

## OCCASIONAL ADDRESS

Delivered to graduates from the Faculty of Law  
at the UTS Graduation Ceremony  
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**Dr Jeffrey Michael FitzGerald LLB (Hons) (Melb), LLM, PhD (Northwestern)**  
Former Registrar UTS

**Chancellor**, Vice Chancellor, UTS colleagues, ladies and gentlemen, and, especially, graduates.

This is a wonderful occasion and I am both humbled and very honoured by the award the University given me and to be the Occasional Speaker today. It has been a wonderful experience to work at UTS for the past 10 years, and especially wonderful to play a part in its development as it really came into its own as a great University.

Each of you, the graduates, has been part of that exciting growth and development. In the process, each of you has had the advantage of a modern, real-world oriented education that will stand you in good stead wherever life may take you.

Congratulations to each and every one of you, and to your parents and friends and the staff of the Faculty who have contributed to your success. The moment is **yours to savour**. The rest of us are privileged and delighted to share in it with you.

You have all studied Law, and **many** of you will call yourselves lawyers for the rest of your lives. Others, like me, will do other things such as work in business, a government agency, or an educational institution. But be on notice! I can tell you from my own 40 years experience in the workforce that you will be inextricably tied to the Law and will continue in many ways to be part of the legal profession, even if you are not called a solicitor or a barrister.

**Be proud of being a lawyer.** I hope none of you ever want to escape that label. However I have to admit to you that the approximately 40,000 lawyer jokes told at my expense over the past 44 years have sorely tempted me to contemplate just such an escape from time to time! A recent computer study examined all the 96 thousand or so Google entries for "lawyer jokes". It concluded that there were in fact only 2 legal jokes, all the rest were true!

One of my favourites concerns a collision between two cars, one driven by a lawyer and the other by a doctor. When they both got out of their cars the lawyer could see that the doctor was a bit shaken up, and offered him a shot of whiskey to help settle his nerves. The doctor gratefully accepted, and look a large swig from the lawyer's

hip flask. As the lawyer was carefully putting the flask back in his pocket, the doctor asked “Aren’t you having one yourself?” “Certainly”, said the lawyer “once the police have left”.

And then there’s the one about the terrorists who high-jacked a 747 full of lawyers on their way to a legal convention. The terrorists threatened to release one lawyer every hour unless their demands were met!

A very wise person recently observed: *“A good education opened my horizons and my mind. My career has continued to expand them”*. I can add that you will be the “winner” if you ***treat your career as a journey that is full of new challenges and never-ending opportunities for new learning, insights and skills***. This is quite easy to say, but don’t be fooled about the challenges in living up to it. You are getting off to a very good start: the nature and scope of your legal education (unlike that I experienced so long ago) has been designed to open your horizons. But your good start to a legal career full of wonderment, excitement and new learning will be put to the test quite soon by the nitty gritty of everyday activity, the demands of the “here and now” and the comfort of the “tried and true”.

My point is not that immediate concerns and demands can, or should, be avoided or ignored. Rather it is that we all need to find ways of regularly putting ourselves outside those concerns and the ties of the immediate in at least 2 ways: (1). By reminding ourselves regularly of longer term, strategic, and even ‘over the horizon’ developments and issues, and (2) by finding ways to understand and appreciate the broader implications and significance of what we and our fellow legal professionals do day in and day out.

When I finished my law degree at the University of Melbourne in 1964 I thought I knew what the law was and why it and lawyers were terribly important for the well-being of society. I was lucky enough to go to the United States for some graduate legal study, and was very soon shocked to realise just how limited was my understanding of the law, its role, and its significance. The turning point for me was provided by the insights of some great jurisprudential scholars and judges. In the few moments we have today, I can only touch on their exciting and very demanding vision of law and the roles of lawyers.

Dean Roscoe Pound identified the paradox that to have legitimacy in a society: **“The law must be stable and yet it cannot stand still”**. He also identified the importance to that legitimacy of the relationship between the **“law in action”** and **“the law on the books”**. Justice Benjamin Cardozo built on these two insights to illustrate how the law can be a dynamic, complex, and highly evolving “organism”: the product of a rich array of disciplines, methodologies and insights (such as philosophy and the social sciences) along with the more often acknowledged “legal crafts”. He shows

how these can be applied by legal practitioners, judges and other lawyers to “shape” the law and ensure both that it remains stable while not standing still, and that there is a better match between the law on the books and the law in action. The law is not just the immutable, impersonal and abstract composite of statutes and regulations and the ‘stare decises’ of cases that my initial legal education focused on. Rather, it is a continuing **statement whose evolution entails** fine-tuning, revision, and re-formulation as well as re-affirmation.

What is most exciting in this vision is the transforming potential of on-going, normal work of the legal community in its broad sense. Opportunities for the “growth of the law”, to use Justice Cardozo’s concept, occur every time lawyers analyse, articulate, debate, litigate, negotiate, settle and adjudicate the rich, continuing, and varied flow of matters and disputes with which they deal. In doing these things they work within “the law on the books”, (or “black letter law”, if you prefer). But they also have the opportunity to consider how people in particular circumstances actually behave in approaching the “rights and wrongs” of those circumstances -what Pound was getting at with the notion of “the law in action”.

