



The Right Honourable Dame Helen Winkelmann

CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA

30 DECEMBER 2023

MEDIA STATEMENT

Chief Justice pays tribute to Sir Michael Hardie Boys

The Chief Justice, the Rt Hon Dame Helen Winkelmann, today paid tribute on behalf of the New Zealand judiciary, to the Rt Hon Sir Michael Hardie Boys GNZM GCMG and QSO, who passed away on 29 December 2023, aged 92.

Sir Michael served on the High Court of New Zealand from 1980 to 1989, before being appointed to the Court of Appeal. He also served as a Privy Counsellor, sitting on the Privy Council in London. In 1996 he was appointed New Zealand's 17th Governor-General.

The Chief Justice said today:

“Sir Michael was a great New Zealander. He spent his life, in one way or another, in service to New Zealand. On behalf of the New Zealand judiciary, I acknowledge Sir Michael's service to the law, and to the judiciary. He was a gifted lawyer and made a significant contribution to the law particularly in areas that were, during his time on the bench, developing under pressure of external events. Sir Michael's reputation was that of a fair and courteous judge - respectful of parties, encouraging of counsel and always interested in the facts and argument in the case before him.”

Before his appointment to the bench, Sir Michael had a distinguished career in the law, serving as a Council member of the Wellington District Court Law Society from 1973 to 1979, and its President in 1979. He was a Council member of the New Zealand Law Society from 1976 to 1979, and served as a member of the Legal Aid Board before becoming its Chairman in 1978.

Sir Michael's appointment to the Court of Appeal coincided with the enactment of the New Zealand Bill of Rights Act 1990. Sir Michael wrote judgments in many of the significant early cases that addressed how the New Zealand Bill of Rights Act should be applied, particularly in relation to criminal procedure and the law of search and surveillance. He wrote judgments in many of those early cases. Of particular note were *R v Goodwin* in which the Court of Appeal discussed the meaning of arrest, and the circumstances in which evidence would be excluded for breach of the rights

confirmed in the Bill of Rights Act;^[1] and *Simpson v Attorney-General (Baigent's case)* which confirmed the availability of damages under the Bill of Rights Act for breach of rights – in that case an unreasonable search.^[2] His time as a judge also coincided with important developments in the law of negligence and in particular how that tort applies in the context of defective buildings. He was a member of the Privy Council which decided the case of *Invercargill City Council v Hamlin* which confirmed that in New Zealand Councils, when inspecting construction, owe a duty of care to subsequent purchasers, marking a departure in the law from that applying in other commonwealth jurisdictions.^[3]

In March of 1996 Sir Michael was appointed Governor-General of New Zealand. Again, he took on this role at an important point of transition for New Zealand - the 1996 general election was the first MMP election in New Zealand.

The importance of Sir Michael's contribution to the law has been widely acknowledged. In 1997 Victoria University of Wellington conferred upon him the degree of Doctor of Laws, honoris causa. He was also a visiting fellow of Wolfson College, Cambridge and an Honorary Fellow of that College.

On his swearing in as a judge in 1980 Sir Michael said he intended to set his course as a judge taking the advice of the prophet Micah – to do justice, to love mercy and to walk humbly with God. His colleagues and those who came before him during his time as a judge, can attest that he held to that course.

Sir Michael is survived by his wife, Lady Mary Hardie Boys, by his four children, Deryn, John, Rachel, and Philip and his eight grandchildren.

^[1] *R v Goodwin* [1993] 2 NZLR 153 per Hardie Boys J.

^[2] *Simpson v Attorney-General (Baigent's Case)* [1994] 3 NZLR 667.

^[3] *Invercargill City Council v Hamlin* [1994] 3 NZLR 513.