# NEW GRADUATES IN A CHANGING SOCIETY

## Occasional Address to the Law and Science Graduation Ceremony at Monash University on 18 October 2007

Mr Chancellor, Mr Deputy Vice Chancellor, distinguished guests, professors and academic staff, ladies and gentlemen, and, of course, new graduates in law and science.

Congratulations. Today's graduation is an important event for you and for all who can share with you the pride and pleasure of your success. The ceremony marks the fruits of past efforts and achievements, as well as future lines of work and career. I can imagine how proud and pleased you and your friends and family must feel when you and they think of all that has made today possible, and of what may now be possible in the future.

I too am pleased to be sharing this day with you and to think that some 30 years ago it was me sitting down there listening to someone else up here. I had no thought then that I might one day be up here speaking to you down there. Thinking about that reminds me about the continuing process of generational renewal and that one day it will be one of you being asked to speak to a new batch of graduates ready to take their place in the development of science or the practise of the law. I am pleased to see that in that process of renewal there are still in the law faculty people who taught me when I was a student here. They, however, may have less reason to feel pleased if they recall how badly I may have answered some exam question or assignment. I cannot boast to having been a brilliant student and it is possible that one or two of my former teachers may fear the damage that I may do if I now apply the law as I had answered their exam questions. I am in that regard reminded of a definition of a judge as a law student who marks his own exam papers.

Choosing what I might speak to you about this afternoon was not easy. Lawyers tend to develop an anxious attachment to facts, structure and direction that can make thought follow narrow paths. In my case, I may have given too many talks in recent years on scintillating aspects of tax law that cause great excitement amongst tax specialists, but polite bewilderment amongst the sane of mind. I gave up the thought of sharing with you the subtleties of the new debt/equity rules or the cost allocable adjustment provisions, when I remembered an accountant having once said that a tax lawyer was someone who may be good with tax planning but lacked the personality to be an accountant. Mind you, listening to accountants can sometimes be as interesting as reading the footnotes in a pension plan.

In the end I thought it might be best in congratulating you to thank the many people who have made your success possible. Many of those people may be with you today and as you leave here today you will be able to join with them in celebration. Your achievement today may have been at some cost, sacrifice and anxiety for friends and family over many years and for them your achievement will give them much satisfaction and pride. It has always been a matter of great sadness to me that my father passed away before I graduated and, therefore, that he was not able to enjoy the occasion which could not have happened without his encouragement and support.

It is, I think, important for us, and our whole society, to remember how we come to be where we are. I say that because we are constantly told how much things have changed and how current times require measures that may not have been necessary 30 years ago. Thirty years ago sounds like a long time, and we have a tendency to romanticise the past, but I doubt whether things now are really as different as they were then. I recall my time as a student at Monash as one of great freedom for thought, ideas and action. They were, but the world even then had a darker side. There was the

Vietnam War and the constant battles between two great secular ideologies: communism and democratic capitalism. When I was growing up there was constant discussion about the need to fight the communist threat. In Europe there were many active revolutionary groups including, in Italy, the Red Brigade a terrorist group founded in 1970, whose war on capitalism included the kidnapping and killing of the Italian Prime Minister in 1978. In Germany there was the Baader-Meinhof Gang and in Northern Ireland and England, of course, there was the constant terror of the IRA.

The list could, of course, be made much longer, but it is enough to make me wonder what we may be losing as we respond to the risks and fears we face today. In particular it makes me wonder of the many migrants, the former non-Australians, who made this their home and who made possible for me what I have achieved and who may have made possible for you what you have achieved today. The threats we feel today have prompted us to participate in a war on "terror" as if the word "terror" had more content and meaning than "darkness" or "the unknown". Our current concerns have led, or at least coincided, with new calls for national unity and a common citizenship which, in its turn, has led to the creation of a citizenship test. My personal response to these developments is to think of my friends and family and the sacrifices which they have made to take root in this country by making it their home and dedicating their lives to it. They were, however, different. They had a different language, a different culture, a different way of eating, they sang different songs and sometimes it was said that they did not mix with Australians.

