

## **Auckland Medico Legal Society**

**Tom Percy**

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Good evening ladies and gentlemen. In one of his diaries His Honour the Chief Justice of Australia recalled attending a bar dinner for the convention of the Law Society of Australia in Sydney in 1951 and in his diary he recalled the president “bored everyone with a dull and irreverent address about South Australia’s contribution to federalism”. So I have resisted the temptation that Anne put to me if I could make a speech tonight about Western Australia’s contribution to federalism. John Spicer the Federal Attorney-General followed and was, in the words of the Chief Justice, “dreadful”. The New South Wales Attorney-General, Sir Clarence Martin was “worse” and the subsequent High Court Judge Sir Garfield Barwick was “facetious, involved and unequal to the task”. So I just hope that no matter what you think of what I might have to say tonight about our respective roles in the community, I’ll try to be a little less critical than that. After agreeing to speak at your dinner, and being given the choice of my own topic after dismissing the suggestion of South Australia’s contribution to federalism, I wondered what a humble hack from the Western Australian criminal bar could possibly say of relevance to this type of gathering, given that I really have no experience in medico legal matters as such.

Although, as I was telling Anne today, I recently received a call from an attorney in Portland, Oregon asking if I could represent a chap called Dr Death, otherwise known as Dr J Patel. You may well have read about him. He is supposed to have caused the death at the Bundaberg Hospital in Queensland of some 232 patients. Not a bad hit rate, but of course the press play these things up. When you understand that that was over a period of three years and most of them were terminally ill cancer patients, undergoing radical treatment at their own request, it’s probably not that strange, but I wonder what inspired this attorney from Portland to ring a lawyer in Perth to appear on behalf of a doctor who lives in America and is being charged in Queensland. And he says, “Well, we

were looking for the best lawyer in Australia”, and I said, “Well, I think you have got the wrong number.” But he said, “No, we did actually conduct a survey. We got a public relations firm to look into this for us”. And I said, “Well, how did they come up with my number?” He says, “Well, they did a Google search on the Internet and your name came up with the most hits.” I said, “Well, that’s no guarantee” and he says “Oh well, we think it’s okay and if you want to be in the case you can”. So I am currently in that particular case, which I have the greatest trepidation about, given that the enquiry currently was being run by a QC whose line of cross-examination of some of the witnesses went something like “Well, doctor, what were you doing while Dr Patel was out there killing people?”. I thought that is not a bad opening line. But, as I told Anne today, early last week the Supreme Court shut down the enquiry on the grounds of alleged bias by the Commissioner. It came as no great surprise, I have to say.

But the longer I thought about speaking at this gathering, the more I thought that there are some significant similarities between the medical profession and the criminal legal profession as I represent it. The most obvious I think is public perception. Compared to the corporate sector, and I don’t want to be seen as complaining here, we really are not in the category of the mega-wealthy. Although the media delights in portraying us as such. The popular image of doctors and lawyers as uncaring individuals intent on feathering their own nests, oblivious to or to the detriment of their patients and clients is one which we are no strangers to. It’s a real problem that I think we need to constantly address.

The second thing we really have in common is pressure. And in many cases that we are asked to undertake, irrespective of which side of the spectrum we come from, the events that we are asked to deal with are the single most important events in the client’s or patient’s life. The outcome of our efforts will often dictate the course of the rest of that person’s life and that of their family. The pressure, as many of you well know, is often immense and the feeling will be one to which most of you will be able to relate.

