

ADDRESS FOR OPENING OF THE LAW TERM IN TASMANIA

SAINT DAVID'S CATHEDRAL, HOBART

FRIDAY 29 JULY 2022

HIS HONOUR RICHARD COGSWELL QC

May I commence by thanking the isolated Chief Justice and the judges of the Supreme Court for their kind invitation to me to present this address and I thank the Law Society of Tasmania in anticipation for their generous hospitality planned for this evening.

Thank you also to the Reverend Christopher Waterhouse for his support. It was nice to be welcomed by him here at St David's, in his new ecclesial home. We still miss him at Saint James King Street in Sydney. You will find one of the topics of my presentation weaved through the readings we heard earlier.

The last time I was here at St David's for a service, was for my very good friend and Law School classmate, Wendy Shoobridge. She later became Wendy Cooper after she married another friend and classmate, Dean Cooper. I was here in 1978 for Wendy's marriage to Peter Shoobridge and I returned over 30 years later for her memorial service. Wendy had to face an unspeakable tragedy when she lost her four daughters and her former husband in one event. There was a funeral for five at Wendy's insistence.

And while I am mentioning departed friends from my law school days, the late Col Brown was a good friend and mentor for me during those years. And of course the late John Kable QC's star flamed out far too quickly.

I will start with a story and a picture. Here is the story. It is one that has been nearly 50 years overdue. It was 1973. I was in my last year of Law here at the then newly constructed Law School down at the Sandy Bay campus. I did not know what I wanted to do next. Did I want to do more study? Did I want to undertake the then two-year process of becoming a lawyer in Tasmania? At the same time, my father was dying from the cancer that eventually claimed him that August. It was a crossroads in my life, and I did not handle it well. I internalised it and became depressed. Not only that, I distracted myself with anything but work. I stopped studying, including commencing the important long essays, which would be part of my final assessments. I had taken one sensible step. I had put my name forward for the Rhodes Scholarship. When, some weeks later, I was awarded that scholarship, I was confronted by the reality that I had done nothing towards my assignments. I had no hope of getting them in on time. Everyone was congratulating me, but no one knew how far behind I was.

So, I had no choice but to approach the Law School to plead for significant extensions for the assignments. The Law School generously granted these extensions, I submitted the assignments, completed my degree and went off to Oxford.

I tell this story for two reasons. One is that I have never publicly acknowledged that clemency by the Law School. It set me up for the rest of my life. I now thank them and I am pleased to see that the current Acting Dean is here today. And I note that the Reverend Michael Tate, who was then a member of the faculty, is one of my predecessors in delivering this address. The second reason for the story is to introduce one branch of my topic.

Now here is the picture I promised. We have all seen it: the photograph of a person meditating on a beach. It is usually a woman and her eyes are closed and she has a very slight smile. She sits cross-legged with an open hand on each knee and both her thumbs and forefingers are in gentle communion. The weather is perfect. It is probably sunset or sunrise, breaking over the ocean behind her. It might be advertising a beauty product, a wellness resort, or what we can do when we have retired and the labour market is behind us. What's wrong with this picture? Well, a good deal, and that introduces the second branch of my topic.

Let me now unpack these opening remarks and offer you something to think about over the weekend. I am going to talk about caring for our own mental health and about developing a practice of meditation, stillness or self-awareness. I want to give you insights into these from my own life experience.

Let's start with mental health. Yes, we have heard it all before; we can't really avoid the topic. Unlike 1973, it is very much part of the public discourse and now it is not unusual for public figures to make disclosures about their own mental health. The contact numbers for Lifeline and Beyond Blue are a regular part of our television consumption. Dr Natasha Moore, from the Centre for Public Christianity, in a recent contribution to the Jesuit online journal "Eureka Street" said- "it's been growing like a refrain, like a consensus, these past few months. Almost everyone I talk to tells the same story of feeling overwhelmed, of not quite coping –or nowhere near coping....all of us telling ourselves that the current circumstances are an exception, that things will ease off soon. Surely!"

What about our own profession? The Law Council of Australia in its 'policy agenda' has a mental health and wellbeing portal "designed to provide a centralised source of information about mental health for the legal profession." It lists all of its constituent bodies' support mechanisms. The Law Society of Tasmania offers Lawcare, along with "a variety of lunchtime well-being sessions, including walking groups and meditation." It has formed a 'wellbeing committee'. "It's about balance", wisely says the Tasmanian Law Society.

Now some of you will be over all this emphasis on mental health. Stress and pressure you have faced, but periods of worrying depression or anxiety have not accompanied them.

But there will be others of you whose reaction to issues in personal relationships or professional mistakes, disappointments or failures has an impact on your view of yourself and your outlook on life. You will know what I mean when I speak of a life tinged with a depression and anxiety that will come and go. I speak as someone who has had a busy and successful professional career, interspersed with periods of anxiety and depression. I haven't missed a day off work, thanks to regular psychiatric, psychological, and pharmaceutical intervention. I am not bragging or crowing about that. It has just been part of my life. It has come and gone over the last 50 years. When I ashamedly disclosed it to my then social worker girlfriend (and now wife), she said, "Welcome to the human race, Richard."

And that's the point. As humans, we all have our weaknesses and vulnerabilities. Those of us here are, or have been, in a profession full of trials (literally) and of right and wrong answers. We might give advice that turns out to be wrong because we have overlooked a case or a statute. We might deliver a judgment or a sentence that is very publicly taken apart on appeal or by the press, with our claimed errors and wrong-thinking exposed. Thoroughness and precision are valued attributes. There are plenty of other members of our profession - judges and fellow

lawyers - whose thoroughness and application seem to us to outstrip ours. We look sideways and compare ourselves. A pandemic has brought changes in our established work practices that we may not welcome. Those responsible for us say to take care of ourselves but we can fall back to just working harder.

