

Dame Helen Winkelmann, Chief Justice of New Zealand
Swearing in of Justice James Alexander MacGillivray

Auckland High Court

Friday 15 August 2025

Ki te koroua whare o ngā whare kōti o Aotearoa, e tū, e tū, e koro e.

Ki nga mana whenua, tēnei rā te mihi

E mihi ana ki ngā mate o te wā

Ki a koutou te hunga ora; ngā māreikura, ngā manukura, te hunga rōia

E te whetū o te rangi nei, Justice MacGillivray tēnā koutou ko tō whānau.

Tēnā koutou, otirā tēnā tātou katoa

I welcome you to this historic courtroom — courtroom number one of the Auckland High Court — for the swearing in of Justice James MacGillivray as a judge of the High Court of Aotearoa New Zealand.

Sitting alongside me on the bench today, along with Justice MacGillivray, are the Chief High Court Judge, Justice Sally Fitzgerald, and judges from the High Court and Court of Appeal. We are also joined by AVL by judges sitting in Wellington and Christchurch.

I acknowledge the presence of retired judges the Hon Paul Heath KC and the Hon Mark Woolford, and retired Associate Judge Roger Bell.

I welcome Justice MacGillivray's family, his wife Jennifer, and children Hector, Dakota, Esme and Angus and the extended MacGillivray whanau.

I thank kaikaranga, Leslie Taylor; and give my thanks also to Justice Johnstone for commencing today's ceremony with a mihi whakatau; and to the rōpū waiata made up of clerks, registry and judicial support staff.

Ka rere ngā mihi ki a koutou.

Today, as you can see, the High Court sits in full ceremonial splendour. Judges of the High Court are not normally arrayed in this colourful attire. Their working garb is rather a plain black robe. We put on our ceremonial robes when the business we conduct has significance to the broader court system, such as when we admit new lawyers to the profession, when we call counsel to the senior bar, or as today, when we swear in a new judge.

The swearing in of a new High Court Judge is important business for this court, for the profession and for our society. Judges are charged with the administration of justice in New Zealand. In that role we exercise great power — power which affects individuals, whanau and communities. This power must be exercised with great care, skill and humility.

This ceremony will include speeches in which the Judge's credentials to hold this high office are reviewed by me and by counsel. During those speeches, you will hear of the affection and respect the profession has for Justice MacGillivray.

There is certainly something of a celebration about today. It is right that Justice MacGillivray's friends and whanau feel pride about his appointment because it reflects the very high confidence held in the new Judge by the government, profession and judiciary.

All the same, this ceremony is not held to celebrate the new Judge, but rather to provide the public with an understanding of his career to date so that they may be confident that he does indeed have the skills and character to undertake this demanding task.

Lawyers and judges get used to the way we conduct these ceremonies because this is our usual place of work. For those of you who are not in the legal profession, the ritualised aspects of this ceremony may seem alien or even quaint. But these rituals serve an important function.

Woven through the rituals are expressions of courtesy which are also used in the everyday work of the court — courtesies such as bowing to the judge, and the formality with which counsel and the judge address each other. This is a self-conscious courtesy which sets the scene for rational and peaceful argument to take place about difficult issues, sometimes highly charged issues. Difficult and important issues are the daily work of this court. Others of the rituals, such as the wearing of these ceremonial robes, symbolise the continuity of the institution of the courts, and the stability and order that courts and the law bring to society.

I will shortly begin the formal part of the ceremony when I take the appearances of King's Counsel. These are the leading barristers in the legal profession who have rights of first audience before the court. They attend today to show their respect for the court and to show respect provide support for the new Judge. The Judge's commission from the King will then be read.

After the reading of the commission, we will proceed to the critical part of the ceremony, which is the taking of the oaths of office. I will first ask the Judge to take the oath of allegiance. He takes that oath because he will serve as a judge under commission from the King. The other oath he will take is the judicial oath.

After the oaths of office, I will make a few remarks about the Justice MacGillivray. We will then hear speeches about the Judge from Natalie Walker, Crown Solicitor Manukau who will speak on behalf of the Government, and from Kate Cornege who will address on behalf of New Zealand Law Society, for the profession.

Finally, the Judge will have an opportunity to speak. But first we begin the ceremony proper by taking the appearances of senior counsel.

Personal Remarks

Justice MacGillivray, it is my good fortune to be the first to congratulate you on your swearing in as a judge of the High Court of New Zealand. I am going to say only a very few words about you and your suitability for this office. The other speakers will cover in some detail your career to date, and your character. The case they will make for you should leave the public in no doubt that you have all of the qualities to fulfil this high office.

You come to the bench with the intellectual and professional qualities that this demanding role demands with the academic and professional success that mark you out as a highly skilled and effective lawyer. You also have a history of service that shows the strength of your commitment to your profession, your community and to broader society. Indeed, you have said of yourself that you try to be a good citizen and a leader. This role will enable you to be both.

Your colleagues in the profession describe you as kind. That kindness is evident in the care with which you represent your clients, and the generosity with which you contribute to your community and to the mentoring and wellbeing of your fellow professionals. I would add humility to your attributes. The many people who contacted me after your appointment was announced to congratulate me (momentarily allowing me to bathe in your reflected glory) consistently remarked upon that feature of your character. A good judge is humble — humble enough to know that their first instincts are not always right and humble enough to take the time to ensure a fair hearing no matter the pressures of time, or the quality of the case presented.

I am told that you describe yourself as kind but boring. I cannot agree with the last descriptor.

It is true that as an adult you seem to have always looked like a judge — or at least the once-popular imaginings of a judge. And you have a voice that is an asset for any barrister or judge — but then also perhaps for a radio host. But the path you have walked through your career to date sits outside the mainstream.

You spent part of your childhood in Nauru, and the other part in West Auckland, including in the great suburb of Blockhouse Bay. Although you initially followed a traditional path from academic success to practice, working in a large Auckland law firm, and then a magic circle firm in the United Kingdom, on your return to New Zealand you chose to practice and live in what you describe as a provincial town, the city of Hamilton. In the law, believe it or not, that career choice is evidence of unconventionality. This is so even though some of the most interesting legal work, some of the most fulfilling legal careers, are to be found outside the main centres. Your career choice shows that you have the wisdom and courage to make different decisions to the group or the crowd. Independence of mind and courage are two of the foremost qualities as a judge.

The decision to practice law in the Waikato was inspired. It gave you full exposure to rural and provincial New Zealand and a demanding and interesting array of legal work. You have also undertaken work in Fiji, American Samoa and the Kingdom of Tonga. Perhaps more than most judges can claim, you have experience of urban, provincial and rural New Zealand, and the broader Pacific region. We can therefore be sure that you understand and have the connection to community that is now expected of our judges.

You are an extraordinarily well read, interested and interesting person. There are few more important qualifications for a judge, than the kind of intellectual curiosity and flexibility that comes from a lifelong engagement with reading.

Justice MacGillivray, I am confident you have the experience and the qualities of intellect and character that are required for the role of judging in the senior courts of Aotearoa New Zealand.

Tēnā tātou katoa.