

**ADDRESS BY THE HON. CHIEF JUSTICE MARILYN WARREN  
ON THE OCCASION OF THE CONFERRAL OF  
A DOCTOR OF LAWS *honoris causa* BY MONASH UNIVERSITY  
MELBOURNE  
THURSDAY, 22 APRIL 2004**

I sincerely thank the Chancellor, the Vice Chancellor, the Dean of the Faculty of Law and all the members of Monash University for the honour done me by the conferral of the honorary degree of Doctor of Laws. There is further delight for me in the conferral in the fact that the Vice Chancellor is the grandson of the late Joan Rosanove, the first woman barrister in Victoria and, significantly, the first woman appointed Queen's Counsel in this State. The late Joan Rosanove, QC marked a trail for women like me. No matter how little used that trail may have been, it is always so much easier to follow where someone has travelled before rather than to traverse a path for the first time.

To the graduands today I extend my very warmest congratulations, both to you and those who have supported you. As I stand here it is a moment of intense emotion. It seems such a little time ago when I sat where you sit now, in this Hall, proudly clutching my Bachelor of Laws. I basked in the warmth and delight of my mother and father who were so proud. I know my parents felt they could burst with pride; I am sure, as with your parents and family today.

You have achieved your degree in law and for some it is an occasion of achievement of outstanding excellence. But if I might, I wish to focus on the significance of the Bachelor of Laws. For many of you the pressures and joys of studying at the Law Faculty have dissipated into the ether of the harsh business world as you work hard in your articles of clerkship, your tertiary qualification for admission or whichever path you have taken.

Yet, a law degree is not just another tertiary qualification. It is something quite different. It is especially different from a degree in computer engineering, business administration, education or science. It is different not just for the obvious reason of differences in discipline but it is different because of the purpose that underlies the study of the law. How is that purpose comprehended?

Study and practise of the law involves both empowerment and burden.

In terms of empowerment a law degree is not merely a means of earning income. Principally, it is a vehicle for you to follow the pathway to practise as a solicitor or as a barrister. In that way you may use your law degree to protect the disadvantaged, pursue the rights of the individual, when necessary, against the State and to promote and protect the most fundamental aspects of our society.

Your degree will enable you, eventually, to pursue the protection and enforcement of rights: in property, in the workplace, in personal relationships, in the field of human rights, indeed, to do all sorts of things in the administration of justice. Yet the common thread that binds all those who study and work in the field of the law remains constantly with us: the pursuit of the rule of law.

As you sit here today, noble statements about “the rule of law” might seem ponderous. You might regard the degree in your hand as your means of income and prefer to be materially focussed. It may be so and you might be well justified. However, it is that common thread of the pursuit of the rule of law that sets the difference between a degree in law and any of the other disciplines of academe.

In achieving a qualification in law, (whether undergraduate or postgraduate, it does not matter) you reinforce the basic tenet upon which our society is based: the rule of law. It is the law and the implementation of the rule of law that marks the difference between democratic government and dictatorship even anarchy.

Sometimes the empowerment of the law is exciting. Other times it will seem redundant, irrelevant even overbearing. Whether you become immersed in a trivial conveyance of property, a contentious divorce, representation of persons seeking immigration status, even something as small as the defence of a traffic infringement, you will be constantly protecting and implementing

legal rights. You will be pursuing the rule of law. But remain always with the knowledge that your qualification in law has empowered you to apply, implement and protect the rule of law which is fundamental to our society.

I have spoken much of the empowerment of the law. There is a further aspect and that is, the burden of the law. The burden encompasses the courage to protect and implement legal rights, to draw a line in the sand and say " ... No, that is wrong and I will fight that. I will apply the rule of law."

Practice in the field of law brings with it a burden: a duty to pursue the truth and to uphold and protect the legal system of this State. If you progress to practice you will acquire a duty to the court to be honest and faithful to the court: to assist and support the court in the doing of justice according to law. Part of the application of the rule of law involves understanding the role and purpose of the judiciary.

You will remember the study of constitutional law. You will understand that as part of upholding the rule of law it is a fundamental aspect of the structure of modern government that there are three arms of government: the Legislature, the Executive and the Judiciary. The democratic, Westminster system of Government that has developed over hundreds of years and upon which our society is based enjoys the protection of the third arm of government, the Judiciary. You will recall in your studies of constitutional law, the significant, critical doctrine of separation of powers.

The doctrine with respect to the Judiciary involves recognition that the Judiciary is based upon the fundamental tenets of impartiality and independence. Usually, members of the Judiciary start out as graduands in law, just as you are today, just as I was almost 30 years ago. Whilst the other arms of government operate politically they are different, separate from the third arm of government, the Judiciary. The third arm of government does not operate politically, rather it operates impartially and independently. It is this fundamental demarcation that differentiates the Judiciary from the Legislature and the Executive. Perhaps in the simplest terms, what this means is that when the citizen goes before the court to enforce rights, to seek justice, that citizen enjoys the independence of the court, of the Judiciary, from the Government of the day and the public service of the time. The citizen relies upon the rule of law that you, with your degree, will be equipped to protect and implement. With your degree in law you will, in all likelihood, engage with, even form part of, the three arms of government. That said, armed with your law degree you have the primary tool to protect and implement the rule of law.

This year the Sir David Derham School of Law of Monash University celebrates its fortieth anniversary. I am proud to be a graduate of this university. You should be proud, also.

You should remain with the knowledge, also, that you have acquired your qualification from a university that has a fine, longstanding tradition of pursuit of the polemic: a tradition of persistently challenging and questioning. I have often said that the greatest benefit I received from my studies in law at this university was that as law students we were always taught to consider not just what the law is, but, what the law ought to be. That tradition, that challenge, has stayed with me always.

There will be times ahead in practice in the law when it will be necessary to stand up and be counted; to be fearless in the pursuit of the rule of law. Those times may be personally difficult. When challenged at those times I urge you to fall back upon and rekindle the traditions instilled in you by the fine teaching of the Sir David Derham School of Law of Monash University. For my part, those traditions have given me great courage in difficult times.

It can be no coincidence that the challenging and questioning tradition of the School of Law of Monash University has seen, in very recent times, the appointment of graduates from that law school as the heads of jurisdiction of each of the Supreme Court, the County Court and the Magistrates' Court of Victoria and the Victorian Civil and Administrative Tribunal.

Today is a day of wonderful joy that you and those who have supported you in your achievement should celebrate. As I stand here now I am also filled with joy and anticipation as I know the wonderful times that will lie ahead for each of you as you progress in the field of the law.

May I extend to you my warmest wish: that your dreams and expectations that have brought you to this point, today, be fulfilled.