

Tēnā e te Kōti

Your Honour Justice O'Regan

It is a great pleasure to address this Honourable Court on behalf of the New Zealand Bar Association on your Honour's retirement from this Court.

I speak to thank your Honour for your services to the law in New Zealand.

When you are asked to address this court on an occasion like this your thoughts can turn to possible fine sounding pronouncements about the role of the independent judge in upholding the rule of law and the skills required to do this. The temptation to borrow from the words of more distinguished lawyers and judges is almost overwhelming.

Of course, the writings, reflections and declarations on the theories that underpin our system are very important and of great interest. But they do not mean much to those who come to our courts.

What those who come to court want is the assurance that their dispute will be resolved fairly by rules that apply to all. That is where the lawyers and most important the judge come in. It is to the judge that parties turn to have their dispute resolved by decision after a fair hearing and in accordance with the law. It is for the judge to understand the dispute, by reading and listening, then apply reason/ the law to decide it before giving the reasons for the decision; in short, to do justice.

And when you consider some of the judges who have written so well about the rule of law and judging, you generally find that they did this **after** they had retired from judging; in their work they were committed to the practical job of doing justice case by case – they only had time for this. That is how the rule of law works in practice.

From time to time judges no doubt remind themselves of the key things they must do to carry out the role, like Sir Matthew Hale in the 1600s with his sixteen points "to hold in remembrance" to remind himself of what the role required.

But generally, judges must be fixed on doing the job as well as possible. Day in day out.

Your Honour that is what you have done for us in our Courts.

From the outset you exemplified the skills required to excel as lawyer and as a judge – to understand fact and law quickly, listen to positions and arguments carefully, decide between them by applying law and reason then give clear written reasoning.

My work in the law has been different, but I do share with your Honour the experience of having worked in a commercial law firm where the relentless focus is on finding practical answers to problems often by a team-based approach involving lawyers with different skills, who are all committed to finding the best way to proceed and carrying the decided approach into action.

This is not the place for debate about judicial training requirements.

But your Honour's work as a commercial lawyer in one of New Zealand leading firms has certainly been an excellent foundation for your work in our courts; where you also need to be clever, to assimilate material quickly, decide between two competing arguments and produce a reasoned answer in good time. I also don't think that the pressure of time in commercial work and the discipline this creates ever leaves you.

But even with your Honour's experience and ability plunging into the range of work in the High Court must have been a challenge when you started in 2001.

But I know that you hit the ground running because I was there!

In September 2001 I appeared before your Honour in a case in which a decision that an immigration appeal was out of time was challenged.

I suspect that both your Honour and I were not overly familiar with the applicable legislation before the case. My junior was a talented young lawyer who had worked at Chapman Tripp. He was very pleased to be appearing before you and had done an excellent job instructing me on what to say! We argued the case together. At the end he asked me what I thought? I asked about what? The argument? The prospects for our client? No, he said about the judge, my old boss.

I had not thought about this – you don't really and you are not supposed to – but when I did, I said the judge was very pleasant to appear in front of, was perhaps ahead of me on the arguments on the legislation (possibly not that difficult), gave both sides a fair go while asking the difficult questions, and was likely, I thought, to provide a clear reasoned decision on the issues (your Honour did this and quickly). I said I thought the judge would do very well.

My predictive powers are limited, but I am pleased to say that I got this right. While I think my appearances before your Honour are limited to this one early case, the skills you showed at the beginning were obvious, and have served our law very well.

Your very distinguished career has been charted by other speakers. The work in the Court of Appeal, after the establishment of our Supreme Court, was no doubt challenging and rewarding as the new court structure was developed; in this you worked with the judges in the Court of Appeal first under the Presidency of Justice Anderson then Justice William Young, before becoming President yourself.

And after this in this our Supreme Court – working over the range of cases raising the important points for our law for which leave to appeal may be given you continued to produce clear, elegant, deceptively simple, useful judgments on the issues.

Across that career your Honour has shown great skill as a judge and unstintingly put that skill to use to provide parties with decisions on their disputes. By doing this important and difficult work with such consistency you have given great service to our system of law.

In concluding I will again resist the temptation to find some fine sounding words from others.

But I must confess that my first thought was of a much simpler message from a pop song. When I was young a novelty group from Liverpool had a hit – I think that the only place that it reached number one in the hit parades was in New Zealand. To borrow from that song by the Scaffold I would like to conclude by saying about your service to the law and in our courts.

Thank you very, much! Thank you very, very, very much!

May it please the Court.