

Speech notes

Speaker: Kathryn Beck
Date: 11am, Thursday 14 March 2019
Venue: Supreme Court, Wellington
Subject: Chief Justice Winkelmann

E ngā mana
E ngā reo
E ngā taniwhā

Koutou ngā Mana o te Whenua.
Te Ati Awa Taranaki

Koutou ngā Tangata o te Whenua.
Te Whānau a Apanui.
Te Tai Rawhiti

Rau Rangatira ma.
Tēnā Koutou Katoa.

Kei ngā Kaiwhakawā o Te Kōti Matua o Aotearoa.
Aku Mana, aku Nui, aku Teitei.

Ko koutou Ngā Pou o te Whare
Te Whare o te Tika,
Te Whare o te Pono,
Te Whare o te Rangimarie.

Tēnā koutou katoa.

Kei taku Pou Nui,
Kei taku Poutokomanawa.
Chief Justice Winkelman
Tēnei Mātou
Tō Whānau o Te Ture

E mihi nei!

Tēnā Koe.

Otirā. Tēna Koutou Katoa.

Tēna Koutou.

Tēnā Tātou Katoa!

I greet the power, the prestige, the voices, the revered ones gathered here today. I acknowledge the keepers of the mana of this land where we stand – Te Atiawa and Taranaki. I acknowledge the people who have gathered here for this auspicious occasion, Te Whānau a Apanui and the people of the Tai Rawhiti to whom Her Honour is connected. To the many chiefs gathered, I greet you. To the judges here, especially the judges of the Supreme Court, I acknowledge you all. You are the posts that uphold the house of trust, justice and peace. To you, Your Honour, you are the centre post of this house. We your family, the legal community, greet you. And indeed to all others here today, I greet you all.

Your Honour, the role you have taken on today is one that is vital for the New Zealand judiciary. But this office also plays a strong leadership role for the law,

for our country and for the legal profession. Your appointment has been fully supported and warmly welcomed by the legal profession.

We as lawyers, are all officers of the court, with an overriding duty to the courts and the New Zealand justice system. The Office of the Chief Justice is a very public, identifiable voice for justice and the rule of law in New Zealand. We have a lot to be proud of when thinking about our country and the vital role our judiciary has played, and will continue to play, in ensuring that we continue to strongly and fearlessly uphold the rights and values of New Zealanders and in particular the right to have access to justice.

We use this phrase a lot but what does it mean? Your Honour has yourself quoted Lord Neuberger when he spoke of access to justice as having “*a number of components. First, a competent and impartial judiciary; secondly, accessible courts; thirdly, properly administered courts; fourthly, a competent and honest legal profession; fifthly, an effective procedure for getting a case before the courts; sixthly, an effective legal process; seventhly, effective execution; eighthly, affordable justice*”. Of the first and fourth components, I

am confident. On the remaining components we have room for improvement but the last point – “affordable justice” is of the most concern.

Our country’s strong standing and international rankings have diverted us from an uncomfortable truth. That in our country, we have increasingly large numbers of our citizens who are powerless when it comes to a core fundamental right – access to justice. We have a growing mass of people who are excluded from the system that is in place to protect us. The judiciary and the legal profession cannot shy away from the challenges we are currently facing to basic access to justice in New Zealand.

Your Honour said in the 2014 Ethel Benjamin address that *“The role the courts play in our society is not generally to lead broad and bold social change.*

Rather, it is to work out the just outcome in a particular case... This is where justice operates most meaningfully. It is at the level of the individual that we experience every aspect of our society.” Your Honour went on to say that *“For centuries judges and lawyers have worked together to ensure that all can enjoy the benefit of the protection of the law, including those who are vulnerable by*

reason of limited means, limited education, their minority status or their gender.” There is a saying in Māori - *Ma whero ma pango ka oti ai te mahi* - with red and black the work will be complete. This is referring to the traditional kowhaiwhai patterns on the inside of meeting houses. It is a reference to the importance of co-operation where if everyone does their part, the job will get done. We, the profession and the judiciary, must continue to speak honestly and hold one another to account. We must work together to find ways to improve conditions and access to justice for the most vulnerable people in New Zealand.

It is well recognised that our criminal justice system is an area of grave concern. There will always be different views within the community about the purpose of the criminal justice system and the different needs of those who have become unwilling participants in that system. There is a lot of heat in these discussions but we need to take a considered, inclusive and evidence based approach to reform. We must never lose sight of the fundamental rights at the centre of our justice system but at the same time be open to change. That is not an easy conversation. There are no simple answers but it is a

discussion that the judiciary and the legal profession should be a part of, as this is the system we work with day in and day out. It is a discussion we know that you will not shy away from.

Your Honour is taking on this role at a crossroads where every road ahead is a road less travelled and change is the only option in all directions. Changes to our family justice system, changes to our criminal justice system. Society itself is going through a rapid period of change which the profession and the judiciary need to be part of. We are in a wonderful time of innovation and disruption which, if we are open to it, could improve access to justice and the administration of legal practice and our justice system. This is perfect for you, you have never been afraid to do things differently.

At this time, I cannot think of anyone more suited to lead through the uncertain and challenging times ahead. Kāore te kumara e kōrero mō tōna reka, as the saying goes – a kumara does not speak of its own sweetness.

Fortunately, however, I have been in contact with many who were more than willing to sing your praises. Those who have worked for you speak of their

admiration, they talk about Your Honour as an intellectual powerhouse and a demonstrated leader. But they spent more time talking about your generosity and kindness of spirit. You have always mentored and cared for those who work for you. Being your clerk was one of the most sought after and envied positions because it meant that, should they meet your high standards, they had a mentor for life. Someone who freely gave wisdom when approached for advice at both a career and personal level.

Your beginnings were not privileged. You have faced adversity and your path into law was not easy. It is perhaps this background that has led to your highly developed social conscience, your incredible insight into human behaviour and empathy for people from all walks of life, particularly those most vulnerable.

Those who have worked for you, with you and been led by you know that alongside this empathy and caring is a formidable willpower and strength.

Your Honour does not hold back from calling a spade a spade. Your colleagues on the bench here today know that you are an exacting taskmaster, you expect high standards from them and will tell them straight if they are not meeting

these standards. But it is because you shoot so straight that you have retained the affections as well as the esteem of your colleagues and those you lead. We know that you are hugely well-liked and respected by your colleagues and your appointment has been widely applauded and supported by the bench.

I want to take a few moments to quote back to Your Honour what you have said are important characteristics for a judge. Your Honour has said that intellect is a given, but you have to earn respect and standing in society not through your intellect but through your behaviour as a judge. And you do that through demonstrating humility. Your Honour said that humility is incredibly important because judges wield a great deal of power and it's easy to lose sight of the impact of that power. Further, Judges must have a service mentality because it is not an easy job. Your Honour, your intellect is indeed a given and you have earned the respect of your colleagues, the profession and society through your actions every day. You are always conscious of the impact of those actions and your humility and genuine concern that you have for the wellbeing of the people of New Zealand makes you perfectly suited to be our Chief Justice. We thank you for taking on this service to our country.

Today, the profession is grateful. We rejoice in the knowledge that our laws, our justice system, our rights and values remain safe in your hands.

Kia mau ki ake te mahi pai. Kia kaha.

Na reira tena koutou, tena tatou katoa.