

**ADDRESS GIVEN AT THE CEREMONIAL SITTING
FOR THE RE-OPENING OF THE DUNEDIN COURTHOUSE**

Dunedin, Friday 26 January 2018

Sian Elias*

Te whare e tu nei, e tu rangatira koe
E nga mate, haere atu ra.
E nga kanoahi 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 re-opening of the Dunedin Law Courts.

In accordance with our tradition, I will first call upon the Queen's Counsel who are present to make their appearances.

This is a public sitting of the court, and although it is ceremonial, it is still open court. Everyone who is here is therefore an important part of this occasion. I welcome in particular His Worship the Mayor of Dunedin, and representatives of the Ministry of Justice. Sitting with me today are judges of the Supreme Court, the Court of Appeal, the High Court and the District Court. This Courthouse has always operated on an inter-bench basis. On the bench proper are Justice William Young of the Supreme Court, Justice Kos, President of the Court of Appeal, Justice Venning, the Chief Judge of the High Court and Judge Doogue, the Chief Judge of the District Court. They are as many as can be fitted into this high perch. Squeezed into the courtroom are those with greater claims to sit here, the resident Dunedin Judges of the District Court and the Judges of the High Court who sit here on circuit from Christchurch. The resident Dunedin judges are Judges Crosbie, Flatley, Phillips and Turner, joined by Coroner Robinson. All have been closely involved with this restoration and with keeping the courts working during the period of disruption. They are joined by a number of judicial visitors with special connections with Dunedin who have wanted to be here on this occasion.

In the gallery today are many friends of this city and this court. I want to mention in particular two retired judges, Dame Silvia Cartwright and Sir John Hansen, two products of this city whose hearts remain firmly attached to it. Sir John sat regularly here when a resident Christchurch Judge. Dame Silvia in herself carried on the revolution started here by Ethel Benjamin as practitioner, the second woman District Court Judge, the first woman Chief Judge of the District Court, and the first woman High Court Judge. To say nothing of her other high public roles.

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It is a great pleasure to have with us the Dean and other members of the faculty of law of the University of Otago, that great institution.

I want to acknowledge immediately the presence of the Minister of Broadcasting, Communications and Digital Media and local Member of Parliament, Claire Curran. Her history too is bound up with this building since her father, James Bertrand Curran (Kinny Curran) was its long-standing Registrar. He is sadly not with us today, although we are delighted that his wife, Mrs Curran, is here as well as his daughter. Mr Curran was in the gallery at the last reopening in 2003 along with his successors as Registrar, Mr Alan Herring and Mr Cyril Gilfedder. In New Zealand we have been well-served by the Registrars of the High Court, starting with Thomas Outhwaite, the first Registrar, who made the journey out from England on the *Tyne* with the first Chief Justice, William Martin. Theirs is a great tradition, not sufficiently I think always appreciated by the modern managers of the courts.

Since its opening in 1902 this courthouse has seen much of the history of this region and indeed the country pass through its doors. In my opening mihi I acknowledged it as an ancestor, as for us who work in the courts, it is. But you would have to be very unimaginative not to feel in this place the presence of the men and women who have gone before us and the weight of their expectations about the delivery of right according to law. That is a considerable tradition to live up to. Although a court is not a building, a building represents the idea of justice. Justice is not something that is looked to only by lawyers or those who work in the courts. It is bigger than all of us. It is an idea that grips the human spirit. It has been a constant theme in New Zealand history. In my remarks at the opening of the building this morning I mentioned that at Waitangi in 1840 there was much talk of law and justice. It is something everyone in our community is entitled to expect. A building as magnificent as this responds to that expectation and is a symbol which keeps us all up to the mark.

When the courthouse was opened in 1902 it housed the High Court (then called the Supreme Court) the District Court and the Arbitration Court (now the Employment Court). It was not set up to provide "justice services", which is the wider mandate of the Ministry of Justice. It was a frankly acknowledged courthouse set up to deliver right according to law, which all judges are sworn to deliver. That is still the function of the courts of this jurisdiction.

The first sitting in 1902 was preceded, as this sitting and the two earlier first sittings have been, by the traditional parade through the streets of Dunedin and by the traditional photograph. At the opening, 62 lawyers took part in the procession in crocodile file. A crisis was narrowly averted when Mr Galloway agreed to walk with Ethel Benjamin when other members of the profession were reluctant to do so, for which I think the women lawyers of New Zealand should always remember and honour Mr Galloway. Today the 100 odd members of the profession are much more relaxed about gender. We cannot unfortunately replicate the earlier photographs exactly because of the hoardings still in place around the courts, but I am sure today's photograph will still show up well in the collection for future generations to gawk at.

The first sitting in the courtroom was presided over by Justice Joshua Williams who served, incredibly, for 39 years as the resident judge in Dunedin. It is fair to say that the profession was not pleased to hear of his appointment. His background was not

as an advocate in the courts but as an administrator. But in this unconventional appointment, the New Zealand legal order obtained an outstanding jurist. One whose judgments are still mined by the lawyers of today for insights. Sir Joshua was the first colonial judge to sit with the Privy Council. I thought of him when many years later I had the same opportunity and took up my place in the beautiful room above the lovely hearing room in Downing Street which was still known as the Colonial Judges room. As I thought of Ethel Benjamin when the Registrar of the Privy Council came to tell me, in some embarrassment, that there was no women's lavatory within the secure part of the building.

At an occasion such as this it is appropriate to reflect on themes of continuity and tradition and also on change. It is important that we have a legal system that is capable of adaptation and change – otherwise it would not be fit to serve the men and women who must access it. But it is also important to hold on to our history without which we cannot understand the principles behind the enacted laws and doctrine. Without the touchstone of principle, we cannot adapt with confidence. I am put in mind of Sir Apirana Ngata's advice to the young to embrace the modern while wearing with pride the traditions of our ancestors "like a plume to your brow".

Law constantly adapts and the methods of delivery of justice have to adapt too. But what is important is to remember who we are and where we have come from and to honour our traditions. A building like this is a reminder of our traditions and a visible symbol of justice open to all.

You will all be familiar with the jibe that justice is open to all as the Ritz is open to all. And it is true that we have to be very careful of the barriers of cost which impede such access. But a courthouse where the doors are open and the judge is available is an essential attribute of a healthy system of justice. We have to be careful that modern case management and court fees do not impede the direct access of any citizen who has a claim of right. In this city at least you have a courthouse frankly acknowledged as such where the courts are not buried in a wider governmental precinct. That visibility matters.

The restoration of this courtroom is beautiful. I hope all of you will take the time after the ceremony to go up to the gallery and view it from above. It is lovely. And it uplifts the spirits to walk through the courthouse and see it come back to life.

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