



PEARLS OF  
*wisdom*

**JUSTICE STEPHEN GAGELER** of the High Court of Australia reflects on why lawyers shouldn't dismiss the value of simply doing a good job for their clients.

**i** first could have been described as a young lawyer in 1983. Between then and 2012, when I became a Justice of the High Court, I did a number of things. The main thing was to work in private practice as a barrister for nearly 20 years. Most of the time I did ordinary cases about ordinary issues for a whole range of individuals and corporations. Towards the end, I seemed mainly to be doing cases about infrastructure. If you had anything to do with an electricity grid, or an airport, or a port, or a railway line, or a pipeline of any description, including a sewer pipe, and you encountered a serious legal problem, I was your man. Some of the time, I was Don Quixote, on my public interest charger, jousting at what appeared at the time to be giants. Most of the time, I was Bob the Builder. What I want to share with you is not from the small Don Quixote part of my professional experience. It is some insights from being Bob the Builder. Not very long after I became a barrister in Sydney, there was a retirement of one of the most senior judges in New South Wales, Justice Dennis Mahoney. He had been President of the Court of Appeal. He was, at the time of his retirement at 72, the longest serving judge in New South Wales. Asked by a reporter how he wanted to be remembered, he said he wanted to be remembered as a professional. When asked to elaborate he said, "Somebody once said that there were two things that are essential to any community. One is sewerage. The other is lawyers. If you don't have sewerage you're dead, but if you don't have law

society stops. And you can't have law without lawyers. The vast body of lawyers are just damn good professionals and they keep the sewers running."

The "somebody" to whom Justice Mahoney referred was Professor William Twining, who a few years before published an article in the *Law Quarterly Review* entitled 'Pericles and the Plumber'. "The lawyer", said Professor Twining, is "essentially someone who is master of certain specialised knowledge, 'the law', and certain specialised skills ... What he needs is a no-nonsense specialised training to make him a competent technician. A 'liberal' education in law for such a functionary is at best wasteful; at worst it can be dangerous. Imagine the effect, it might be argued, on our drains and central heating systems if our plumbers had been made to study the history and philosophy of plumbing, the aesthetics of drains, housing policy, Roman baths, comparative plumbing, and a special subject in the water supply of the Houses of Parliament." What Justice Mahoney took from what Professor Twining was saying was not that there is anything wrong with a liberal education for lawyers or for plumbers. His point was that lawyers, like plumbers, should not get too trumped up about what they do. Both provide an essential – but essentially technical – service.

When I was well and truly into the infrastructure phase of my legal practice, I was acting for Transgrid, the state-owned owner of the electricity transmission system in New South Wales. The case required me to understand the economics

of the national electricity market. The case also required me to gain a rudimentary understanding of the processes by which alternating-current electricity is generated and transmitted throughout an electricity grid. That is very much more complicated than you might think. I had a very good teacher. I spent six to eight hours a day with him for about a week. I would ask questions, he would explain the answers, I would take notes and then I would reflect my understanding back to him in my own words. Towards the end of the process, he asked me questions about the case, my strategy, and where the information he was providing fitted in. He then said something that was a real revelation about the nature of the exercise in which I was engaged. I still regard it as the highest compliment of my career. He said, "You know, you think like an engineer."

How is it that engineers think? They start off with a client. The client has an objective. The engineer identifies the path to that objective and each of the problems along the way. The engineer then designs solutions to those problems within technical limits and within legal and ethical constraints. That is exactly what all good lawyers do in practice. You may go on to become great advocates for the poor and the oppressed in social justice litigation. If that is your ambition, then I do not want to dissuade you. But you should recognise that you will be contributing hugely to social justice simply by being a competent and ethical lawyer solving your client's problems. My advice to you, the most inspirational and constructive thing I can say, is "go forth and build bridges".

This is an edited version of Justice Gageler's address delivered at the NSW Young Lawyers mid-year assembly in May.