

Lessons of an Australian Law Graduate – Reflections on Law School and the Legal Profession

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INTRODUCTION

This paper² seeks to achieve at least four things. First, to assist the aspiring professional to properly crystallise in his or her mind what one can do with qualifications in the law. Secondly, to provide some useful tips on successfully completing law studies at university or an equivalent institution. Thirdly, to provide some “detail” on what it is actually like to practise as a lawyer. And finally, it is hoped this paper will invoke further thought from either the current or future law student

about the *ethical obligations* attached to practising as a lawyer.

LESSON 1 – CRYSTALLISATION OF YOUR CAREER AMBITIONS

It seems to me that from the outset of your time at university as a law student, you should give serious consideration to what you might like to do when you finish your studies. A Bachelor of Laws degree provides various professional work opportunities. That is the good news. However, choosing what you might like to do with your future professional careers can often be both challenging and confusing.

You may, for example, seek to embark upon professional practice as a solicitor or barrister in the private market.³ Otherwise, you may seek a legal career in one of the many State or Federal government departments which offer opportunities in particular roles for lawyers.⁴

You may choose to go international, perhaps working for a Non-Government Organisation (NGO) or in international foreign affairs.⁵ On the other hand, you may choose to pursue an academic career, investing in future study and education.⁶ You may decide to work in policy, assisting in the development of

future laws and clarifying the present application of the law.⁷ You may consider a professional career in politics.⁸ As you can see, a law degree can take you on many different exciting and stimulating paths in life.⁹

Putting it simply, whatever you think you might like to do in a professional capacity upon leaving your life as a student and transcending into the working world, you should seek to gain a greater understanding of your future occupation. In that respect, if you think you would like to practise the law as a solicitor, you should seek some form of employment as a law clerk or paralegal in a solicitor's law firm.¹⁰ That way, very early in the piece, whilst still a student, you can get some better insight into whether practising as a solicitor is something you might like to do in the near future.

If a professional calling to the bar is in your heart, I suggest you get some kind of research or clerk role with a practising barrister. That way, you can find out for yourself what a barrister actually does. It is not all quite as appears on television. If politics interests you, you should consider joining a political party and taking an active role in the life of that party. You may consider a casual or part-time role as an

assistant to a current Member of Parliament.

For those who might like to continue study and further education after successful completion of their undergraduate degrees, you should consider getting a research position with an academic. That way, you can see whether future research is something you might like to do upon finishing your law degree; such as undertaking a Ph.D. in an area that particularly interests you.

As you can see, when you have materialised in your mind what it is you might actually like to do when you finish your studies, you can begin preparing for your future life. Unfortunately, I have a number of personal colleagues and friends who never really gave serious thought to their future careers when they were law students. The result at times has been quite damning.

I remember one friend in particular who wanted to be a solicitor. He reached his destination only to be bewildered at the nature of professional practice as a solicitor. He has said to me on many occasions: *"I had no idea this is actually what a solicitor does"*. That friend has since left the legal world entirely. He is not alone in that respect.

The benefit of getting practical experience in a position that allows you to be exposed to your future profession is quite significant.¹¹ The experience you will gain in that position is likely to teach you whether your original career ambitions are what you thought they may be.¹²

A common characteristic of many if not all successful people in this world is the ability to dream, the courage to pursue and the endurance to deal with many of the great challenges which professional life undoubtedly brings. It all begins with crystallising in your mind practical goals for your future.

LESSON 2 – DOING THE SIMPLE THINGS RIGHT

Undoubtedly, studying law *successfully* is no easy feat. With that proposition in mind, the following tips and guidelines may be of assistance in successfully completing studies in law. They certainly worked for me. Many of these guidelines can also be adopted in professional practise.

First, be determined and focused. Set short-term goals in relation to the various courses that you undertake. In that respect, aim to get through the respective readings which you set yourself. Aim to have completed an advanced draft of your

assessment long before it is due; that way, you can give yourself plenty of time to put the final touches to the assessment and take the pressure off.

