

**Address by the Honourable Justice Brian J Preston
Chief Judge, Land and Environment Court**

**Macquarie University, Division of Law
7th Annual Prizegiving Ceremony for Students in the Division of Law**

26 April 2006, Macquarie University

1. As students you ought justifiably to be proud of your achievements in successfully completing your studies in law. All students, not only those who have been awarded prizes, have had to work diligently and over a considerable number of years to achieve this goal.
2. It is tempting after such sustained effort to rest, believing that the process of learning has been concluded. I want to call upon you to resist that temptation.
3. Let me do so by referring to a saying which goes something like this:

In order to love something, you must understand it
In order to understand it, you must have knowledge about it
In order to have knowledge about it, you must have learnt about it.
4. This saying focuses on four topics: learning, knowledge, understanding and love. Let me deal with each.

Learning

5. Over the course of your studies you have learnt a great deal. There are many facts and figures about the law, statutes and cases, that you have learnt. Perhaps the greatest thing you have learnt is how to think like a lawyer.
6. But the process of learning has only just begun. As a lawyer, one never ceases to stop learning. As a barrister, including as a senior counsel, I always learnt something in every case that I did, even ones in which I had specialist knowledge. As a lecturer in law (part-time) at the University of Sydney, amongst other universities, I always learnt something new, every year that I lectured in the post-graduate law program. Now, as a judge, I continue to learn something new, every case that I hear and decide.
7. This ongoing process of learning should not be seen to be a burden but a benefit. It ensures that the law will continue to be fresh, stimulating and challenging to you.

Knowledge

8. Learning is not just about memorising facts and figures about the law, statutes and case names. Knowledge of the law is not to be found in a book of lists.
9. The facts and figures, statutes and cases, must be organised into a cohesive body of knowledge. This organisation of information also never

ceases. We continue to see patterns in the information, to arrange according to those patterns, to cut the deck of legal cards in different ways.

10. Macquarie Law has given you a great head start in this process of bringing insight into and organising information into a cohesive body of knowledge. Its focus on interdisciplinary and intra-disciplinary learning has been a feature of its teaching.
11. For example, I recall that even in the time when I was going through law school, there was a course taught by Professor Bruce Kurcher on remedies of law. This involved looking at a problem and determining what were the remedies in different disciplines of the law to solve that problem. This stood in contradistinction to approaches in the traditional law schools which focused upon each individual discipline, torts, contracts or equity.
12. At the time, I can recall that I was envious of the law students at the other schools. When they sat an exam in torts or contracts or equity, at least they would know that the remedy to the problem in the exam would be in the respective subjects of tort or contract or equity! No such luck for Macquarie Law students! The solution to the problem could be in any one of them.
13. However, that is what occurs in real life. A client does not walk into a solicitor or barrister's office and say "I feel that I have a tortious problem". They simply have a problem and it is for the lawyer to sift through the law and find the appropriate remedy, in whatever discipline of law, that best solves the client's problem.

Understanding

14. As we progress through each of these four topics they become harder.
15. Having knowledge does not necessitate having understanding. Understanding involves moving to a higher plane of consciousness about the subject matter. Having understanding is to move to a level of appreciation that comes from extensive learning and deep knowledge about the law.
16. We see examples where high appellate courts, such as the High Court, can pierce through all of the different legal approaches and divine an underlying common juridical basis. This was done for example when the High Court in *Burnie Port Authority v General Jones Pty Ltd* saw that the strict liability approach in *Rylands v Fletcher* had been absorbed by the principles of negligence. It was also done in *Pavey and Matthews Pty Ltd v Paul* when the High Court recognised the concept of unjust enrichment as the basis for a broad but unifying range of obligations which rest neither in tort nor contract.
17. This understanding can come from many sources. It may come from a study of legal history. Macquarie Law has a tradition in this regard. It may come from a study and understanding of other fields of learning. It may involve understanding science or economics or philosophy. Acquiring great and varied learning can only assist in understanding the law.
18. Acquiring true understanding is a long but worthwhile process.

Love

19. It may seem strange to hear a lawyer talk of love. We are often portrayed as a loveless calculating lot. In talking about love I am not dealing with any notion of amorous infatuation.
20. Rather, I am talking about having a deep and abiding respect and admiration for the law and above all a passion for the law. A passion for the law, the rule of law, for its institutions such as the judiciary, and for what the law can and should achieve for citizens and the state.
21. Macquarie Law has a great tradition of instilling a social conscience in its students. A social conscience that the law is there to serve, not to be an instrument of oppression against its citizens.
22. When you take up full time employment, whether it be in private practice, government, the corporate world or academia, you may find that the burdens of the tasks at hand slowly cause your passion for the law to ebb. I urge you not to let this happen. Never let the law turn into just a job, a means to make money. Keep the fires of passion for the law and what it can achieve burning.
23. If you can keep this passion going, the practice of law can be a thoroughly worthwhile, socially useful and personally satisfying career.
24. So, continue to learn, to know, to understand and to love the law.
25. I wish you well.