I remember asking some years ago as a very junior lawyer, one of Western Australia's most senior criminal lawyers called Leo Wood, who had had a number of clients go to the gallows, what he thought about the death penalty. He scratched his chin and he said to me - and I was expecting some dissertation about the moral or legal benefits of the death penalty -- "Tom, I don't agree with it, he says, it's far too tough on the lawyers". And the more time I spent in the profession, I came to agree with him and the same may well apply to you in your respective professions in the upper reaches of your trade. One small mistake and the client's or patient's life is in a real sense effectively over. I don't think you have hanged anyone here since about 1957, I only know it was long enough for Glen Stephens to be part of the defence team, but whilst we don't hang people in Western Australia any more, although if our current Attorney-General and some of our politicians get their way, it might not be that far away again, the pressure of actually having someone go down for a life sentence or a very long term of imprisonment is a harrowing experience, one I wouldn't wish on anyone. I would imagine losing a patient after a difficult medical procedure, no matter how many times it might have happened to you, is also an extremely difficult thing to endure. But there are, I would imagine for the medical practitioners who save someone's life or restore their health, the occasional rewards. In criminal law most of them are, of course, non-financial. As a criminal lawyer and no doubt every medical practitioner here, you have to deal with people from all walks of life and you can't choose your patients or your clients. And as serious and grim as it may get, there are the occasional lighter moments. I remember one day being asked to appear for a client on an indecency charge. It was a case where there was a studio in the city which sold indecent books and videos and things like that, but as a sideline they put on a bit of a sex show where the person had to put a \$2 coin into a slot and you get to watch a live performance involving all sorts of hideous things, which I won't go into, being performed. The Police raided it one day and I was asked to represent this woman and I asked the solicitor what her name was and she says, "Oh, it is a Miss Newdick" and I thought, that will be pretty good and the press when they found out that I had been

engaged to work for Miss Newdick found it very, very interesting that Mr Percy had been engaged to act for Miss Newdick and it involved so much public consternation that the Director of Public Prosecutions, whose name is Mr Cock QC, came down to prosecute and I am sure by just luck it was heard by Mr Justice Seaman. I kid you not, this is all absolutely true. But, you know, the more serious it gets the more true it gets.

Sometimes you get asked to do cases just out of the blue. I remember when I was first asked to appear for John Button, whose case I will refer to briefly later on. It is a celebrated case where a person was convicted of a murder back in 1963 and after 40 years, new evidence came to light and he was subsequently acquitted a couple of years ago. And the way that I came to be involved in that case was an investigative journalist who I had once met over a drink in a pub, got into my office under some false pretence of having some case to do and said, "I have got a case for you to do, it's a murder case and there is a million dollars worth of work in it." I said, "Now you are talking, I must apologise for your having got here under such false pretences." "Yes", she says, "there is a lot of work to do, it's a murder appeal." I said, "Now you are talking, it's exactly what I like" and she said, "But there is some bad news". I said, "What could be bad about a case like this?" A murder case, a million dollars worth of work?" She said, "You are going to have to do it for free". I said, "Good night! It was nice to meet you." But as she was turfed out of my office she had written a book about this. It had just come off the press. She said, "Take this and tell me what you think." And as it turns out the next day I was going on holiday and I packed it into my bag. I read the story of John Button, an amazing story, and if you ever get the chance to read a book called "Broken Lives" by Estel Blackburn, read it. I couldn't get back from holidays quick enough and I couldn't get on the phone quick enough to apologise. I said, "I will take it on and I'll do it," and it took me seven years with a team of workers from the legal profession who worked deciduously by my side and we eventually managed to overturn that wrongful conviction. It never ceases to amaze me, as it probably does you, the sort of cases you get into and how by some quirk of fortune you end up there.

