

AUSTRALIAN ACADEMY OF LAW LAUNCH

GOVERNMENT HOUSE, BRISBANE,

17 JULY 2007

Your Excellency, Chief Justices, Attorneys General, Your
Honours, Fellows, Distinguished Guests

It is a mark of the importance of this occasion that the Governor of
Queensland, herself a Fellow of this Academy, has agreed to act as host
for the launch of the Academy. and to make this splendid setting
available for that purpose. I am honoured to have been invited to be the
Patron of the Academy, and to participate in this significant occasion.

The Constitution of the Academy identifies as its primary object the establishment of a body made up of individuals of exceptional distinction from all parts of the legal community, including academia, the practising profession, and the judiciary, to work together for the advance of the discipline of law in certain ways. Those include the establishment of scholarships and research grants; and the promotion of legal professional standards and law reform; and the enhancement of community understanding of the rule of law, and of the role and function of lawyers, and the judiciary. It is envisaged that the Academy will provide a forum for co-operation and exchange of views amongst all parts of the legal community.

The Academy was originally proposed in a report of the Australian Law Reform Commission. Since that report, a good deal of effort has gone into the settling of its final constitution, including the definition of its

objects. The report compared the structure of the legal community in the 1970s with the position 30 years later. In the 1970s there were relatively few full-time law teachers and fewer Law Schools. The "structure of the profession as it then existed promoted a greater degree of cohesion and solidarity". Since then, the number of lawyers has grown, there is greater specialisation, law firms have grown in size and now operate nationally and internationally, the number of law schools has increased by a factor of five, the academy is much larger, and it has "a much more attenuated relationship with the legal profession". Growth and fragmentation "challenges the maintenance of a coherent professional identity". This Academy is a response to that challenge.

It is, I think, quite likely that people who have been involved in the development of the project have had somewhat different ideas as to what the Academy will achieve. Indeed, much of the business part of

this occasion will be devoted to developing and refining those ideas.

There is nothing new about a significant legal institution being launched without a comprehensive consensus as to its purpose. That was the case with the High Court of Australia. We now look back, for example, at Alfred Deakin's speech on the introduction of the Judiciary Bill in 1902 as a clear exposition of the function of the Court. Yet that speech was an argumentative exercise, designed to persuade doubters that there really was a present need for a full-time, permanent Federal Supreme Court. At Federation, one prominent South Australian said that Australia needed a High Court as much as a cart needs a fifth wheel. The Privy Council was at the apex of Australia's judicial system, and remained there for most of the 20th century. In one of his writings, Deakin said that, in retrospect, history takes on the appearance of inevitability. So it is with institutions. The precise role of this Academy will be worked out over time. What is of primary importance is that the Academy has been

born of a sense of common purpose among people from the different groups in the legal community. Their different backgrounds and skills properly managed, should be a source of strength for this new and important organisation. I say, "properly managed" because it seems to me that the key to the success of any such organisation is to match its objectives to its make-up. Anyone who needs convincing of the importance and difficulty of that task should consider the example of the Law Council of Australia.

On behalf of the Australian judiciary I welcome this initiative. All of the objects of the Academy are important to the judiciary but there are three of which I should make particular mention.

First, the Academy, as a forum for meetings and joint action of law teachers and practitioners, will serve a necessary purpose. I have

mentioned, on other occasions, the need to build bridges between the academy and practitioners.

Secondly, enhancing community understanding of the rule of law and the role of the judiciary is a vital and, I am afraid, a never-ending task. We can encourage people to value the rule of law, but we can never take it for granted. In particular, we cannot assume that all people of goodwill necessarily understand the implications of the rule of law and of the independence of the judiciary, or what might constitute threats to those values. Much of what the law contributes to society is valued only when it is lost.

Thirdly, an object of the Academy is the support of professional values. It will not be the role of the Academy to attempt to compete with the existing professional associations. The Academy does not have

their representative legitimacy. Yet its members have a strong common interest in professional values, and it can co-operate with professional associations. This will occur in a context of the increasing mercantalisation of legal practice. The idea that it is in the public interest for legal practitioners to become business-like and to embrace all the values of competition needs to be tempered with some understanding of what businesses are really like, and of what competitors in business seek to achieve. Competitors engage in the process of competition for private gain. The theory is that the process itself acts in the public interest; but as to the objectives of the individual competitors there are no illusions. Yet the single-minded pursuit of private gain has never been consistent with a full acceptance of the ideals of professionalism. It is of the essence of professional values that the pursuit of personal interest is modified by an acceptance of responsibilities, to the public,

and in the case of lawyers to the court. Those responsibilities may in some circumstances conflict with the dictates of private interest.

There is important work to be done by this Academy. I congratulate Professor Weisbrot and all who have helped him to prepare for this launch. I am confident that the abilities and enthusiasm of the distinguished lawyers who are the first members of the Academy will ensure its future. I wish the Academy every success.