

JUSTICE WILKINSON-SMITH

SWEARING-IN SPEECH

TĒNĀ KOUTOU KATOĀ.

NGĀ MIHI NUI CHIEF JUSTICE, JUSTICE WILLIAMS, CHIEF HIGH COURT JUDGE JUSTICE FITZGERALD, JUSTICE WYLIE, JUSTICE WHATA, NGĀ MIHI, THANK YOU FOR THE HONOUR OF THE MIHI WHAKATAU.

SPEAKERS , MY NEW JUDICIAL COLLEAGUES, MEMBERS OF THE PROFESSION, MY FAMILY AND MY FRIENDS,

THANK YOU ALL FOR BEING HERE.

I HAVE LOVED MY LEGAL CAREER, AND THERE ARE PEOPLE HERE FROM EVERY PART OF MY 31 YEARS IN PRACTICE.

IT IS A HUGE HONOUR TO BE APPOINTED A JUDGE – AND A HUGE RESPONSIBILITY.

I KNOW THAT I AM PRIVILEGED TO BE SITTING ON THIS BENCH.

I ALSO KNOW THAT MY OWN EFFORTS PLAYED A MINOR ROLE IN MY CAREER, COMPARED TO THE SUPPORT AND DOWNRIGHT GOOD FORTUNE I HAVE HAD IN SO MANY AREAS OF LIFE.

MY FIRST, LIFELONG AND ENDURING PRIVILEGE COMES FROM MY MOTHER AND FATHER, WHO ARE BOTH HERE. I HAVE ALWAYS EXPERIENCED THEIR UNCONDITIONAL LOVE AND SUPPORT – EVEN WHEN I DECIDED TO BECOME A LAWYER, WHICH MY ENGINEER FATHER REGARDED AS A SOMEWHAT DUBIOUS CAREER CHOICE.

I BELIEVE THAT IF EVERY CHILD IN NZ EXPERIENCED THE SORT OF PARENTING I DID, THE CRIMINAL COURTS WOULD BE MUCH LESS BUSY.

I DID NOT HAVE A LIFELONG DESIRE TO BE A LAWYER.

I WENT TO LAW SCHOOL BECAUSE I DIDN'T LIKE MATHS, AND I DID LIKE HISTORY AND CLASSICS.

AND I LOVED LAW FROM THE VERY FIRST LEGAL SYSTEMS LECTURE .

I SUMMER CLERKED AT BELL GULLY, AND I LOVED THAT EXPERIENCE TOO, I MET SOME GOOD FRIENDS AND PARTICULARLY, GOOD FLATMATES.

AFTER SUMMER CLERKING AT BELL GULLY, I HAD A BIZARRE EXPERIENCE THAT PROPELLED ME INTO A CAREER IN CRIMINAL LAW.

I WAS AT THE UASC (UNIVERSITY OF AUCKLAND SNOWSPORTS CLUB) ON MT RUAPEHU, AND A MENTALLY UNWELL TEENAGER KNOCKED ON THE DOOR LATE AT NIGHT. A FRIEND OF MINE ANSWERED THE DOOR, AND WAS STABBED IN THE FACE AND ABDOMEN. I ARRIVED DOWNSTAIRS SHORTLY AFTERWARDS, AND HELD HIS HAND WHILE WE WAITED FOR THE AMBULANCE.

I WATCHED THE EVENTUAL TRIAL, AND REALISED THAT CROWN PROSECUTION WAS A CAREER OPTION. THIS APPEALED NOT BECAUSE OF ANY RESIDUAL TRAUMA, OR DESIRE TO LOCK PEOPLE UP – BUT BECAUSE I KNEW I LOOKED ABOUT 15, AND I DOUBTED ANY DEFENDANT WOULD INSTRUCT ME BUT I REASONED THAT THE POLICE WOULD HAVE NO OPTION.

SO, I WROTE TO EVERY CROWN SOLICITOR IN THE NORTH ISLAND.

AND I LANDED ON MY FEET IN A BIG WAY.

