. Firstly, to Swinburne University on the opening of this law school. It is an extraordinary achievement and I know how much work and preparation has been involved. To Professor Hunter on your appointment as Dean of Law and to all those who have been involved in setting up the new faculty. I acknowledge in particular the contributions of Professor Linda Kristjanson (Vice Chancellor), Professor Jennelle Kyd (Senior Deputy Vice-Chancellor and Provost), Professor Michael Gilding (Executive Dean, Faculty of Business and Law), Professor Philip Clarke (Planning Dean, Swinburne Law School), and the Hon. Alan Goldberg AO QC (Chair of the External Law Advisory Committee). It must be immensely rewarding to see your vision come to fruition.

Finally, may I congratulate the inaugural class of Swinburne Law Students, not only on your outstanding academic achievements in VCE, but importantly on the sound judgment you have displayed in choosing to study law at Swinburne. Good judgment is essential in our profession.

What an exciting time for you all, beginning university. I anticipate that among you there will be varying degrees of understanding about what studying or practising law might involve. Some of your parents may be lawyers. Some of you may have studied legal studies in VCE or even done some work experience in a law firm. Others will know very little. I imagine also that there are varying motivations for wanting to study law.<sup>1</sup> For some of you, law might be (as they say) ‘in your genes’. Perhaps it ‘just felt right’. Perhaps you were attracted to the prestige or the intellectual challenge; to the prospects of wealth or travel, or the opportunity to do justice.

Whatever your motivations, studying law will open up many doors, whether you end up practising or not (not all of you will). You will emerge from your law degree with a truly unique skill set, and a unique way of thinking and of approaching problems. It is a real privilege to study law and I would encourage you to reflect on this from time to time.

This evening I will speak about the role of the lawyer and the changing nature of the legal profession. And, I will speak about what this will mean for your legal education; how your education must prepare you for both. I hope that my remarks will continue to resonate with you as you progress through university and beyond.

## **The Role of the Lawyer**

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<sup>1</sup> Marilyn Warren, ‘Why be a Lawyer?’ (Speech delivered at the Sir Anthony Mason Honorary Lecture, Melbourne University, 15 August 2007).

Lawyers hold a special place in our society, in our democracy. Let me explain.

In Australia we enjoy freedom of speech and freedom of association. We vote freely in elections, untainted by rigging or corruption, and we may come and go as we please. We do not fear reprisal based on gender, race or religion. In Australia no person is above the law; governments and citizens alike are bound by it and entitled to its protection. This is what is provided by the ‘the rule of law’. It underpins the democratic freedoms I have just mentioned. The rule of law is a concept you will become well-acquainted with.

If our rights are infringed upon, or if we find ourselves in a dispute, independent judges are available to adjudicate impartially according to the law. If a crime is committed, the offender will be prosecuted, but importantly he or she will also be afforded a fair trial. And this is where lawyers come in – lawyers are the main conduit between citizens and the courts. Lawyers are therefore crucial to achieving access to justice. Your duty as lawyers will be to apply and uphold the rule of law. Regardless of whether you become commercial lawyers, criminal lawyers, or constitutional lawyers, as a lawyer your paramount duty will be to the court, to assist the court to do justice according to the law. You must do so competently, and ethically.

Studying law is quite different because of the democratic relevance of the law. So, whilst you may have friends studying engineering, design or other important fields, you will be studying to protect freedoms and democracy.

### **The changing nature of the legal profession**

If I may be candid, you are entering the law at a difficult time. The media reports that it is hard for lawyers to get jobs and that the profession simply does not have the capacity to absorb the growing numbers of law students, at least in the commercial space.<sup>2</sup> You need not be alarmed by these realities, just be aware of them.

You are also entering the law at a very exciting time. A time when the world's economies are interconnected, when science, technology and innovation are driving change and new industries are emerging.

The legal profession today is immeasurably different to the one I entered 40 years ago. One of the biggest changes we have seen is the rise of the international law firm. This has been a response largely to the 'globalised client'. Lawyers too are more mobile. The 'global lawyer' may find themselves working in different jurisdictions and on transnational deals.

The profession has also become highly competitive and commercialised.<sup>3</sup> Following the global financial crisis, clients' legal budgets have reduced dramatically. Law firms are therefore under growing pressure to reduce costs and add value to their services. Clients increasingly seek commercial, as well as legal, advice from their lawyers. As a result, lawyers need to understand not only the relevant law, but also how their clients operate and where they are positioned in the relevant market or industry. 'Commerciality' is a term commonly used to describe such skills. Good communication and people skills will also be very important.<sup>4</sup> Law,

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<sup>2</sup> The number of student enrolled in LLB degrees across Australia is now approaching 40,000. See Edmund Tadros, 'Survey paints a dire picture', Australian Financial Review (Australia) 20 February 2015, 33.

<sup>3</sup> Marilyn Warren, 'The Access to Justice Imperative: Rights, Rationalisation or Resolution?' (Speech delivered at the Eleventh Fiat Justitia Lecture, Monash University Law Chambers, 25 March 2014).

<sup>4</sup> Emiliou Kyrou, 'Attributes of a Good Lawyer and Judge' (Presentation given to the Australian Italian Lawyers Association, 7 March 2013).

particularly commercial law, is about building relationships of trust with your clients and other legal professionals. Your individual integrity and ethical standard will be important.