Secondly, take your studies seriously. You have chosen to undertake a law degree, and with that choice, you should readily appreciate the great demands of your time that will be taken by such a pursuit.¹³ In this respect, if you do not think you can commit much time to your studies, I suggest you consider a different path. A law degree is hard work.¹⁴

Thirdly, read ahead. Upon the completion of a semester, have a break. However, you should find out early before the next semester starts what units you will undertake and what material is involved. In that respect, borrow books from the library and purchase textbooks in those subjects and commence reading at once.

By the time the semester begins, you will already be on top of your readings and have more time to focus on assessable components in the units in which you are enrolled. Your time in class will also be more useful, as you can further develop your understanding of the respective area of law having already read ahead and not learning content "on the run" for the first time in class.

Fourthly, strike a balance with other areas of your life. Although university life can be quite demanding, you should not allow your studies to overwhelm you. Play sports. Go to the gym. Go out with your friends. Travel when you can. Eat healthy and take care of your body. After all, particularly with the latter proposition in mind, you will not be able to study properly if you are continuously in bad health.

Finally, undertake pro bono and volunteer work when you can.¹⁵ Join student associations and professional bodies and assist with the requisite skills you already have. In my view, there is no greater heart than that of a volunteer. Your assistance to others will of course not only help them, but such work can be both fulfilling and bring happiness into your life. Otherwise, prospective employers are always very interested in very active students who have taken his or her time to help others, particularly when it is for free.¹⁶

LESSON 3 – FUTURE LAWYERS AND WORKING LIFE

I come to my third and final lesson for this evening. With respect, if you have chosen a career in the law to make plenty of money, you have probably made the wrong decision. It seems to me that there

is a lot more money to be made in other professions and vocations; investment banking, medicine and business.

The life of a practising solicitor or barrister is quite demanding and difficult. That is the reality. Time is something which is limited for all of us in this life. Time is very precious. You can rest assured that as a practising solicitor or barrister, a great many hours will be spent working on various legal matters at the expense of your time. You must appreciate this simple fact from the outset.

When I was a university student, I often thought that all lawyers were honourable and ethical individuals. Now, as a practising barrister, I am not entirely persuaded that original view I had about lawyers is actually true. You have to be thick-skinned, patient, brave and determined. Practising the law can at times also be very stressful in an emotional sense.¹⁷ However, do not lose sight of the bigger picture. Remain ethical always.¹⁸ Do not be influenced by the prospects of financial benefit at the expense of your reputation.¹⁹

When you first commence practising, perhaps as a junior solicitor, do not expect to be working in the main on the most exciting and colourful cases. Chances are

you will be photocopying an endless array of documents, summarising material and preparing pretty briefs for Counsel.

However, with determination, patience and the benefit of time, you can slowly move up the ranks to work on more exciting and challenging areas of the law. Many of the great leaders and professionals of this country commenced their career in a similar way.²⁰

If you want to stand out in your employment, assume pursuits which your respective colleagues have not undertaken. If that means working harder, then work harder. Undertake further studies. Actively participate in events held by the *New South Wales Law Society* or *New South Wales Bar Association*. Join committees. Write professionally for publications. Read widely. Learn from your mistakes. Embrace criticism.

A word about the main differences between litigation solicitors and barristers. Litigation solicitors, as you should know, spend a great part of their day conferring with clients, preparing evidence and instructing barristers in a range of legal matters. They spend a lot of time writing letters and undertaking important administrative tasks to keep a respective matter in working order.²¹ Barristers, on the

other hand, spend far more time preparing complex legal opinions and appearing in court to argue cases.²²

As a general observation, barristers tend to spend more time in the higher jurisdictions, whereas solicitors spend more time in the lower jurisdictions such as the Local Court of New South Wales. I do not mean to suggest for a moment that the role of a solicitor is not as important as a barrister. Not at all. The roles are simply different in the main.