I JOINED THE CROWN TEAM IN NEW PLYMOUTH – LED BY MY CROWN SOLICITOR – NOW JUSTICE BREWER.

OUR TEAM WAS INCREDIBLE AND FOR THE TIME, DIVERSE .

APART FROM OUR CROWN SOLICITOR, WE HAD TERESA SPAIN - NOW ANDERSON - WHO AS A PROSECUTOR AT MEREDITH CONNELL, WAS THE FIRST FEMALE LAWYER TO PROSECUTE A JURY TRIAL IN AUCKLAND, AND PROBABLY IN NEW ZEALAND. CROWN PROSECUTION WAS STILL REGARDED AS LARGELY MEN’S WORK. TO HAVE A SENIOR FEMALE PROSECUTOR TO LEARN FROM WAS A RARE PRIVILEGE IN 1993.

AS FOR FEMALE JUDGES, I HAD NEVER SEEN ONE AND IT WOULD BE TWO MORE YEARS BEFORE I DID, WHEN DAME SYLVIA CARTWRIGHT ARRIVED IN NEW PLYMOUTH, TO CONDUCT A JURY TRIAL.

TO PUT IN CONTEXT HOW FAR WE HAVE COME AS A SOCIETY IN THAT REGARD, AT THE TIME MY FATHER WAS BORN – AND HE IS HERE TODAY, AND REALLY NOT THAT OLD – WHEN HE WAS BORN, WOMEN WERE NOT PERMITTED TO SIT ON JURIES IN NEW ZEALAND.

THE OTHER PERSON IN THE NEW PLYMOUTH CROWN TEAM WAS DOMINIC MULLIGAN, ALSO HERE TODAY.

DOMINIC HAS HELD JUDICIAL OFFICE IN AUSTRALIA AND IS NOW THE CHAIR OF THE SENTENCE ADMINISTRATION BOARD IN CANBERRA. HE TOOK ON A SORT OF BROTHER ROLE. WHEN I HAD BEEN IN THE OFFICE FOR ABOUT 3 MONTHS HE ASKED ME, IN A CARING WAY, WHAT USE I WAS IF I WASN’T DOING TRIALS.

AS A RESULT I PROSECUTED MY FIRST JURY TRIAL, AS LEAD COUNSEL, EIGHT MONTHS AFTER ADMISSION. MUCH TO MY SURPRISE, I LOST IT. DEFENCE COUNSEL BOUGHT ME A GIN AND TONIC AFTER THE VERDICT, AND EXPLAINED KINDLY, HOW I COULD HAVE IMPROVED MY CHANCES. JUSTICE BREWER EXPLAINED THAT THE CROWN ALWAYS WINS IF THE EVIDENCE IS PRESENTED AND THERE IS NO SUCH THING AS LOSING. I WASN'T CONVINCED.

DOMINIC AND I DID MANY APPEARANCES TOGETHER. WE WERE FREQUENTLY SO FURIOUS WITH EACH OTHER'S INSUBORDINATION THAT WE RETURNED FROM COURT WALKING ON OPPOSITE SIDES OF THE ROAD, AND BREWER J'S EARLY ADJUDICATING WAS RESOLVING OUR DISPUTES - USUALLY IN MY FAVOUR.

WE WERE JOINED A YEAR LATER BY ANOTHER YOUNG LAWYER – QUITE BRILLIANT, AND NOW KNOWN TO YOU ALL AS JUSTICE DOWNS.

IF YOU WANT TO KNOW WHAT DOWNS J WAS LIKE AT 21 – HE WAS JUST THE SAME.

SO YOU CAN SEE, IT WAS A REMARKABLE TEAM FOR ME TO LAND IN.

I HAVE TO SAY THAT JUSTICE BREWER QUITE SIMPLY GAVE ME MY CAREER. HOW HE MANAGED TO SEE A LITIGATOR WHEN I LANDED IN NEW PLYMOUTH IN LATE 1992 FOR AN INTERVIEW, I HAVE NO IDEA. CERTAINLY NO ONE ELSE SAW IT.