## **Legal Education**

As the legal market has changed, so too has the nature of legal education: ‘classes are large, teacher contact has reduced’ and learning is increasingly shifting into the online space.<sup>5</sup> The smaller, interactive, lectures that I enjoyed at university are fast disappearing, which I think is a shame. The practice of law is not a purely academic endeavour. Understanding the law is one thing, applying it in practice is another. Lawyers need to be able to think on their feet, articulate and persuade. They need to be able to argue a position and negotiate an outcome. As I mentioned, they must be ‘commercially aware’. They must have good communication skills. They must be resilient.

When students enrol in a law course they are entitled to the following four minimum guarantees:

- First, they will receive a high quality legal education
- Second, the education will adequately prepare them to enter the legal profession (should they chose to)
- Third, the education will maximise their prospects of employment in that profession (or elsewhere)

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<sup>5</sup> Marilyn Warren, ‘The Access to Justice Imperative: Rights, Rationalisation or Resolution?’ (Speech delivered at the Eleventh Fiat Justicia Lecture, Monash University Law Chambers, 25 March 2014).

- Finally, the student will understand and be equipped to play their special role in society.<sup>6</sup>

Indeed, law schools bear a difficult burden. They have a responsibility to you the students, and also to the profession.

I am confident that Swinburne's new law program is up to the challenge. In devising the program, considerable thought has been given to the demands of the profession and to the changing nature of the legal market. The result is a law degree that is designed to be professionally-focused, practical and innovative.

The faculty proposes to offer a high quality education. I understand there will be a real focus on student engagement, and teacher-student interaction in class. Students will be offered access to state-of-the art facilities, technology and online resources.

The law program will include all the core units required for entry into the profession. I am also very pleased to see the inclusion of a practical legal skills program and compulsory professional placements. It is a valuable way for students to gain experience and build connections with the profession. It is also important that students get a feel for what it is like to practice law and to identify the areas that most interest them. Prior legal experience is certainly looked upon favourably by employers, but it can be difficult to come by. The support of the university to secure such placements will be important.

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<sup>6</sup> Marilyn Warren, 'The Access to Justice Imperative: Rights, Rationalisation or Resolution?' (Speech delivered at the Eleventh Fiat Justicia Lecture, Monash University Law Chambers, 25 March 2014).

I also welcome the law program's focus on statutory interpretation. This is something that judges such as the President of the Court of Appeal and I are quite passionate about, and is unfortunately underdeveloped in many law graduates. We live in a highly regulated society. What I mean by this is that much of what we do, and indeed many industries, are regulated by legislation, or 'Acts of Parliament'. Hundreds of new Acts are passed every year. Statutory interpretation is the art of understanding and applying those Acts. It is crucial that lawyers become proficient in it. Indeed most court and tribunal cases these days involve the application of a statute.

Swinburne University, consistent with its global outlook, aims to have an impressive international exchange program. I would strongly encourage students to take advantage of any opportunities to study overseas. It is a marvellous way to challenge yourself and gain insight into different jurisdictions and cultures. I understand that the new law program will also incorporate a number of compulsory international law units, and this is something quite unique.

Another unique feature of the program is its commercial focus, and in particular the unique specialisation in intellectual property law. This aligns well with emerging industries, the demands of the legal profession and Swinburne's vision of becoming Australia's leading university of science, technology and innovation.

It is important for a law school to have an edge; something that differentiates it from the rest. Swinburne is aiming high. All these things will go a long way towards preparing students for admission to the legal profession (indeed for whatever career they aspire to) and to maximising their prospects of employment.

Finally, and most importantly, I encourage the law faculty teachers to think about the fourth guarantee and encourage students to reflect often on the societal role of the lawyer.

### **Some tips**

May I offer some tips for the inaugural class of 2015 Swinburne University law students. I will address you directly. To assist me, I surveyed some judges' associates at the Supreme Court. I asked them to share with me four things they wished they had known when they were starting law school. I will share with you some common themes.

First, when you come to be admitted as a lawyer, you will be called upon to demonstrate your 'good character'. If you think about the role of the lawyer in upholding the rule of law, this is very important. So, as you go through university think about how your choices and actions might bear on your character: be mindful of behaviour that might compromise your aspirations. I am sure you will all be very well-behaved.

Second, the law is a very diverse profession. Many of you will have aspirations to be commercial lawyers, but it is valuable to keep an open mind. Read widely and try a range of things. Perhaps choose an elective you might not ordinarily choose? Your views and aspirations may change over time, so inform yourselves about all the options.

Third, communication is paramount. Always think about your audience and communicate clearly and concisely. I cannot impress upon you enough the power of plain English.



Fourth, look after yourselves. Law students by their nature are high-achievers and often competitive. While some competition can be healthy, too much is counterproductive. Do not put too much pressure on yourselves. Support each other. Many people view the law as purely adversarial; as a contest. To the contrary, collaboration is extremely important. I remember vividly Justice Goldberg telling me when I was a junior barrister to always treat my opponent with respect and dignity – today's opponent might be tomorrow's ally. Remember that when you enter a workplace you will be part of a team. Remember too if you need help with your health to talk to someone; you will always be helped.

Finally, I would add, never forget the role of the lawyer in our democratic society. The presence here this evening of a number of Supreme and Federal Court judges is an indicator of the significance of the establishment of a new law school.

### **Concluding remarks**

Thank you very much for much for inviting me to speak this evening. Congratulations again to Swinburne University on what promises to be a stimulating law program. I wish you all the very best for the marvellous times that lie ahead.

It is my great pleasure to now officially declare the new Swinburne University Law School open.