



**SENATOR THE HON GEORGE BRANDIS QC
ATTORNEY-GENERAL
LEADER OF THE GOVERNMENT IN THE SENATE**

30 January 2017

**ADDRESS AT THE SWEARING-IN OF
THE HONOURABLE SUSAN KIEFEL AC
AS CHIEF JUSTICE OF AUSTRALIA**

HIGH COURT OF AUSTRALIA, CANBERRA

May it please the Court.

We gather this morning for an event of unequalled significance in the legal life of Australia: the swearing-in of a new Chief Justice. On behalf of the Government and the people of Australia, it is a privilege – and a great personal pleasure – to congratulate the Honourable Susan Kiefel on her accession to that office.

May I begin by acknowledging the traditional custodians of the land on which we meet, the Ngunnawal and Ngambri people, and paying my respects to all of Australia's Indigenous peoples.

As one would expect upon an occasion of this significance, a great many distinguished Australians grace us with their presence today.

Might I acknowledge in particular the presence of:

- His Excellency the Governor-General, and Lady Cosgrove;
 - The President of the Senate, the Honourable Stephen Parry;
 - The Speaker of the House of Representatives, the Honourable Tony Smith;
 - Two former Chief Justices of this Court, the Honourable Sir Gerard Brennan, and the Honourable Robert French;
- Four former members of this Court: the Honourable William Gummow, the Honourable Michael Kirby, the Honourable Kenneth Hayne and the Honourable

Susan Crennan;

The Chief Justice of New Zealand, the Rt Hon Dame Sian Elias;

- The Chief Justice of the Federal Court, the Honourable James Allsop;
- The Chief Justices of all the Australian States and Territories;
- The Acting Chief Justice of the Family Court, the Honourable Michelle May;
- Members of the Federal Court, Family Court, State and Territory Supreme Courts, the Federal Circuit Court and State District Courts;
- The Shadow Attorney-General, Hon Mark Dreyfus QC;
- The Solicitors-General of the Commonwealth, and of all States and Territories;
- Many other distinguished retired judges;
- The President of the Law Council of Australia, Fiona McLeod SC;
- The President of the Australian Bar Association, Patrick O’Sullivan QC;
- Many members of the profession, including in particular from your home bar in Brisbane, led by the President of the Bar Association of Queensland, Christopher Hughes QC;

We are also joined here today by Your Honour’s family:

- Your husband Michael;
- Your sister Jennifer;
- Your sister-in-law Katrina;
- Your nephews Max, Leo and Hamish;
- Your niece Eleanor and her partner Odin
- May I also acknowledge your brother-in-law Brian, who is unable to be here today.
- I know it is a great sadness to your Honour that your brother Russell, the well-regarded actor, died suddenly in November, only a few days before your Honour’s appointment was announced.

In the more than 113 years that have passed since Sir Samuel Griffith was sworn in as the first Chief Justice of this Court, on the 6th October 1903, only twelve people have occupied that highest of judicial offices. Your Honour will be the thirteenth Chief Justice of this Court, the fourth from Queensland, and the first woman.

As I said when the Prime Minister and I announced your Honour’s appointment, yours is truly a great Australian story – a story to inspire women *and* men alike.

Your Honour was born in Cairns, and was educated at State Schools in Cairns and Brisbane. However, your Honour was evidently a restless teenager, as you decided to leave school shortly before your 15th birthday. This might seem an unpromising start for a future Chief Justice, but the steely determination which is such a feature of your Honour’s character was evident even then.

You completed your secondary schooling at night, and having decided to become a barrister, you undertook the course of study then provided by the Barrister's Admission Board. In the meantime, your Honour worked as a legal secretary, both in barristers' Chambers and in the litigation department of the great Queensland law firm Cannan & Peterson (one of the tributary streams of the firm now called Norton Rose Fulbright).

You were called to the Bar in 1975, at the age of only 21, and went into full time practice at once. It was a characteristically brave move to go to the Bar at such a young age, and with no family or other connections in the law. And, of course, in those days, there were hardly any women in practice at the Bar in Brisbane.

I'm told that when you were admitted, your brother Russell sent you a congratulatory telegram, as people did in those days: "Dear sister, welcome to the acting profession", to which you replied "Thank you, dear brother, but we write our own lines."

Your Honour soon attracted favourable notice for your skill and diligence, and your practice flourished. One notable early case in which your Honour appeared, as junior to the fearsome Peter Connolly QC, was *Franklin v Giddins* in 1977. You and Connolly QC persuaded Justice Dunn to issue an uncommonly far-reaching injunction to protect the intellectual property the genetics of a variety of fruit rejoicing in the name "Franklin Early White nectarines". Years later, you would be in a seminar at Cambridge when Professor Gareth Jones, who was obviously an avid reader of the *Queensland Reports*, set upon this obscure authority with critical bemusement, unaware that one of the successful counsel was among the students. Identifying yourself, you defended the decision. However I understand that your Honour had less success with Professor Jones than you had had with Justice Dunn.

Your decision to read for the Master of Laws at Cambridge in the 1984-85 academic year, came after years of success at the Bar, as your Honour's practice flourished.

You were taught by some of the greatest legal scholars of the day, including Professor David Williams, Gareth Jones, of Goff & Jones fame, who taught you restitution, and Professor Tony Jolowicz and Professor Basil Markesenis, who taught you comparative law.

