

**SUPREME COURT
FIRST SITTING
Friday 19 February 2010 at 11.00 am**

**ADDRESS BY THE RIGHT HONOURABLE DAME SIAN ELIAS,
CHIEF JUSTICE OF NEW ZEALAND**

Welcome to this first sitting of the Supreme Court to be held in its permanent home.

We are honoured and delighted that his Excellency the Governor-General is here with us. As someone who has had a distinguished career in law and judicial service, his Excellency is quite at home in the courtrooms. But like the rest of us, I don't think he's ever been in one quite like this.

We are also pleased to have with us the Justice Ministers of the Crown. The Minister of Justice, the Minister for Courts and the Attorney-General. We have among us the Secretary for Justice and the officials of the Ministry who have worked so hard to bring this building about. Among the retired judges we welcome among us today and among the practitioners and former politicians there are a number who worked to bring about the dream of an accessible final appeal court for New Zealand at home. I would like to acknowledge in particular in that respect Sir Thomas Eichlebaum, Sir Ivor Richardson (who is unfortunately not able to be here today), Sir Geoffrey Palmer (still reforming after all these years), and the Hon Margaret Wilson.

In addition, we have the very great pleasure and honour of having with us Judges of three of the highest Courts with whom we share our common law heritage and with whom we share our Pacific Rim geography.

The Chief Justice of Canada, Chief Justice McLachlin, is here with Justices Fish and Rothstein of the Supreme Court of Canada. Our closest neighbours and great friends the Australians are represented by Justices Gummow, Hayne and Heydon of the High Court of Australia. The Court of Final Appeal of Hong Kong is represented by Chief Justice Li and Justice Ribeiro. That they should have travelled so far to participate in this sitting speaks of the links we have and the importance they attach to this launch. We are very grateful to them for their attendance and for their long-standing support for the judiciary of New Zealand.

Finally, I would like to thank all of you for coming here to mark this very important event in the life of the court and the legal system of New Zealand. I would like to acknowledge in particular those practitioners and other New Zealanders who have honoured this sitting by coming to the Court in the knowledge that there is insufficient room inside. I hope you will take the opportunity to inspect the court when the sitting concludes and look forward to seeing you at the morning tea to follow.

Now, I will call upon senior counsel present to make their appearances, starting with the senior law officers of the Crown.

I respond to the messages of goodwill from the leaders of the profession on behalf of the judges who serve on the Supreme Court today, but conscious of the fact that the Court is a living institution which is much more than the sum of its present parts. That is a sobering reflection for those of us who serve on the court, but it is also sustaining and steadying.

If a Court is not simply its present complement of judges, still less is it a building. It may seem a little ungracious to say that on this occasion, but a great court can operate in a basement, as the Supreme Court of the United States did for many years. That was why I was not at all dismayed by the temporary accommodation we have worked from in the last 5 years - although our long-suffering staff (who bore the brunt of the inconvenience) might have had other views.

It is also right to acknowledge on an occasion such as this when it is easy to get rapture of the heights, that a legal system is not principally the work of a single court at the apex. It is the work of legislatures and judges of all jurisdictions. Within the judiciary, the role of the final court is necessarily limited. The way in which the judges of all jurisdictions discharge their responsibilities and the tradition they work within is key to the health of the system. So this Court building is symbol not just of the Supreme Court, but of the judicial system as a whole. We in the Supreme Court know how well the legal system is served by the men and women of the Courts from whom appeals eventually lie to this Court.

What we should acknowledge in the creation of this building is the spirit in which it has been undertaken. Located within the government precinct of our capital, the building symbolises commitment to the rule of law in our country. Successive governments and the people of New Zealand they represent have thought the demonstration of such commitment important enough to justify considerable cost. We who are the immediate beneficiaries know that this commitment is solemn trust to be discharged through the work of the Court. I can assure you that in this magnificent courtroom the judges, while deeply appreciative of the trust, feel the weight of the obligation.

The courtroom itself speaks of our country, with references to the forests and people of our land. In the display cabinet in front of the bench are symbols of our twin heritage in the common law and in the tradition it encountered in these islands. The working spaces beyond the courtroom are calm and reflective. Behind us is the old Court building, opened in 1881 and preserved by stunning restoration for future generations. It grounds the Supreme Court in the history of our legal system.

Indeed, the restoration is not only considerable improvement over the building I first appeared in in the 1970s, I suspect it is a considerable

improvement over the original. Certainly when Chief Justice Prendergast first took his seat on the Bench at 10 am on 11 April 1881 he seems to have been rather faint in his praise, as was the Court reporter for the *Evening Post*. The Chief Justice apologised for the fact that the calendar for the Court sittings was lighter than usual. For those concerned about the calendar for the Supreme Court today, it may be noted that the cases on hand for the splendid new building in 1881 contained only one of a serious character, and that was a prosecution under the Stamp Act. For some reason the Chief Justice took it upon himself to congratulate the Grand Jury for having “a handsome and, he presumed, a suitable building in which to perform their duties”. This hope deflated a little under the report in the *Evening Post* that “His Honour’s remarks [to the grand jury] on this case were lost amid the echoes of the hall and the stamping of innumerable feet in the corridors outside”. What he was understood to say was that “the Government, in their eagerness to introduce the system of collecting revenue by stamps had adopted a system which would probably lead to fraud”.

Things are very different today. We have excellent acoustics and sound-proofing which excludes the tramping of feet from outside the courtroom. If we have not entirely eliminated the unintended consequences of hasty legislation, in the company of the Minister of Justice and the Secretary of Justice it may be polite to express confidence that this courtroom is unlikely to see many such examples. Let us hope that we have also moved on from some of the other attitudes expressed by Chief Justice Prendergast in this court precinct, some of which remain to vex our legal system.

As this Court symbolises, the expectation of justice under law is a unifying theme within our society. The building speaks of those shared values. It was one of the themes most discussed at Waitangi and even in the worst of times, it has remained. It is the aspiration which has produced this confident building which looks to the future of the Court within our society with optimism. It challenges all who work here - as judges, as counsel, as litigants – to fulfil those aspirations and that optimism.