Being different in an age of terror must not be easy. Discrimination is often not seen by those who do not experience it; and many who have experienced it in the past often put it behind them as something in the past that has gone away forever. The problem is that there are many people in our diverse

community today who feel that differences as a burden. The fear of being different can have a chilling effect, like breaking out into a cold sweat, and destroys diversity in our own culture and takes from people the pride in who they are. Many children of migrant parents have come to remember with humour the stories of how their food was sneered at, their language and their accents made fun of (to say nothing of peculiar dress or habits), and some have turned the past to good use as comedians; but for many the fear of difference may turn what should be pride into a deep sense of shame. I wonder how many people today are changing their names, dress, cultural habit, language, belief, et cetera for no other reason than their fear of being different. Some years ago it was common to talk of multiculturalism as a good thing for our society. We had gone through a phase where assimilation seemed not what was needed and, instead, had embraced and praised a multicultural diversity. Multiculturalism as a concept or ideal seems no longer in vogue, but it did have the benefit of treating differences and diversity as permissible if not desirable in a way which we may be giving up.

Recently the Commonwealth Parliament has legislated for the administration of a citizenship test for people who want to become Australia citizens. I mention this fact for a number of reasons. The first is because it is based profoundly upon the idea that there is something identifiably Australian and that there are some things and some people who are not. The Minister, as recently as October 1, was reported in *The Age* as stating that citizenship provides for "an overriding commitment to Australia, our laws, our values and our community". In other words, that there is "us" and "ours" and "them" and "theirs". A second reason for me to refer to the test is my great alarm in not knowing the answer to many of the questions. There are some that perhaps I should be embarrassed to admit not knowing, but there are also some which

are badly expressed as a matter of English language and clear speech, and others that the graduates in law today would find difficult to answer simply.

A third reason I mention the test, however, is because I suspect that many people I know, and perhaps some here today, would fail it. The test is designed to demonstrate an adequate knowledge of Australia and includes an understanding of the English language. I can reassure some of you that from reading the materials it seems that it is acceptable to split infinitives. However, with that concession, I wonder how many people I know would be denied citizenship to this country and how many people who made it possible for me to be here and for you to be here, might also be denied citizenship. My mother certainly would have been.

One of the things that law and science have in common is their reliance upon reason. Each may use reason differently, but in the case of both disciplines there is a commitment to something other than fear, prejudice or power. Terror and reason do not sit comfortably together, and I hope you will carry that thought with you well into your careers and your future. We all need to ask what damage we may be inflicting upon our society, our values, and the diverse members of our diverse community, by the way in which we conduct our war on terror and, in particular, we need to examine carefully the chilling effect we may be having upon our diversity and tolerance by the call to arms against our fears.

Fortunately, I am an optimist and reason can be stubborn. I have in mind what is said to be the transcript of an actual radio conversation of a US naval ship with Canadian authorities off the coast of Newfoundland in October 1995. This radio conversation was said to be released by the Chief of Naval Operations.

Americans: Please divert your course 15 degrees to the north to avoid collision.

Canadians: Recommend you divert YOUR course 15 degrees to the south to avoid a collision.

Americans: This is the captain of a US Navy ship. I say again, divert YOUR course.

Canadians: No. I say again, you divert YOUR course.

Americans: THIS IS THE AMERICAN CARRIER USS LINCOLN, THE SECOND LARGEST SHIP IN THE US ATLANTIC FLEET. WE ARE ACCOMPANIED BY THREE DESTROYERS, THREE CRUISERS AND NUMEROUS SUPPORT VESSELS. I DEMAND THAT YOU CHANGE YOUR COURSE 15 DEGREES NORTH, THAT'S ONE FIVE DEGREES NORTH, OR COUNTERMEASURES WILL BE UNDERTAKEN TO ENSURE THE SAFETY OF THIS SHIP.

Canadians: This is a light house. Your call.

I wish you all the best for the future and congratulate you and those in your past who have made that possible.

G.T. Pagone
Melbourne

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