Practitioners, judges, legislators, government and academic lawyers all have distinctive and complementary parts to play. If enough lawyers, over time and at a variety of levels, do take account of the broader dimensions of the law **as they do their regular and on-going work**, they go a very long way towards achieving that miracle where law is truly stable whilst not standing still (and not becoming irrelevant to the people). On the other hand, if the legal profession do not do this enthusiastically and well, the legitimacy and efficacy of the law as a key element in a just and civil society will be sadly lacking.

There are, of course, other very important prerequisites for a true Rule of Law, and therefore, for a just and civil society. Foremost amongst these is the protection and promotion of key basic legal “foundation principles” such as that **every person** should be treated by the law with **equality and dignity**, both substantively and procedurally. To the extent that this is not the case, the law would be lacking a key inherent quality, and would rightly be seen as an actual or potential tool of some sections of society at the expense of others. This, in turn would undermine the very legitimacy of the law, and detract from its capacity **to underpin and support a just and civil society**.

This has key implications for the way lawyers should approach their work and their careers. To name but two: Lawyers need to ensure that proper legal representation is not denied to any person or group, no matter how reprehensible or denigrated they may be. They must also ensure that all facing the law receive a fair and proper process, no matter how strongly the howls of demagogues or talk-back radio may

urge otherwise. I am sure each of you can think of recent examples where these two values have been under great pressure in Australia.

As people blessed with the advantages of a good education and at the cusp of productive and enjoyable careers I'm sure you all aspire to **be good and worthy citizens of the world**. There are many ways outside our work and profession to contribute to the betterment of the world, and I know that many of the graduates are already involved in a rich variety of them.

I would like you also to consider how to contribute to the community **within your professional work**. *Pro bono* or volunteer legal work, sponsorships of charity and public interest causes, providing training and internships for minority and underprivileged persons are just a few of the more obvious ways of contributing to society through professional and career activities.

A less conspicuous, but nevertheless crucial, way to be a worthy citizen is to always handle the affairs of clients ethically. Politicians, the media and most of us are rightly critical of lawyers for failing to meet ethical standards themselves or who help clients not meet them. (Recent examples have included advising the use of offshore corporate structures to avoid liability for very serious work-related diseases and legitimate tax liabilities, and advising the destruction of documentation prior to requests for its discovery in product liability litigation).

Yet it is not necessarily straightforward or easy, even for lawyers of great integrity and good will, to define the ethics of a situation. **On the one hand**, lawyers have a right and a duty to enable their clients to have the full protection and support that the law and the legal system accords them. **Equally**, the community quite rightly expects key standards of decency, honesty, integrity and justice to be followed. There are many situations where even thoughtful opinions differ as to where the balance between these two strictures should be drawn and it can be hard for a lawyer to be confident that a correct call is being made. But that is no reason for abandoning a **deep and enduring commitment** to strive to better understand and observe the line between the legitimate and the illegitimate **both for yourselves and your clients**.

Before concluding, I would like to touch upon two other important aspects being a good and worthy citizen of the world, both within your work and career and in your lives more generally. The first is to accept and rejoice in the diversity of, and differences between, the many peoples and cultures of our world. In this respect modern Australia is truly fortunate in having many people from a wide range of ethnic and cultural backgrounds.

It is fair to say that over the last 50 or so years we have developed and sustained legal and other frameworks to manage the differences and the pressures that ethnic

and cultural differences can and do engender (especially in situations/periods of economic strain). But even at the best of times there are fragilities and vulnerabilities, which can be exploited by the media, politicians, or opinion leaders. (For example, the “people overboard” episode) When this happens, people with a true “world citizen” perspective must be prepared to intervene, in action as well as in principle. Who better to do this in their own respective work places and communities than the legal graduates of a truly international University like UTS, who have been able to enjoy and share in the realities and benefits of diversity and a regime of respect for all?

No longer can any of us ignore the impact we are having on the physical environment. We are all part of the problems and issues besetting the environment. We will all have to be part of the solutions, if they are to be sustainable. This will involve us making many, sometimes difficult, decisions in our personal lives. But more important, it means that those in positions of power and influence will also have to understand how the decisions they and their clients make, impact upon the environment and become tangible realities. We depend upon you and your generation to do vastly better at this than many of the generations who have preceded you.

I could go on, but it is time for you to leave this Hall and celebrate your family and friends who have supported you so well. So I will conclude with a “blessing” which was given by another Occasional Speaker at a recent UTS Graduation ceremony:

*In your travel through life you will reach many forks in the road. You will be confronted with many difficult choices. If you make the right choice, be **modest**. If you make the wrong choice, **learn by it** and learn to **live with it**. In all aspects of your life journey, never loose sight of who you are, no matter how high you fly. Always be **true** to yourselves and your values.*

*Remember, **you** are our future. You **can** make a difference*

I look forward with more than a little envy to the greatness that is to come from the “**Class of 2007**” of the Faculty of Law of the University of Technology, Sydney.

**Chancellor**