

**AUCKLAND DISTRICT LAW SOCIETY  
YOUNG LAWYERS OF AUCKLAND**

***“MEET THE JUDICIARY” EVENING***

**Held at Chancery Chambers, Auckland  
Tuesday 11 August 2015**

\*Sian Elias<sup>1</sup>

I am delighted to be here tonight. The opportunities for informal contact between the profession and the judiciary are much more limited than when I was a young practitioner. For me, the opportunity to get outside Wellington has been greatly reduced with the setting up of the Supreme Court. So I appreciate very much the invitation to be here and the opportunity to meet with those who are the future of our profession.

Occasions such as this provide an opportunity to reflect a little on the profession we belong to. It is important from time to time to step back from the press of cases and work, to think about the values we profess.

**Rule of Law**

The Law Practitioners' Act, as you will all know, imposes obligations on legal practitioners to maintain the rule of law. There is nothing new in that. An independent profession has always been the principal protection for the rule of law. Even more important than independent judges, as great judges have always been quick to say. If the profession is strong, the judiciary is likely to be up to its task. So it is good to take time to express appreciation for the contribution of the profession to the system of justice we have. High expectations are what we have of you in the profession. That you fulfil your obligations is critical to us all.

It is important to recognise when speaking of the rule of law that it does not take place in the theatre of the courts alone. There is a whole world of law which never sees the inside of a courtroom. The rule of law is protected by unheroic work in maintaining the climate of law-mindedness. The climate of law-mindedness is fostered by explaining legal principle to clients. It comes from ensuring that disputes are resolved without escalation under the framework of law. It comes when rights according to law are vindicated effectively and economically in humdrum cases as well as leading cases. All of you contribute in your lives to this climate of law-mindedness.

**Law mindedness and the profession**

It is the work many hands. It needs institutional support, such as is provided by the organised profession and the contact between members of the profession.

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<sup>1</sup> The Rt Hon Dame Sian Elias, GNZM, Chief Justice of New Zealand

Opportunities for interaction between practitioners are not valuable because they promote cronyism or clubability. They are valuable because, as Tom Bingham once pointed out, they “foster a common ethical culture”.

The company you have in the profession is one of the pleasures of the profession. When I was taught legal ethics by Paul Temm QC (later a judge of the High Court), he emphasised that we had entered into an association of colleagues and that even the most senior members of the profession (even the judges) were interested in us and keen to help. He told us to call even the most senior of our colleagues by their first names and always to say hello. The courtesies of the bar were not empty ritual. Now, it was a simpler time. But I have never forgotten the sense even as a young woman in the early 1970s of being part of an exciting consuming vocation.

All of us like to think our work is worthwhile. A drop off in the standards of courtesy, a jostling, a naked self-interest is a dispiriting climate for anyone to work in. That is what happens when shared values are eroded. A loss of commitment to the legal system and to law removes a real reason why most of us took on legal careers.

### **Do not be cynical**

Some in our communities are sceptical of the role played by lawyers. They suggest, cynically, that lawyers are interested in what is good for them. An American commentator said that whenever he hears lawyers talking about their public duties, being officers of the court and so on, “most of us understand that we have left ordinary life far behind and are being sentimental.” Now I do not want to suggest that unswerving fidelity to the culture of law always applies. We can all point to examples when those who have represented unpopular clients or stood up for unpopular causes have not been supported by the profession. In New Zealand, there were very few practitioners, for example, prepared to defend those charged in the 1951 waterfront strike or conscientious objectors in the two world wars. It is not clear that the cab rank principle is always observed. But what is more important than the times when we stray from the ideal path, is the shared ethical belief that gives us the insight that these things were wrong.

I think all of us should work on strategies to ensure that what is good in our traditions does not wither. So, a few suggestions:

First. Participation. I do not know how many of you take an active interest in your society. You should. You are each an important part of it, as Paul Temm emphasised to my contemporaries. Know what your traditions are. Read Portrait of a Profession and anything to do with our legal tradition in New Zealand and before. Magna Carta.

Secondly, stage engaged in the legal system as a whole. Even specialists have to retain a sense of the law as a whole. Otherwise you will lose your sense of the currents of ideas and your professional competence will blunt. Do not flip over the pages in the Law Journal dealing with family law, or criminal law, or the competition law articles. Have opinions – on legal aid, on access to the courts, on restructuring

the courts. There is a lot going on. Make sure these opinions are informed and not coloured, consciously or unconsciously, by sectional interest.

Thirdly, if you are not enjoying your work, make changes. You get out of any job what you put into it. I do not mean long hours and large fees for their own sake and if you feel trapped by those patters, it may be you have to take a hard look at what you are doing. Think outside the square. There are fascinating careers out there for the making. There are people to be helped if you think for yourselves and if you are willing to take risks. We are very lucky in the work we do. It has huge variety. It is intrinsically interesting. We are very privileged.

**Finally, remember to take time to enjoy yourselves**

We are very lucky in our profession. The association we have with other practitioners provides stimulation, peer review and fun. The importance of high spirits must not be neglected in law. I cannot think of a reason to throw yourself heart and soul into any occupation unless it is engrossing, stimulating, worthwhile, and fun. Law is all of this.

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