Now doctors, like lawyers, and particularly criminal lawyers, have taken quite a battering over recent years. I don't know particularly what it is like in New Zealand, but at the hands of the politicians and the media, we are often the whipping boys. No session of Parliament really ever goes by without one or other of our professions getting it in the neck. It seems that the tide of legislative reform these days is always for the benefit of the perceived "victim" or in the medical arena read "patient". Harsher mandatory sentences, certainly in the Australian experiences, reverse onuses of proof, strict liability offences, defence disclosure, no fault property seizure, reduced rights to silence, abolition of preliminary hearings, etc., have all made our jobs very much harder. In the medical arena I would imagine you haven't been exempt. Your Australian colleagues have been subject to manifestly unjust things such as relaxed concepts of professional negligence, professional conduct, ridiculous insurance premiums and in recent life those sorts of things have come together to make life inordinately harder for all of us, not to mention our clients. When was the last time a politician you can actually remember did anything which positively moved in the direction of ensuring that there were fairer hearings for accused persons, or advocated some measure which tended to reduce the risk of an innocent person being convicted? When was the last time that you can tell me that a politician or a parliamentary enactment made anything easier for a medical practitioner to deliver his or her services to the public. Certainly nothing along these lines significantly has happened under any of the Australian governments, both State or Federal, in the last 20 years.

I often ask myself, do we still adhere to the once fondly adhered to principle that it's better that nine guilty people be acquitted than one innocent man be convicted, a logic that for centuries underpinned the philosophy behind our legal system? Do we still really believe that in the absence of true and palpable negligence or malpractice, one should be immune from any professional consequences? Well, if we do, and I would like to think all of us here tonight would do, the politicians certainly don't appear to. And the

reason for that? Well, I think it is quite clear there are a lot more votes in victims than there are in persons who slip through the widening cracks of the system.

How do we interest anyone, particularly politicians, in doing things about it is another question, and indeed we might ask ourselves the same question. How do we get interested in a case, particularly if it's a pro-bono or a legal aid case? And I think back sometimes to an interesting case I was involved in some years ago where a solicitor rang me up and said, "I have got a good case for you Tom, it is a murder, a woman cut a man's head off in a city hotel over a drug deal". He said, it was legal aid, I said, "Yeah thank you, I don't think I really want to be in this one." He said, "I think you will be interested". I said, "What, another legal aid murder? I've got plenty of them. I am booked up, I really don't want ...". He says, "Listen, you will be interested in this one." I said "Why?". He said to me, "The accused is Prue Carter". I said, "Who is Prue Carter?" He said, "You don't know who Prue Carter is?" I guess I have a shallow background. She says, "Prue Carter is the Year 2000 Miss Playboy Playmate of the Year". I said, "Now you're talking. I am in." Legal Aid or no Legal Aid I was in that one.

You see, every year there are a great many victims of crime in society and there are also many patients, I would imagine, who assert that their medical advice or services have been deficient. From simple burglaries, right down to the worst murders, there are a lot of bereaved and aggrieved parties out there who look very favourably on any political party who looks like upping the stakes in the punishment race. Particularly in a time such as an election here in New Zealand, there is a bidding war which eventuates saying, "We are going to be tougher on crime. We are going to be tougher on this" and the headlines always read "Tough New Laws Proposed". When was the last time we saw a headline "Fair New Laws Proposed"? It's been a long time, I can't really remember it myself. But compared to the number of people who are wrongly convicted, the victims represent an overwhelming majority. So it's no wonder that there is not much interest, and certainly

not many votes, in people attempting to fix a shortcoming in the system which could help prevent serious miscarriages of justice.

Similarly, in the medical sphere, I would think at least in Australia, far more votes exist in compensating perceived victims than ensuring medical professionals are protected from frivolous complaints or professional complaints. No system of justice is perfect and there will always be wrongful convictions, just as there will always be victims of crime. No doubt there will always be disgruntled patients, far more than the number of medical professionals who are their targets.

The task of ensuring that the system balances both problems is what falls ultimately to the politicians. But the sad reality is that the weight of votes is in the hands of the army of perceived victims, most of whom haven't got the slightest interest in the massive injustices that potentially result from each new legislative change or policy measure aimed at tightening the screws of the system. Until someone is prepared to address the question of fairness with the same degree of enthusiasm as they address the question of toughness, there is unlikely to be any appreciable improvement in the quality of justice in our society, I would suggest, in the foreseeable future. There just aren't any votes in it. Not that the average client invariably thinks any less of us for it. As long as their own case seems to be under control, they are usually quite happy enough and they invariably take an imminently logical approach without much concern for the bigger picture. Sometimes, I am sure you will all agree, their candour and simplicity is confronting and touching.