WHEN AGED JUST 23 I WAS WORRIED THAT NO JURY WOULD LISTEN TO ME. HE SENT ME TO COURT WITH THESE WORDS RINGING IN MY EARS - IT IS NOT THE PACKAGING THAT MATTERS, IT'S THE LEGAL BRAIN, OFF YOU GO.

I STAYED 12 YEARS IN NEW PLYMOUTH. I PROSECUTED MY FIRST MURDER TRIAL AT 30. LOST THAT TO MY GOOD FRIEND AND EXCELLENT ADVOCATE, PAUL KEEGAN – ALSO HERE TODAY. THAT DEFENDANT DID GET 10 YEARS FOR MANSLAUGHTER THOUGH PAUL, SO MAYBE WE CAN ALL IT A DRAW.

BY THE TIME I LEFT NEW PLYMOUTH I HAD MET MY HUSBAND, CHRIS, AND I HAD TWO OF OUR FOUR CHILDREN.

WE MOVED TO AUCKLAND, AND CHRIS AND I BOTH WENT TO THE DEFENCE BAR.

I HAD TWO MORE CHILDREN, AND IN THE MIDDLE OF PARENTING FOUR CHILDREN UNDER 10, I WAS VERY LUCKY TO DEFEND MULTIPLE CASES IN AUCKLAND WITH LORRAINE SMITH. ALL MURDER TRIALS. WE WERE QUITE SUCCESSFUL.

MY HUSBAND CHRIS SAYS THAT BETWEEN THE TWO OF US, WE MADE ONE VERY GOOD DEFENCE LAWYER.

I HAVE PROSECUTED A LOT OF CASES – BUT I DO BRING THAT EXPERIENCE AS A DEFENCE LAWYER TO THE BENCH. I KNOW WHAT IT IS LIKE TO TELL A YOUNG MAN CONVICTED OF MURDER, THAT 17 YEARS REALLY ISN'T THAT LONG. I WILL NEVER FORGET THAT A YOUNG CLIENT TOOK HIS OWN LIFE IN CUSTODY SOME YEARS AFTER BEING CONVICTED. I KNOW HOW HARD THE JOB OF DEFENCE CAN BE AND HOW IT FEELS AS IF IT IS YOU, AND YOUR OFTEN UNSYMPATHETIC CLIENT, AGAINST THE WORLD.

AFTER FIVE YEARS OF PURELY DEFENCE WORK, I JOINED THE MANAWATU PROSECUTION PANEL.

I WAS PROSECUTING ONE WEEK, AND DEFENDING THE NEXT. I USED TO WRITE 'NG' OR 'G' ON MY HAND, SO I DIDN'T ASK FOR THE WRONG VERDICT.

IN 2016, I BECAME THE CROWN SOLICITOR FOR WHANGANUI.

THE THEN DEPUTY SOLICITOR-GENERAL, BRENDAN HORSLEY, PROMISED ME 10 QUIET YEARS DOING DISTRICT COURT JURY TRIALS.

BY 2019 I HAD 13 HOMICIDE FILES OPEN – MOST OF THEM MURDER, AND A NUMBER OF THEM LARGE MULTI-ACCUSED MURDER TRIALS.

WE HAD FIVE LAWYERS, TWO SUPPORT STAFF, 108 OUTSTANDING DISTRICT COURT TRIALS, 13 HOMICIDE TRIALS, AND ONE JURY COURT ROOM IN WHANGANUI.

THE SITUATION WAS SAVED BY THE WONDERFUL, AND MUCH MISSED, SIMON FRANCE J – WHO BASICALLY TURNED OVER THE WELLINGTON NO. 1 COURTROOM TO WHANGANUI AS NEEDED.

BECAUSE OF THAT WE MANAGED TO KEEP THE DISTRICT COURT LIST UNDER CONTROL, AND WE MANAGED EVENTUALLY, TO CLEAR ALL OF THE HOMICIDES.

