

**SPEECH ON SWEARING IN
AS A JUDGE OF THE SUPREME COURT OF QUEENSLAND**

21 AUGUST 1998

JUSTICE MARGARET WILSON

Chief Justice, President of the Court of Appeal, Judges of the Supreme Court, Judges of the Federal, Family and District Courts, Mr Attorney, Mr Solicitor, Mr Gotterson, Mr McCafferty, members of the Bar, members of the solicitors' branch of the profession, my family and friends, ladies and gentlemen.

Thank you for your courtesy and goodwill in attending this ceremony today.

I thank you, Chief Justice, for the warm welcome you have extended to me on behalf of the Court and for the unduly generous things you have said about me.

Mr Attorney, I am very conscious of the awesome responsibility which your Government has entrusted in me by this appointment. Thank you for your presence here today and for your good wishes.

Thank you, Mr Gotterson and Mr McCafferty, for your expressions of support on behalf on the two branches of the profession.

I come to this office at a time when our legislative and judicial institutions are subject to intense scrutiny. Public confidence in the judicial system depends ultimately on the Judges' continuing loyalty to their oath of office. On the occasion of his swearing-in as Chief Justice of Australia, Sir Gerard Brennan said of the judicial oath:

“It precludes partisanship for a cause, however worthy to the eyes of a protagonist that cause may be. It forbids any Judge to regard himself or herself as a representative of a section of society. It forbids partiality and, most importantly, it commands independence from any influence that might improperly tilt the scales of justice.

...

The oath requires justice to be done according to law.”

Judicial decision making is a distinctly human craft. Many legal questions cannot be resolved empirically or logically, but necessitate the making of value judgments. In so far as judicial decisions rest on value judgments, they cannot be expected to stand for all time. I trust that the presence of women on the Bench will create a balance of humanity among our judicial decision makers, and that through a process of osmosis we may have an effect, a positive effect, I hope, on the other members of the Court. It remains the responsibility of all Judges to ensure that both the male and the female perspectives are brought to bear upon the law and its administration. The community has a legitimate expectation that, in the words of Her Honour Justice Coyne of the Minnesota Supreme Court, "A wise old man and a wise old woman will reach the same conclusion."

In the conduct of litigation there has hitherto been a division of labour between the barrister and the solicitor – not, as widely misunderstood, a duplication. There has been a symbiotic relationship between the barrister and the solicitor which has, I believe, been to the ultimate benefit of the client and the community at large. The solicitor plays an indispensable role in gathering the evidence; and in doing so he or she is assisted by the unique insight which is gained from an intimate knowledge of the client and the client's affairs. The barrister, on the other hand, is detached from the day-to-day affairs of the client, and owes allegiance to none; he or she brings to the presentation of the case objectivity and specialist skills as an advocate.

A barrister's life is a challenging one. The work is labour intensive, and his or her successes and failures are played out in public. Attributes of resilience and steadfastness are needed in large measure. And the hours are long and uneven. Sir Owen Dixon once remarked: "A barrister enjoys life for but a short interval, the interval between the time when he is doing nothing and when he is doing nothing else."

For the past two and a half years I have been privileged to be a Legal Aid Commissioner and subsequently a member of the Board of Legal Aid Queensland. I want to place on record my great respect for the dedicated men and women employed by Legal Aid Queensland and those in the private profession who act for legally aided clients. Those clients are among the most vulnerable members of the community.

Legal Aid Queensland is administered in a financially responsible and efficient manner. It faces ever increasing demands for legal assistance and reduced levels of funding. It strives constantly to increase access to justice, to maintain high standards of service delivery, and to contain its administrative costs. It has had to review many of its methods of operation and to embrace technological change. An example of this is the Women's Justice Network project, which will provide services to women in rural and indigenous communities through a network of personal computer based video conferencing.

The fees payable by Legal Aid to private practitioners have always been low, and it has not been possible to increase them for more than six years. Nevertheless, it is most unfortunate that many experienced practitioners with established practices say that they cannot afford to undertake Legal Aid work.

Against this has to be balanced the very considerable contribution made by practitioners who undertake litigation on terms that they will be paid only if and when their clients succeed in their actions. I think there is too little public recognition of the heavy burden of disbursements which many solicitors carry, and of the willingness of many barristers and solicitors to defer receipt of their professional fees, sometimes for several years, until the conclusion of litigation and the recovery of its fruits.

In all that I have ever done, I have always had the loving support and encouragement of my family. My late parents set sterling examples of humanity, integrity and humility in their private and public lives. I am pleased

that my sister and brother-in-law and one of my nieces are able to be here today.

I am indebted to those members of the Bench and the profession who have been mentors to me over the years. I mention in particular the Chief Justice, Mr Justice Pincus and Justice Williams.

I am grateful to my colleagues in chambers over 19 years. The informal testing of ideas in chambers and the moral support that barristers gain from their colleagues are priceless.

To those who have been my secretaries down the years, I say, "Thank you. I could not have got by without you."

I go forward to this new phase of my career with optimism and not a little trepidation. I hope I shall prove worthy of the great honour which has been bestowed on me by this appointment.