

**CONFERRING OF DEGREE CEREMONY
UNIVERSITY OF MELBOURNE
WILSON HALL
THURSDAY 22 DECEMBER**

Governor, Chancellor, Vice Chancellor, Dean of Law School, graduates, ladies and gentlemen. I would like to thank the University and the Melbourne Law School in particular for the great honour they have done me in awarding me an honorary Degree of Doctor of Laws.

Through the course of one's active life a number of awards come in one's direction, but let me say I value this honour from the University of Melbourne more highly than any other. I appreciate enormously the University's decision.

I am particularly delighted to be receiving the doctorate at a graduation of law graduates. In today's world I can think of no profession more important, more vital to a sane, humane and secure world. I have no doubt you will be embarking on many different paths as you begin your active working careers. A knowledge of and respect for the law is something that will stand you in good stead no matter what you may ultimately do. As I see today's world, the rule of law and due process, equal access to the law, represent values of great significance.

I can remember when I was probably about your age, which is an age ago, I used to wonder why a former Chancellor of this University, and a sometime Prime Minister used to stress the rule of law and equal access to the law as being a vital part of liberal philosophy and of the policy of the party he formed. I wondered why he did so because I thought we had arrived at a time when respect for the law could be taken for granted, that those battles had been won and would not have to be fought again, because the value and virtue of adherence to the law appeared to be so obvious and so necessary.

In the international arena there have indeed been substantial advances most recent among them the establishment of the permanent International Criminal Court. Lawyers from this university played a significant role in helping to frame the statutes and it is now possible to envision a world where there is an end to impunity and perpetrators of international crimes can no longer retire to the South of France, or Monaco!

We are well aware that domestic law has long guided civilised societies. However, since the end of the Cold War, the development of international law and its application has advanced remarkably. International law has also come to influence the domestic contexts. It is not well known that Admiral The Lord Michael Boyce, Chief of Defence Staff of the British Armed Services, demanded of Prime Minister Blair a statement confirming that an invasion of Iraq would be legal under British and International Law before he would order troops to invade. That request presented Prime Minister Blair with a dilemma, because only a few days before that war began the Lord Chancellor had provided an opinion which would not have met the conditions set by the British Chief of Defence Staff. Somehow a few words were cobbled together which were purported to be the Lord Chancellor's legal opinion, which was not published till after the event. Much later he said the few words given to Lord Michael Boyce did not represent his legal opinion.

The fact that the British Chief of Defence Staff, a military officer, wanted to know that a war he was about to embark upon would be legal is unique in the annals of warfare and a significant advance in respect for the law. On the other hand the fact that the Prime Minister was able to manipulate legal opinion to provide advice he sought rather than advice based on the law demonstrates the complexities that will face you all as you move through your careers.

Not all the changes in recent times have been beneficial. Many of the freedoms which we have taken for granted are now challenged and practices only 30 years ago regarded as barbaric and beyond the reach of civilised society are again on the agenda.

The prohibition of torture, of evidence extracted by torture, which began to be outlawed in British courts in the 15th century, is under threat. Australian governments have connived in the torture of Australian citizens. We have new internal security laws which enable somebody the authorities know to be totally innocent, to be secretly detained and questioned, with the onus of proof reversed, and possibly incurring substantial penalties if the authorities were not properly satisfied.

I was talking about these security laws to an American intelligence officer recently retired and becoming an academic. He had been a specialist in North East Asia. He was appalled at the provisions written into Australian law and supported by both major political parties. A number of the powers

given to the security services at that time were not asked for or sought by those services. Indeed, I am advised some resented them.

Too many accept these new punitive laws because governments say it is necessary in the fight against terrorism, but is it? Do we need to use the methods of terrorists to defeat them? Are we not better off to maintain the principles and values which have helped create a civilised society based on the rule of law and adherence to the law and the application of that law, to all people.

Many of you will find through the course of your careers that you will be faced with dilemmas, of conscience, of ethical behaviour for what is right or wrong, of adherence to the law or its evasion. The dilemmas many of you may face, the choices you may have to make at different points in your careers will sometimes be difficult. It might mean going outside the mainstream. It could mean standing alone against those who believe that any action is justified in the pursuit of power, and that the people in positions of authority can stand outside the law.

There is one other point I would like to make. The protections that exist in our legal system are important. They need to be respected and protected. We need to understand that these protections didn't suddenly fall from the sky, from some human rights activist. As Petro Georgiou said in a Parliamentary Speech as long ago as 2002 the rights we enjoy "*evolved out of the experience of people who lived through turbulent and violent times: through rebellion, revolution, civil war and religious insurrection.*" They evolved through centuries and many died in their pursuit.

The protections built into the common law were in opposition to the arbitrary use of executive power which had always been justified by governments as needed to protect the security of the state. Such powers had to be restrained because they destroyed the values and the order that they pretended to serve.

Governments must of course do all that is reasonably possible to combat threats to the safety and security of Australia. There is an equal responsibility to protect the core values of our society and not to give the terrorist a partial victory by adopting tactics of the terrorist. It is ironic in today's world, but the core values, the protection of the law which we had thought to be universally accepted, has been seriously breached by the war on terrorism. The strength of a proper functioning democracy rests on our

capacity to prevent the arbitrary exercise of repressive powers against any person.

There are few absolutes as we move through our lives. The rule of law and its equal application to all people at all times, as a general proposition is without fault, but life is complex and not simple. There is not always a clear signpost to right and wrong. Yet the law, its application not only of meaning but of intent, provides guidance for civilised societies both at home and abroad. The degrees you have so justly earned over years of hard work will have equipped you well to use the law, and where dilemmas exist, exercise rational judgement.

I congratulate you all and wish you well for the future.