AS CROWN SOLICITOR, AND AS A DEFENCE LAWYER, ONE OF THE GREAT PRIVILEGES WAS WORKING WITH BRILLIANT YOUNG LAWYERS AND WATCHING THEM DEVELOP THEIR CAREERS.

MANY OF MY WHANGANUI TEAM, PAST AND PRESENT, ARE HERE TODAY. I AM VERY PROUD OF YOU. I WAS VERY SORRY TO LEAVE YOU, AND I MISS YOU. YOU ARE FABULOUS LAWYERS AND YOU SHOULD BE VERY PROUD OF THE STANDARD OF THE WORK YOU DELIVER. AND YOU WERE FUN.

I HAVE ALSO HAD, AND GREATLY VALUED, A 20 YEAR ASSOCIATION WITH THE LITIGATION SKILLS PROGRAMME. ADVOCACY CAN ABSOLUTELY BE TAUGHT, AND I ENJOYED TEACHING IT. MANY OF YOU HERE TODAY, KNOW ME FROM LITIGATION SKILLS PROGRAMME. IT BRINGS TOGETHER CRIMINAL, CIVIL, FAMILY LAWYERS AND IT IS REMARKABLE HOW OFTEN I WOULD SIT BESIDE A CIVIL SILK AND WE WOULD ENTIRELY AGREE AND INDEED PREPARE IDENTICAL CRITIQUES.

FOR THOSE LITIGATION SKILLS FACULTY HERE, I AM SORRY BUT I THINK MY KARAOKE DAYS MAY BE OVER – TIME FOR SOMEONE ELSE TO TAKE UP THAT MANTLE.

FINALLY, I WANT TO ACKNOWLEDGE THE MOST IMPORTANT PEOPLE IN MY LIFE - MY HUSBAND CHRIS AND MY CHILDREN, KATE, TOM, LUCY AND HARRY.

I AM OFTEN ASKED HOW I MANAGED TO HAVE MY CAREER AND MY FAMILY.

I DO HAVE A HIGH TOLERANCE FOR CHAOS.

BUT REALLY THE ANSWER IS THAT I HAVE HAD GENEROUS AND UNWAVERING SUPPORT, AT WORK AND AT HOME, FROM MY HUSBAND CHRIS.

CHRIS AND I HAVE WORKED TOGETHER FOR MOST OF OUR CAREERS. CHRIS JOINED ME AT THE CROWN AND THEN I FOLLOWED HIM TO THE BAR. WHEN I BECAME CROWN SOLICITOR, CHRIS GAVE UP HIS DEFENCE PRACTICE AND BECAME A PRINCIPAL CROWN PROSECUTOR. WHEN THIS APPOINTMENT CAME AROUND, HE WAS PRACTISING AS A DEFENCE BARRISTER AND PANEL PROSECUTOR. HE IS THE CURRENT PRESIDENT OF THE CRIMINAL BAR ASSOCIATION.

AS A RESULT OF MY LEAVING, AT VERY SHORT NOTICE, CHRIS STEPPED IN AND IS NOW ACTING CROWN SOLICITOR FOR WHANGANUI.

I SIMPLY COULD NOT HAVE DONE WHAT I HAVE DONE, WITHOUT HIM.

HE HAS CONSTANTLY SUPPORTED AND ENCOURAGED AND MADE MY CAREER POSSIBLE – THANK YOU.

HAVING BEEN A ‘CROWNIE’ AND A DEFENCE LAWYER, I CAN TELL YOU, NO SIDE HAS IT EASIER THAN THE OTHER.

I AM BEGINNING TO REALISE THAT BEING A JUDGE IS YET ANOTHER PERSPECTIVE, AND DECISIONS THAT SEEM SO SIMPLE WHEN YOU ARE COUNSEL, SUDDENLY LOOK LESS SIMPLE WHEN YOU ACTUALLY HAVE TO MAKE THEM.

BUT TO QUOTE JUSTICE DAVID JOHNSTONE, AT HIS SWEARING IN – I LIKE IT HERE, TOO.

AND I AM LOOKING FORWARD TO SERVING THIS BENCH AND THIS COMMUNITY.