Speaking from personal experience, life for a junior barrister is very difficult. Make no mistake about it. One is faced with, on the one hand, the certainty of monthly chamber fees that are very much analogous to expensive rent, and, on the other hand, there is no certainty where your next brief will come from, let alone when.²³

Often at times I have felt as though I am a professional “debt collector” chasing my professional fees from solicitors and direct access clients. The good news is, may I say, that the longer you can survive at the bar, the more educated you become on which people ultimately will and which will not pay your professional fees.

You should expect at times to appear in cases where your client has little prospects of success, especially in criminal cases. Nonetheless, the client is entitled to defend the charges and have a trial. With little valuable material to run with, you have to bite the bullet and deal with the cards you have been given. Good character building! At times you will appear in matters where the court may make your appearance very uncomfortable. Your opponent may be difficult and problematic. Despite the many shortcomings of professional practise as a barrister, the job is on balance very rewarding and immensely stimulating in an intellectual sense. Each brief brings its own challenges and surprises, much like the circle of life.

I do not think for one moment that my current job is to be reconciled with eminence or associated with the “glitz and glamour” that should be better left for television series such as *Law and Order* and *Perry Mason*. At the end of the day, it is just a job like any other – although with the added importance of being a job with primary service to the public.²⁴

CONCLUDING REMARKS

Whether you are practising as a solicitor or a barrister, you play an important part in pursuing the proper administration of

justice.²⁵ Despite all the drawbacks of professional practise as a lawyer, the job has many fulfilling and rewarding facets: the ability to truly make a difference in the life of a person; the capacity to actively participate in upholding the rule of law; the chance to meet people from all walks of life; and, of course, the prospect of making good a dream you had set in motion in the not too distant past.

¹ This paper is based upon a speech given by the author at the *University of Western Sydney School of Law Annual First Year Camp 2013*, Collaroy Convention Centre, 20 February 2013.

² For a concise distinction between the role of a solicitor and barrister, see Victorian Bar, *About Barristers – Information for University Students*:

³ See generally Jim Armstrong, “Government Lawyers - Changing Directions (Part 2)” (1999) 9(1) *Aust Corp Law* 22; Anna Katzmann SC, “Independent Attitude - No Paradox, no Platitude in Robustly Independent Government Lawyers” (2007) 45(11) *LSJ* 85.

⁴ Pierre N Leval, “The long arm of international law: giving victims of human rights abuses their day in court” (2013) 92 (2) *Foreign Affairs* 16-21.

⁵ See further Yale Law School, *Transitioning to Academia*: http://www.law.yale.edu/academics/prep_transition.htm

⁶ The New South Wales Law Society, *The Policy Lawyer*: <http://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/690945.pdf>

⁷ Professor the Hon Gareth Evans AC QC, *From the Law School to Politics – An Address to the 1960s Alumni Reunion*, University of Melbourne Law School, 22 November 2012: <http://www.gevans.org/speeches/speech500.html>

⁸ Athol Opas, “In-house or firm? Reflections on the role of the in-house lawyer” (2012) No. 225 *Ethos: Official Publication of the Law Society of the Australian Capital Territory* 10-11.

⁹ John Wilson, “Getting it right: engagement of paralegals and law graduates” (2012) 6 *Ethos* 22-23; Dulin Kelly, “Paralegals and lawyers: a team approach” (1997) 1 *Australian Legal Practice* 7-9; John Goldring, “Can paralegals improve access to justice?” (1990) 2(1) *Criminology Australia* 10-13.

¹⁰ See generally Elizabeth Burnett, “The role of work experience in practical legal training” (1985) 2(2) *Journal of Professional Legal Education* 25-30; G E Dal Pont, *Lawyers Professional Responsibility*, Thomson Reuters, Lawbook Co, 2013, 36-37.