I remember a case that came my way at the hands of an indigenous footballer, a champion footballer called Jimmy Cracker. You probably haven't heard much of him over here, but think of your best indigenous rugby player. He was the same sort of stature. A magnificent footballer, and very humble background, but he was also a very bad punter and of the massive amount of money that he made in football, he lost it all on

the punt and he turned to dealing in drugs. When I say he was a bad punter, he was an even worse drug dealer. He was not very clever at all and he ended up doing 16 years in jail for it, like 16 years minimum. But during the time his case was going through, he kept his humour and at one stage I remember him ringing me one night saying, "Tom, look, Jim here, my young son Andrew is in a bit of trouble. He has done a couple of break and enters, can you sort him out?" And I said, "Well, it's probably not my go, but I will put him on to a young bloke who can sort it out for him." I said, "What's the problem, he's been pretty good?" And probably like you here, if a young indigenous kid from bad backgrounds gets through to the age of about 16 or 17 without any previous convictions, they are doing pretty well. I said, "What's put him off the rails?" He said, "Well, he was all right until he met this girl". And I thought, "met this girl?" He says, "Yeah, he was all right until he got in touch with this girl, and he has just gone bad since then." An alarm bell started ringing in my mind because Jim himself when he was 18 he had a 15 year old girlfriend. It was a serious relationship, but the powers that be prosecuted him for carnal knowledge and he did two years in jail for it. And I said to him, "Young Andrew, this girl, she's not under 16, is she?" And he said, "Yeah, I think she is Tom." And I said, "Well, you know what happened to you, mate. Have you had a word to him?" He says, "I have, but I can't do much about it." I said, "Well, to put it bluntly, he's not doing the business there, is he?" He says, "I think he is". I said, "Well no doubt you would have talked to him about the pitfalls of doing that." He says "I have, but I still think he is doing it." I said, "Are you sure?" He says, "Yes." I said, "What makes you think that?" He says "Well, they have got two kids."

So there was no denying the logic of that. Eventually he was convicted. He had an appeal to the High Court. He got a re-trial. But he ended up going back inside and he has recently come out, ostensibly cured of his punting convictions but I still get text messages from him Saturday afternoon, asking if any of my horses can win.

His was probably not a wrong conviction. But the problem of wrongful convictions is one which pervades both of our societies, I would suggest, and there have been some glaring examples of them both here and across the Tasman. Arthur Thomas's case is one which I would imagine here still conjures up different views as to whether or not he might have been guilty or not. But in the criminal area the inevitable result of the tightening of the screws that the politicians are so fond of will, I suggest, invariably manifest itself in more wrongful convictions and the situation, I fear, is getting worse.

Anecdotally, people who know about these things say there are about one to two per cent of the long-term prison population who are there as a result of wrongful convictions. I am not talking about here some misdirection on the part of a judge or some technical imperfection to their conviction, but just actually the wrong people, mistaken identities, or cases where the evidence was simply totally not inconclusive but just wrong. In a small state such as Western Australia and it's easy to say at one to two per cent that's good, that means the system is 98 or 99 per cent fail proof. But that means that as we sit here and drink our wonderful New Zealand Pinot Noirs or Sauvignon Blancs – and I am indebted to Lyn Stevens for arranging them for us here tonight – there are some 40 to 80 people in Western Australia alone who are simply the wrong people going to bed tonight knowing that they are the wrong person in jail and doing a long time for it. In states like New South Wales and Victoria the number is obviously about treble.

