

**ADDRESS GIVEN AT THE CEREMONIAL SITTING  
FOR THE OPENING OF THE NEW HIGH COURT, CHRISTCHURCH**

**Christchurch, Wednesday 31 January 2018**

Sian Elias\*

Te whare e tu nei, e tu rangatira koe  
E nga mate, haere atu ra.  
E nga kanohi ora o ratou ma  
Nau mai, haere mai ki tenei hui a Te Kooti Matua  
Tena koutou katoa.

Welcome to this special sitting of the High Court of New Zealand, te Kooti Matua, held to mark the start of the legal year in which the Court is housed in the new courthouse. You are all an important part of this occasion, including those of you who, for reasons of space, are watching from the overflow court.

I will first call upon the Solicitor-General as junior law officer of the Crown and the Queen's Counsel who are present to make their appearances. They have first claim upon the attention of the court.

I want to acknowledge and welcome her Worship the Mayor of Christchurch, the Honourable Lianne Dalziel. It is an honour to have you with us on this occasion and we appreciate your presence. It emphasises that this occasion is of significance for the wider community as well as the legal profession.

It is a pleasure too to have with us representatives of the Law School of the University of Canterbury, which has long and close associations with this Court and its Judges.

Next I acknowledge the Judges of the District Court who sit in this city. The Chief Judge and Judges Couch and Borthwick have sent regrets at not being able to be here. The courts in Christchurch have long been housed in the same courthouse, and that tradition continues in this new building.

We are pleased also to have with us today representatives of the Ministry of Justice, which supports the courts in New Zealand. The Secretary for Justice, Mr Andrew Bridgman is stricken with a virus and is unable to be with us but is represented by the Deputy Secretary Corporate, Ms Suzanne Stew and the Chief Operating Officer, Mr Carl Crafar. We are also pleased to have with us Tania Ott, the Director of the Senior Courts and Jacqueline Shannon who is the General Manager of Regional Service Delivery for the District Court who has had particular responsibility for this building.

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\* The Right Honourable Dame Sian Elias, Chief Justice of New Zealand.

I also want to acknowledge the Registrar and registry staff of the High Court in Christchurch, Sharon Graham and her team are admired throughout the court system in New Zealand. One of the reasons we feel pleasure in this new setting is because after all the privations and challenges of the past 7 years, all borne with great fortitude and good humour, this building at last provides you with pleasant and comfortable working space. You very much deserve it.

Sitting with me today are judges of the High Court and retired Judges. Unfortunately neither of the Associate Judges, Judge Osborne and Judge Matthews, can be here. I have an apology from the Honourable Peter Penlington, who very much regrets not being here today. Although some of the judges sitting today are appellate judges appointed to the Supreme Court and Court of Appeal, their judicial warrants derive from Te Kooti Maatua, the first court of record established in New Zealand. It was set up in 1841 with the arrival in New Zealand on the Tyne of the first Chief Justice, William Martin and the first Registrar, Thomas Outhwaite.

The format for today's sitting is that I will first invite Justice William Young to make some remarks about the occasion from the perspective of the judiciary of Christchurch. He will be followed by the Solicitor-General and by representatives of the profession before I will make some remarks in response on behalf of the bench and in conclusion.

### **Response**

I should like to start my response to the remarks addressed to the Court by acknowledging and expressing my admiration for the way in which the profession, the judges and court staff coped with the tragedy of 2011 and the resultant disruption. That the courts continued to operate and men and women of this community continued to be able to access legal advice and services when they needed them is because of the commitment and resilience of the profession court staff and judiciary. It is something for which you have the gratitude of all New Zealanders who care about the rule of law.

I doubt that ever any country was founded with such expectations of justice according to law as ours. At Waitangi in 1840 much of the discussion that influenced adoption of the Treaty concerned law and the expectation that through it justice would be obtained by all who sought it. The Supreme Court was set up in 1841 in response to that expectation and all who have served in this jurisdiction since are conscious of living up to it.

