

ADDRESS BY FRAZER BARTON, PRESIDENT OF NEW ZEALAND LAW SOCIETY TE KĀHUI TURE
O AOTEAROA AT THE FINAL SITTING OF HON JUSTICE MARK O'REGAN AT SUPREME COURT
29 NOVEMBER 2023

E ngā Mana,

O te Te Pono,

O te Rangimarie.

Tēnā koutou katoa.

Justice O'Regan.

Kei taku Rangatira.

Tēnei te mihi nui

ki a koe.

Ka huri ki a koutou.

Rau rangatira ma,

E Ngā Roia,

E ngā kaitiaki o ngā ture o Aotearoa

Tēnā koutou, Tēnā koutou,

Tēnā Tātou katoa.

May it please the court.

Your Honour, it is a privilege to convey to you both the best wishes and
gratitude on behalf of the profession and the New Zealand Law Society.

Your Honour has made a significant contribution to law and justice in Aotearoa, to the legal profession and to the wider public. I must admit I struggled to prepare this address in a way that adequately commended your formidable achievements within the brief time allowed to me.

The Solicitor-General has covered your time at the bench and the extensive, honourable, and important career that we reflect on and celebrate here today.

However, it was your time at Chapman Tripp, where you become partner in 1984, that was the foundation for those future successes, and it is safe to say that you made just as much of an impact on the firm, as it did on you. You were at the forefront of the development of a competition law practice, attracting many talented lawyers into that team. It is a testament to your work that, these many years later, the firm's competition practice continues to be one of its core strengths. Your legacy too remains in the client relationships you built, being responsible for the firm's relationship with some of its most significant clients.

Your work at Chapman Tripp had an impact not only on your clients and colleagues, but on the very law itself. Your Honour was involved in major law reform relating to secured financing, leading to the enactment of the Personal Property Securities Act in 1999. These laws have since been emulated in Australia.

Indeed, everyone I spoke to was unanimous about your 'razor-sharp mind'. You do not flaunt your intelligence through flowery language or ostentatiousness, but it is instead imparted through your ability to make the complex appear simple and obvious to all; a rare skill. One of your former colleagues reflected that you would take poorly formed opinion pieces and, with a few additional sentences, transform them into clear pieces of advice which clients could follow. It was this formidable sharpness of intellect that you were renowned for as a commercial lawyer and has since been a significant asset to the courts during your time in the judiciary.

Your Honour is grounded in the real world. You are not preoccupied with glamorous solutions or convoluted stretches of reason; you instead see the importance in the mundane – how will something actually work, what will it actually do. It is this which made you, and I quote, "a really exceptional lawyer", and later, a 'truly exceptional' judge.

You are described as 'playing with a straight bat', without pretence or games. When it comes to your role of service, whether to a client or to the court, you have always acted with a discipline and resolve that had you sought after by the most discerning of clients and admired amongst the profession at large.

Your Honour's involvement in the Waikato-Tainui and Ngai Tahu settlements, which were some of the first, and certainly among the largest, settlements of

this kind, exemplifies the traits I have just outlined. The Ngai Tahu settlement in particular set the template for every settlement of this nature to follow, involving working with new issues and forms of redress never before seen in English law. Your Honour demonstrated sheer practical innovation to give effect to the needs of the settlement – an inarguable example of legal excellence at its finest. However, Your Honour also carried out this important work with sensitivity and humility. You gained the trust and respect of Ngai Tahu during the negotiation, showing deference where deference was due, with this marriage of your legal competence and personal humility enabling the best outcome to be reached.

Your Honour listens, openly and genuinely, which is a trait rarer than it ought to be. You refrain from making up your mind until after the entire argument has been laid out before you, ensuring all voices are heard and points are aired. In fact, the profession knows that it can be risky to predict which way Your Honour is going to decide based on your questions. This, I think, is a huge commendation that Your Honour ought to be proud to wear. It is this commitment to impartiality that Your Honour has championed which upholds the integrity of this Bench.

However, Your Honour is not without a well-timed sense of humour, enjoying the opportunity to leverage your intellect to offer a quip or piquant remark.

Your Honour may recall your exchange with Justice Kos in the *Make It 16* hearing, where you provided the official judicial terminology for a point that is bigger than a 'rat or mouse point'. A point that size, according to Your Honour, would be a 'feral cat' which I am sure will serve as *most* valuable precedent for years to come.

The level of respect in which you are held by your colleagues and those who have appeared before you pales in comparison to the comments I received from those who have worked directly for you.

You were a respected mentor of many a young lawyer. They describe you as kind and generous with your time, taking it as part of your duty to support and empower the young lawyers that you worked with. One such lawyer who worked under you spoke of Your Honour as being "exceptionally clear-thinking, calm, patient, and a great teacher". They said they could never recall a cross word from you, even when tested by the extreme provocation of an unrealistic client or internal expectations – both of which I'm sure you had quite some experience in dealing with in your time! I suspect Your Honour will never truly understand what you did for those who worked for you.

But now, it is time to embrace the title of 'Sir Mark', one that I am told you have been saving until you had hung up the honourifics 'Your Honour' and 'Justice'. Just as those previous titles did, I believe it will suit you very well

indeed. While your decades of service have enriched the lives of so many, the next phase now awaits.

Justice O'Regan, The profession will forever remain grateful for the service and valuable time you have given to us. We thank you, and wish you all the best.