What really irks me and drives me on in this regard is the case that I have been involved with for the last five years or so, again on a pro bono basis, for a chap called Daryl Beamish. It did receive a lot of publicity internationally and some of you no doubt will have heard of it. He was a poor chap who was the victim of hidden evidence by prosecutors scandalously withheld and not disclosed. He ran six appeals, before I got the case, over 40 years; the last four of those were by the former Chief Justice of Western Australia who always believed him to have been innocent. Sadly, that Chief Justice, Sir Francis Burt, died two weeks before final judgment was given in his case last

April. He was sentenced to death and he was on Death Row, but only the fact that he was 19 years old and a deaf mute saved him from going to the gallows. I just don't know if any of you could really start to imagine how bad it would be for a person wrongly convicted in jail in 1961 when you couldn't hold a conversation with even a prison warden, a chaplain, a fellow prisoner or listen to a radio. That imprisonment and the nightmare of it almost beggared belief.

It's not just cases such as that that drive me on, but the recent statistics that come out of the USA are even more worrying. Since DNA testing was invoked in 1989, even on a limited scale, and there are not any formal cases here but there's no reason to believe that it would be any different in Australia or New Zealand. A recent edition of the Australian Law Journal (78) ALJ indicates that the American experience was that since this type of testing came in in 1989 there had been 328 serious cases of confirmed false convictions. That is alarming. It is a harrowing statistic when one takes into account that most of those were rape or murder cases. These, of course, were only the cases that could attract the attention of people such as investigative journalists, well-intentioned pro bono lawyers and the like and 22 percent of them -- that's 22 percent of those -- involved people who were saved from Death Row. So it is an alarming situation and the authors of those studies have extrapolated that from those figures there is every reason to believe that in the past 15 years in very serious crimes -- I'm not talking about minor crime at all -- there is something of the order of 28,500 wrongful convictions on very serious charges that have taken place in the United States. That is a chilling figure, I suggest, and one which perhaps our respective Attorneys-General should bear in mind before they bring in their next jurisprudential masterpiece for the lynch mob, like removing preliminary hearings, reversing the onus of proof or restricting the right to silence.

It is not just DNA, the world moves on and we're more worldly wise and expert in a lot of areas. In a case that I see is mentioned in the flyer for tonight's dinner is a case that I did

for a chap called John Button. He was the chap whose book was thrown at me by the investigative journalist when I threw her out of my office. But I ended up doing seven years on that case, again pro bono. I don't say that out of any sense of sympathy for myself, it was a privilege to do it. Any lawyer worth his salt would have champed at the bit to get at it. He was a person who was supposed to have run over his girlfriend after an argument. She left the house to walk home and after about half an hour he went to follow her. He came across her deceased body in the street where she had been run over by a car. Now, of course, the police thought that it must have been him, he had been arguing with her. But as it turns out she was run over by a serial killer who had a modus operandi of running over young women, seven in all. This was not known until many years after his trial. They examined Button's vehicle. There was a very small dent on the bumper and they said that that must have been where he hit his girlfriend and killed her. Unlikely, but a jury still convicted him and he went to Death Row. The car that had actually hit her was found the same night but it was hidden by the police. Similarly the reason for the small dent in Button's bumper was a small traffic accident which had occurred about three weeks before which the police were fully cognizant but they hid from the Crown prosecutor and the defence counsel. Many years later after we started to reinvestigate this case, nearly 40 years later, we enlisted the help of an American expert in accident reconstruction who was able to prove beyond any shadow of a doubt that Button's car didn't hit anyone who ended up with the massive internal bodily injuries of the deceased in that case. Similarly, the car that had been hidden from us had damage to it which was entirely consistent with that and after running tests and re-enactments in relation to both the Court of Criminal Appeal unreservedly accepted our submissions and not only found that there was a reasonable doubt about Button's guilt but cleared him comprehensively and without any compunction and indicated that there could not and should not be any retrial. It's good sometimes to have that type of trust placed in us. I think as both doctors and lawyers we sometimes may become a little oblivious to the fact that our patients do repose a great deal of trust in us, sometimes almost blind faith. There is much in common between the journeyman criminal lawyer

and the coal-face medical practitioner, I would suggest to you. The trust they place in us is enormous, as is usually their trust in the system, however foolish or misconceived that at times might seem to be. Whilst we sometimes may lose sight of it, I suggest to you, we should never be oblivious to it.