Two things were missing in the early years in Canterbury. The first was an established profession. The histories of law in Canterbury report a number of odd outcomes in cases that are put down to the ineptitude of counsel or the sense of fair play of Canterbury juries when cases were conducted by counsel unevenly matched. But the deficiencies of the early profession were soon overcome.

The second thing lacking when the courts were established in Canterbury took longer to correct. It was the absence of a courthouse. When the Supreme Court first sat in Christchurch in November 1852, Justice Stephens, as Justice Young has mentioned,

sat in a church schoolroom. The purpose-built court which was built in 1869 followed considerable agitation from the profession for one.

As with the courthouses provided in Auckland and later in Wellington and Dunedin perhaps the profession should have been careful what it wished for. All the buildings provided in these centres were imposing gothic structures but all were built on the cheap and were found immediately to be unfit for purpose. The Christchurch courthouse was draughty and leaked. The acoustics were so bad that most of the proceedings were inaudible. Alterations to attempt to improve the acoustics included the erection of what is described as a "sounding board and canopy" above the bench. I am not sure whether this was the canopy so cherished by Mr Hampton QC. But if so the additional flourish did not greatly improve audibility and the leaks and draughts were never adequately fixed.

Despite the high farce of the 1938 foundation stone described by Young J, the old courthouse lingered on, an embarrassment, propped up with girders on the Durham Street frontage and cropped of the tower and parapets which had crowned it, which were removed for reasons of safety. The tower block in which the courts were rehoused in 1980 was not appreciated by everyone although my impression is that it worked well enough, although space was tight, especially for witnesses and the public.

I know that there are regrets about the move from Armagh Street, where the High Court has been based for 150 years. There is unhappiness that the identity of the court buildings on this site and the symbol of separation of judicial and executive functions is blurred by inclusion in a precinct of government buildings.

I do not minimise the importance of symbols or attachment to heritage. But a court is an institution, not a place or a building. There have been many instances in our history where courts have shared premises with government departments, without blurring of the separate functions and responsibilities of the courts. In that connection, I appreciate very much the message conveyed from the Attorney-General.

What is important is not the location or proximity of the courts to other institutions but the maintenance of the tradition of independence which has always been followed by the courts of New Zealand. How the courts conduct themselves and how they serve the community in the administration of justice is the tradition that matters and must be maintained. Adding the presence of the courts to the flagship public building which symbolises the resurrection of Christchurch is entirely appropriate. It is important demonstration of continuity and enduring values as well as renewal and change.

There are things about the present building with which not everyone will be happy. If the circumstances had been otherwise it may be that more time and open-mindedness would have sorted out some of the irritants or at least made some members of the community feel their views had been properly considered. But those who have been irritated by the process - and most of us have been at some stage - really need to get over it now. As the Rolling Stones said, "if you can't always get what you want, well you just might get what you need".

The fact is, this is a beautiful public building and we are lucky to be part of it. The accommodation of the courts is uplifting and respectful of tradition. The courts are

housed in better facilities than they have ever had in this City. The courtrooms are light, audible, and - I am assured - will not leak or be draughty. They are built to the highest standards of safety. The comfort and safety of all who need to access the courts is catered for as well as the comfort and safety of the court staff and the judges. The building is in the vibrant heart of the city, close to transport and the commercial hub. It is highly visible and accessible, and you cannot have a better symbol of justice than that.

A building as beautiful as this responds to the expectation of justice which is held by all in our society and which is the only sure protection for the rule of law. It is a symbol which keeps us all up to the mark set by our history and the values we take from it. It is also a symbol that the legal system must adapt and change to be fit to serve the men and women who must access it. This is a modern courthouse fit for purpose in 2018. It is a privilege to sit on this occasion in what I will persist in calling the No 1 High Court for Christchurch.

There will be a photo in the atrium and then I hope you will join us for refreshments after the sitting.

No reira, tena koutou, tena koutou, kiora tatou katoa.

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