So if you are over-reacting and getting yourself into a hole - your partner will tell you, perhaps a friend, or you are finding that alcohol is medicating more than relaxing - then get some help. It might be the perspective provided by a good therapist or medication which helps to stabilise your mood. My psychiatrist told me about a barrister he saw once who was amazed by the huge difference one little prescribed tablet had to his outlook on life. Therapy gives you perspective and context. You see yourself and your predicament in a more realistic way. You have options and outlooks that you had not seen before. It provides an opportunity to get on with your real life, rather than your imagined life. It offers hope and a way ahead. Yes, you will have to wait for your first appointment and you may have to change therapists if the first one doesn't suit. But persevere. It is worth it for you and those with whom you share your life.

Now let me unpack that common picture of the meditator on the beach with the Mona Lisa smile. That is not meditation: the picture is unreal. Meditation is much more real, grounded, and ordinary. It's also confronting.

Meditation is a period of being present to ourselves. We need something to focus on in order to surround ourselves with silence: it might be our breath, a candle, or in the tradition in which I practise, a word or mantra. What happens when we meditate? Well, because we are human, the first thing that happens when we sit in attempted silence is that we are confronted by our own distractedness. All those anxieties, desires, plans, regrets and hopes loom up, immediately, from where they have been quietly ticking away in our subconscious. And they engage us. The messiness of our lives becomes apparent. In other words, meditation confronts us with the reality of our inner lives. And here is the point. Each time during meditation that we realise we are following those anxieties and desires, that messiness, we let them go, we detach from them and go back to the breath or the light or the word. It is a practice, not a solution. It is a practice of repeated detachment, because the need for detachment is constant throughout our period of meditation; indeed, it is throughout our lives. So, do not expect to sink into that still calm and silent world without your baggage wanting to come along with you. Meditation is work, not a holiday.

Meditation is reassuring in this sense. It takes us as we really are. What is really going on inside of us battles with our attempted focus on the word, on the light, or on the breath. And we constantly find ourselves having to gently - and that word and process are important - detach ourselves and return to our focus.

I started my practice-which is a Christian tradition-in 1989. I was still in private practice at the NSW bar. I decided to commit to it for lent, a period of 40 days. We lawyers are all used to early morning starts. It wasn't easy to come into chambers at 6.30 or 7, carrying all those anxieties about the day ahead in court, and to just sit with my mantra for 20 minutes first up. It was counter-intuitive. But it gradually took root in my life and became an established early morning practice over the remainder of my professional life.

And here is the other point. You persevere. You do not give up. You stay there for the 20 or 30 minutes of meditation. Then you get up and go about the rest of your day or evening. And if you do start a practice of meditation - and I encourage you to do so - give it at least six weeks.

But three or four months is better. Don't give up after the weekend meditation class or after a few days, because it's not 'working'. Meditation is a practice you have to learn. And it needs time for it to become a practice. After three or four months of having a practice of meditation in your life, you will begin to notice its effects, perhaps incidentally at first, maybe through someone else's remark. Meditation also gives you perspective and puts your life into context. You are constantly letting go of what is preoccupying you most. And ditch the image of the person on the beach, depicted as attaining enlightenment. Let meditation do its work on the real you. So, find a technique that suits you, start doing it regularly and keep doing it.

Finally, because I am in a cathedral, and this is a service of prayer, I will say something about meditation and prayer. I am a practising Christian and meditation is an important, but not the only, part of my daily prayer. How can that be? Surely, it's a practice from eastern religions rather than the Abrahamic tradition that we Christians share with our Jewish and Muslim sisters and brothers? The meditation I practise emerged in the late 20th century. A young Englishman started to meditate when working for the British colonial service in the east. He met a Hindu monk whom he learned from. Some years later John Main became a Benedictine monk and he discovered a longstanding western Christian tradition of this form of silent prayer. It is in that tradition that I meditate. When I sit to meditate twice a day, I do so because I am Christian. The stillness and silence I attempt to attain is time given to God. The psalmist said, "Be still and know that I am God." It becomes a time of solitude and refreshment with God, just as we heard this morning that Jesus needed and took. The Reverend Dr Sarah Bachelard of Benedictus Contemplative Church in Canberra describes it thus in her title book *Experiencing God in a Time of Crisis*-

"How is the experience of the God who addresses or calls us, who is difficult to recognise and who gives us identity as a function of our response - how is the experience of this God related to contemplative practice? Contemplation is a practice of becoming still enough, silent enough, open enough to 'hear' the voice of ...[God]. It is a practice of readiness and expectancy. 'Here am I' is the expression of the contemplative stance- open, receptive and listening."

It is a practice not of perfection - what none of us can attain - but of faithfulness. Like other Christian practices, I do it in response to God's call to me to put aside my own preoccupations and priorities and to focus my attention elsewhere. God knows not to look to me for perfection, but for faithfulness and mercy, including to myself.

To conclude, if you're finding that you're overly stressed and anxious, losing sleep or waking early with a thump of your heart, do yourself a favour and get some help from a professional. You don't have to live in private agony. And if you are so inclined, find yourself a daily practice of silence and stillness. It's quite compatible with a busy professional life. And in either case, you need to persevere!

RC

Hobart,

30.7.22