Two examples from my early years of practice in the outback town of Kalgoorlie, which is a mining town some 600 kilometres east of Perth in the middle of the Gibson Desert on the verge of the Nullabor indicate this to me. The first is one that was related to me by one of my early mentors called Tom Hartree. He was an old criminal lawyer and he said to me, "Never ever take lightly the advice you give to your clients because they do take it very literally." He related a case about two kangaroo shooters – I take it you don't have that profession in New Zealand, but it's a very common profession in the bush and two of these chaps had been in minor trouble with him before and they had got convicted because they had said unfortunate things to the police. He said, "Look, don't ever say anything to the police. If you ever suspect that they might want to talk to you about something, don't do anything until you see me." And they said okay and they learned their lesson. On one occasion they had gone kangaroo shooting at a place called Mica Tharow which is about a day-and-a-half's drive on unmade roads from Kalgoorlie. A lot of kangaroos there, not much civilisation. And during the shooting expedition they shot one of their friends right through the head. He looked like he was a kangaroo; after about 14 bottles of beer some of them do. So instead of going to the Mica Tharow police they packed him in the car and decided they would drive back to see Mr Hartree, knowing that his advice was that's what you do, irrespective of the fact it was about a day-and-a-half's drive and temperature was verging on something like 45 degrees in the shade. So Hartree told me that he was in his office having a drink on a Friday afternoon and these blokes came in very dirty, dusty and distressed and said that they had shot one of their friends during a kangaroo shooting expedition and he said, "Well, did you tell the Mica Tharow police?" They said, "No, you always told us that we always had to come and see you first." He said, "Very good, you have done very, very well and I'm

glad to see you there. We will go down to the police and make a full statement about it. But, by the way, where's your mate?" They said, "Well, he's out on the back of the ute outside." He said, "You've driven down from Mica Tharow, 45 degree heat, two days with him on the back? Isn't he a bit off?" They said, "No, not at all. We gutted him first." So there's nothing like practical advice if you're going to go and see a lawyer.

The other instance of bush logic which shows the esteem that some clients hold the system in is a chap called Worthington who I had to defend as junior counsel some years ago who had a barbecue at his house for some of his work colleagues one Sunday afternoon and he'd invited everyone from the mine where he worked. Some of them he didn't know too well and there was one particular chap there from New Zealand – no, he wasn't from New Zealand. He was from Tasmania actually. Tend to put villainous people in the same category when I'm unconsciously talking about it. I suppose it would be someone who comes from somewhere like Dunedin or Christchurch, but they're not highly thought of in Australia anyway, people from Tasmania.

During the course of the evening everyone had a few drinks and the kids – and there were several of them there – were put into a room to watch television. Worthington was a single father and he would come in every half hour or so just to check on the kids. Most of them fell asleep and went to bed. But at one stage about 10 o'clock at night he came in and he found this Tasmanian chap in the act of sexually molesting his own daughter and he completely saw red and he picked the chap up by the scruff of the neck, took him outside and kicked him to death with steel-capped boots.

When he came to see me it looked a little bit like a wilful murder and anything I would do for him – there's no provocation, there's no self-defence in this, it was simply an out and out wilful murder and I didn't know really what I could do for him. But he insisted that it went to trial and I engaged probably the best leading QC at the Perth bar at that stage to come and assist me with the case. I remember on the morning of the case because of