I understand that it was Jolowicz, in particular, who inspired your enthusiasm for comparative law – an enthusiasm so ardent that it was rewarded with the C J Hamson Prize. Professor Jolowicz would later confide to an Australian judge that your Honour's comparative law paper achieved the highest mark in that subject that has ever been awarded by the Cambridge Law School. Your Honour also won the Jennings Prize, awarded to the most outstanding law student of your college, Wolfson.

I know your Honour remained close to Professor Williams and Professor Jolowicz for the rest of their lives.

However, lest it be thought that your Honour spent your year at Cambridge studying night and day in a lonely garret, I have it on good authority, from a mutual friend who was your contemporary, that you were a lot of fun. Among the extracurricular activities of student life in which you partook, you rowed for your college. And it was on the river, not in the law library, that you met your husband Michael: he was your rowing coach.

Returning to Brisbane, your Honour resumed practice in 1985. Among those with whom you shared chambers on Level 18 of the Inns of Court were the late Bob Douglas QC, Philip McMurdo QC, now of the Supreme Court of Queensland, and Peter Ambrose QC, who join us here today. It is fair to say that the year's absence did not do you any harm professionally, because by 1987, your Honour was in a position to take silk: the first woman in Queensland to do so.

On an occasion such as this, I cannot fail to be nostalgic about the many times in those years when I appeared as your Honour's junior. I particularly remember *Dowling v Dalgety* in 1991, a case about the Goondiwindi saleyards which provided the great John Lockhart with the opportunity to write his magisterial judgment on market power.

Those were different times, and I recall that our rather blokey clients, representatives of three of the great pastoral houses, Dalgetys, Elders and Primac, were initially a little hesitant about retaining a woman silk, but yielded to my assurance that you were one of the best in the business. Needless to say, by the end of the case, you had them eating out of your hand.

By the early 1990s your Honour had one of the busiest silk's practices at the Brisbane bar. However it was not to last for long, for in 1993, you were appointed to the Supreme Court of Queensland, the first woman to be a judge of that Court.

It has been a feature of your Honour's story – as it is of today's ceremony – that you have, at several crucial steps in your career, been the first woman to occupy a particular office. But your profound achievements and success has had nothing to do with your gender and everything to do with your intelligence, diligence and skill.

After little more than a year on the Supreme Court, you were recruited to the Federal Court in 1994. You served with distinction on that Court for some thirteen years; you consistently produced judgments of the highest quality which attracted the favourable notice of the bar and of other judges.

And so it was that in 2007, you were appointed to this Court – the last High Court appointee of the Howard Government.

In your various judicial capacities, your Honour has displayed the qualities which those who worked with you at the Bar remember so well: intelligence, diligence, discipline, and an unerring instinct for the critical issue in a case. Whether as a barrister or as a judge, you have always embodied a spirit of collegiality. You are a person of great integrity.

You are exceptionally courteous and a delight to work with and appear before. But beneath your Honour's famously calm demeanour lies a demanding intelligence and a rigorous insistence upon the very highest standards from those who appear before you. And of course, your Honour is equally demanding of yourself.

It has been a notable feature of your Honour's contribution to this court, in particular, that you have frequently collaborated with others in joint judgments. Indeed, I am sure that it is at least partly due to *your* influence that the French Court has been notable for its collegiality. No doubt you will continue to foster that ethic of collegiality as the leader of the Court.

In your judicial work, the intellectual influence upon you of your study of comparative law has been evident. We look forward to the development of the jurisprudence of the Kiefel Court, and the influence which civilian notions, such as proportionality, will have upon it.

While your Honour is both a superb judge and a significant scholar, it would be a grave mistake to think that your Honour is one of those judges whose interests are confined to the study of the law. Far from being a narrow servant of the law, your Honour is a well-rounded person who has a connoisseur's appreciation of the good things in life.

You are a lover of both theatre and music. Indeed, your Honour is a competent cellist, and I understand you recently returned to the study of the keyboard. You are a superb cook and, as your many friends from the Bench and Bar well know, a generous host. The dinner parties which you and Michael host are very agreeable occasions. Your Honour also has a taste for the outdoors – you are a keen hiker, and on occasions you and Michael are to be found in mountain streams indulging your enjoyment of trout fishing. You are, I am glad to say, also a dog-lover, with a decided preference for rottweilers.

We have it from no less an authority than Lord Atkin that “justice is not a cloistered virtue”. Your Honour is not a cloistered person. You bring to this office not merely outstanding achievements as a scholar and a superb reputation as a judge, but all the

wisdom born of a life - rich, diverse, and not without its challenges, especially in the early years. The fusion of those qualities will make you an outstanding leader of this Court.

Your Honour's personal story, your illustrious professional career, and the ultimate distinction to which you ascend today, mark you not merely as a distinguished judge but as a great Australian. Everything you have achieved has been the fruit of those qualities of intelligence, diligence, discipline and integrity which those of us who have known you for many years, have always recognized in you.

It is those qualities which have, fittingly, taken you from humble beginnings to the pinnacle of the Australian judiciary. So we congratulate you and wish you well in your service as Australia's next Chief Justice.

May it please the Court.

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