¹¹ M Castan et al, “Early optimism? First-year law students’ work expectations and aspirations” (2011) 19 (1) *Legal Education Digest* 9-12; John Nickolas James, “Professional mentoring programs for law students (2011) 30(1) *University of Tasmania Law Review* 90-118.

¹² See further G E Dal Pont, *Lawyers Professional Responsibility*, Thomson Reuters, Lawbook Co, 2013, 18; Seligman et al, “Why Lawyers are Unhappy?” (2005) 10 *Deakin Law Review* 49.

13 See Schiltz, "On being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession" (1999) 52 *Vanderbilt Law Review* 871.

14 See generally Sheryl Jackson, "Pro bono: but what about costs?" (2012) 32(5) *Proctor* 44-45; Jacquelyn Collins, "Harnessing pro bono across the ditch" (2012) 86(11) *Law Institute Journal* 81; Claudia Catone, "Investing in access to justice" (2012) 86 (1-2) *Law Institute Journal* 83.

15 Sebastian De Brennan, "Rethinking Pro Bono: students lending a legal hand" (2005) 15 *Law Education Review* 25-59; Sebastian De Brennan, "Pro bono, access to justice and the University of Western Sydney: where to now? An exploratory study" (2005-2006) 9 *Newcastle Law Review* 19-44.

16 Ross Hyams & Becky Batagol, "Non-adversarial justice and the three apprenticeships of law" (2012) 23 *Australasian Dispute Resolution Journal* 179; J Howieson, "ADR Education: Creating Engagement and Increasing Mental Well-being through an Interactive and Constructive Approach" (2011) 22 *ADRJ* 48; O'Brien Townes, "Facing Down the Gladiators: Addressing Law School's Hidden Adversarial Curriculum" (2011) 37 *Monash University Law Review* 43.

17 As part of its role in admission, both the relevant admission board and the Supreme Court must consider, among other things, whether the applicant 'is currently of good fame and character'. See, for example, s 9(1)(a) *Legal Profession Act 2004* (NSW).

18 Inherent in the lawyer's fiduciary position is the duty not to profit from that position without the fully informed consent of the client: See, for example, *Law Society of the Australian Capital Territory v Lardner* [1998] ACTSC 24; BC9801211 (where, without full disclosure to clients, solicitors regularly referred clients to a company controlled by an associate of theirs for the preparation of reports that were charged to the clients as disbursements).

19 For example, Justice Bellew of the Supreme Court of New South Wales reported in his swearing-in-ceremony speech in 2011 that his first position was the "exalted role of the mail clerk" at the Manly Local Court, which involved, in the main, addressing envelopes: The Honourable Justice Bellew, *Swearing in Ceremony of the Honourable Geoffrey Bellew as a Judge of the Supreme Court of New South Wales*, 31 January 2013, at para [30]: <http://www.supremecourt.lawlink.nsw.gov.au/agdbase/v7wr/supremecourt/documents/pdf/bellew310112.pdf>

20 See further the *New South Wales Solicitors Rules* 1995, New South Wales Law Society.

21 See further the *New South Wales Barristers Rules* 2011, New South Wales Bar Association.

22 See also Jason Donnelly, "Five lessons of a reader at the NSW Bar" (2012) Winter Edition, *The Journal of the New South Wales Bar Association* 57.

23 *Re Foster* (1950) 50 SR (NSW) 149 at 151 (per Street CJ); Pound, *The Lawyer from Antiquity to Modern Times*, West Publishing Co, 1953, 5; *Legal Services Commissioner v Walter* [2011] QSC 132 at 19.

24 The lawyer's duty to the court is 'paramount' or 'overriding' such that to the extent that the duty to the court conflicts with any duty to the client, the former must prevail over the latter: *Rondel v Worsley* [1969] 1 AC 191 at 227; [1967] 3 All ER 993 per Lord Reid; *Giannarelli v Wraith* (1988) 165 CLR 543 at 555-6; 81 ALR 417; 62 ALJR 611; BC8802647 per Mason CJ, at 572 (per Wilson J).