

**ADDRESS BY THE HONOURABLE JUSTICE WILLIAM
YOUNG KNZM**

**On the occasion of the swearing in of the Right Honourable
Justice Winkelmann GNZM as Chief Justice of New Zealand**

At Wellington on Thursday 14 March 2019

E te iwi e **tau** nei

Tena koutou, tena koutou, tena tatou katoa

Thank you Te Atiawa and thank you Kura.

Welcome everyone to this special sitting of the Supreme Court for the taking of the oaths of office of our new Chief Justice.

As you will notice, the members of this Court have been joined by the heads of bench: the President of the Court of Appeal, Justice Stephen Kòs, the Chief High Court Judge, Justice Geoffrey Venning, Chief Judge Jan-Marie Doogue of the District Court, Chief Judge Christina Inglis of the Employment Court, Principal Judge Laurie Newhook of the Environment Court and, in the unavoidable absence of Chief Judge Wilson Isaac, Deputy Chief Judge Caren Fox of the Maori Land Court. They represent their respective courts, which are, as is apparent, also very well represented by other judges, some behind me and others in front.

I acknowledge:

- (a) Their excellencies, the Right Honourable Dame Patsy Reddy, our Governor-General, and Sir David Gascoigne;

- (b) Dame Sian Elias and Mr Hugh Fletcher and Sir Ken and Lady Keith;
- (c) The Minister of Justice, the Honourable Andrew Little;
- (d) The Honourable Amy Adams;
- (e) The Honourable Margaret Wilson, who was Attorney-General when the Chief Justice was appointed to the High Court;
- (f) Chief Justices Tom Bathurst of New South Wales and Ann Ferguson of Victoria, Chief Judge in Equity, Justice Julie Ward, from New South Wales, Justice Kim Hargrave, from the Court of Appeal of Victoria, and Justice Victoria Bennett from the Family Court of Australia.

I particularly acknowledge the attendance of the Chief Justice's family: especially husband Martin, their children, and the Chief Justice's brothers and sister and their partners.

We have apologies from a number of current and retired judges from all New Zealand benches and, likewise from Australia, including from Chief Justice Kiefel, from the Pacific Islands (including from Chief Justice Sapolu of Samoa) and from various Canadian jurisdictions.

Before I go further, I thank Dr Karena Kelly for her translation of what we have just heard and, in advance, to Alan Wendt and Melissa Sutton, who will be signing the rest of the ceremony.

I now call on the Law Officers and Queen's Counsel present, in order of seniority of call, to enter their appearances.

SWEARING IN

E **taku Arika mareikura**

Nau mai, haere mai

Ki to **nohanga tapu**.

One of the many great things about Te Reo is that it enables one to say things which, though heartfelt, might, in unvarnished English, sound a little over the top. A rough translation of what I have just said is:

My most noble lady

I bid you welcome

To your sacred seat.

Chief Justice Winkelmann, it gives me great pleasure to be the first to congratulate you on your formal assumption of office as New Zealand's 13th Chief Justice and, on behalf of the New Zealand judiciary, to welcome you to your new role.

Moments of transition of the kind we are experiencing provide an opportunity for reflection about what has just finished, what is happening now and what it all means.

The office which you have just assumed is provided for in the Senior Courts Act 2016. Under that statute, you are the head of the New Zealand judiciary. You are also head of the Supreme Court and responsible for ensuring the orderly and efficient conduct of its business. The President of the Court of Appeal and the Chief High Court judge are responsible to you for the conduct of the business of those Courts. There are some other provisions in that Act and other statutes which confer particular functions on you. There is, however, no authoritative legislative statement of your responsibilities or your associated authority. Much rests on tradition and practice from both here and elsewhere, although the assistance available from other like jurisdictions is at least restricted by differences in constitutional arrangements and court organisation.

The Latin expression *primus inter pares* – first amongst equals – is sometimes applied to the role of chief justice. It is a reasonable, if

incomplete, description of the purely judicial role of the chief justice – that is, as one judge in a multi-judge court, whose opinion counts the same, in terms of result, as those of the other judges. I say incomplete because, as is the case with the head of any court, you will have a significant internal leadership role; this in terms of maintaining an environment which is collegial, purposive and productive.

Your role as head of this Court is extremely important but more so is your general role as head of the New Zealand judiciary, which, of course, is the third branch of government. And in this capacity, you will be far more than a first amongst equals.

You will be the primary representative of the judiciary. As time goes by, you will come to be seen as the face of the judiciary, as was the case with your predecessor, Dame Sian Elias. For those who deal with the judiciary – by way of examples, the government or the legal profession – you will be the primary point of contact. And only you, or those with your sanction, can speak for the judiciary as a whole. You will be a champion of the rule of law and, as part of this, judicial independence. You will also have primary responsibility for ensuring that the courts not only continue to deliver a high standard of justice to the community but also always strive to do better.

All judges swear the same judicial oath as you have just retaken and we all have a personal, and not just an institutional, obligation to live up to it. A large measure of judicial autonomy is the corollary of judicial independence and the personal obligation of judges to honour the judicial oath. Judicial accountability is real enough but it works in ways which lie outside the norms that apply in most contemporary organisations. This means that you will have to lead the judiciary without access to levers of the kind which leaders of major organisations customarily have. As you are well aware, organising judges is conventionally compared to herding cats, a reflection of the

limitations of orthodox ideas of management and governance in our peculiar environment.

The trick for judicial leadership is to maintain the best of the past, in particular, maintenance and promotion of the rule of law and independence of the judiciary (and all that they entail) and, at the same time, to move forward with continuous improvements in the way the courts operate and our responsiveness to the community.

I have had the privilege of serving as a judge under both Sir Thomas Eichelbaum and Dame Sian. Although very different people, they were both stalwarts of the rule of law and judicial independence and, at the same time, drivers of change who ensured that the court system remained fit for purpose in a changing environment. From your point of view, they were in this respect rather like the Income Tax Act 2007 in that they, in company with that dense statute, are all hard acts to follow.

You have been a judge for 14 years. When Dame Sian swore you in on 13 August 2004, she referred to you as “a Judge of real promise” and that you had it “in you to be an outstanding Judge”. Well you have fulfilled that promise and have, indeed, been an outstanding judge. For 5 years you were Chief High Court Judge and for nearly 4 years, a judge of the Court of Appeal. You have also been a dynamic leader in judicial education. You have great legal ability, terrific empathy and interpersonal skills, sound judgement and strong principles. And you have demonstrated convincingly that you have the soft skills of leadership which your new position will demand. You are a good listener, a fine communicator, extremely – indeed unsettlingly – persuasive and persistent and you have set a great example for others, walking the walk and leading from the front as is essential for a chief justice.

Also absolutely essential to success as a chief justice is the trust of the other judges. This prerequisite for your success is already satisfied, as

you come to office enjoying the complete confidence of the entire judiciary. Your colleagues on the Supreme Court, and in all other courts, are delighted by your appointment. They are looking forward to working with you over the years to come.

No reira

Tena koutou, tena koutou, tena tatou katoa