the high moral ground this person had, he didn't have much legal ground, but the prosecutor came in and said to me, and it was a chap called Geoffrey Miller QC who is now on the bench in Perth. He said, "Look, take manslaughter. Plead guilty to manslaughter now, do five years with parole and we'll call it a day." It sounded like a terrific deal to me and to my leader and we put this to Worthington. We said, "Look, plead guilty to the manslaughter and you will be out within two-and-a-half years. Otherwise there's a fair chance if the jury takes a serious view of it you'll get wilful murder, you'll get the death sentence, it will be commuted, but you will do life imprisonment." He says, "No, I'm not taking manslaughter." We begged him for two hours before the trial started to take it. He says, "I do not believe a jury can convict me on this charge." I said, "What? Of anything?" He said, "Of anything." I said, "Well, you've got no defence to manslaughter. There is no possible defence." He says, "I want to hear it from the jury's mouth." So off we went, we had the case, and I remember as it was yesterday the judge saying to them, "Of course not guilty is an option. It's an option in any case, but unless you found that someone else caused the death of the deceased you would be obliged to find him guilty of at least manslaughter."

The jury came back after about an hour, we expected the worst: "How say you to wilful murder? Not Guilty." Anticipated. "How say you to murder? Not Guilty." Anticipated. "How say you to manslaughter? Not guilty." And he sort of looked at me and Woolwark QC as though we were idiots saying, "I told you so." Anyway, in the robing room, about 10 minutes later, I can still remember the junior to the Crown prosecutor taking off his wig saying to Geoff Miller QC, who led for the prosecution, "Shit, Geoff, I wonder who killed him?"

That sort of faith in the system is touching and heartening. But the question I ask you is whether it's likely to survive in the future, especially in places such as Bali where I've had some recent experience where the system revolves around open bribery of judicial offices. I didn't believe it before I went there. But when you realise that the chief judge –

and I know judicial officers, I'm told by Anne, they're not particularly well paid in NZ. Perhaps that's why she hasn't taken an appointment yet. But over there the Chief Judge of the Supreme Court is paid \$7,000 Australian per annum. I suppose it's a bit like taking a job as a real estate agent, that's your retainer and the rest is all commission. Unfortunately, the Corby case was just too high profile for anyone to be able get any commission out of it and she's paying the price.

I don't think we can all assume that our system is impervious from that type of corruption unless we vigilantly strive to ensure that those sorts of things can never happen at any level and we never know where we might end up. It's all very well to assume that the rule of law is here to stay in civilised situations in societies such as New Zealand and Australia, but one only has to look at New Orleans in the last week to see a complete and utter breakdown of the rule of law. It can happen overnight and for one who has been unfortunate to have gone through the vagaries of the Indonesian judicial system where, to all intents and purposes, they sit on the bench and they wear coloured robes and jabots and things like that and it looks like it's a system, it's a mockery of any form of judicial independence and the rule of law is something that is almost non-existent.

As I started out by saying to you the rewards in both of our professions are sometimes substantial. But not invariably in financial terms. All of you, I suspect, will have had those moments and will treasure them. To sit with a client or a patient who has regained their health or their life after a serious medical procedure must be enormously gratifying. To sit and have a cup of tea with Darryl Beamish, John Button, both men who had been on Death Row when Death Row was what it meant 40 years later after having achieved their complete exonerations was a terribly humbling experience. I suspect at some level many of you would have had those.

Cross-professional associations such as yours are essential to ensuring that the cause is never lost. The genuine and deserving sick and injured people get their proper care

without extraneous legal and financial considerations. Many of you here I know do much pro bono work. That accused persons get a fair trial, in my view, is something that is non-negotiable, no matter how politically expedient it may be. There are, I'm sure for you, as there are for me, days when the pressures of the job make you wonder whether it's all worthwhile; days such as today when you wonder whether a simpler way of life as a stud master or a horse trainer might be imminently easier. I would however implore all of you to keep up the good fight, despite the persistent ignorance and the barbs of the media and the politicians against our respective professions, the contribution you are making to the community is a very great one and one of which you can be justifiably proud.

I would like to thank you all very much for your magnificent hospitality here tonight, particularly to Anne Hinton QC, and for allowing me the opportunity to speak to you here in Auckland.

Thank you very much.