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THE JUDICIAL TITLE

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The appointment of the new Chief Judge of the Land and Environment Court (the Honourable Justice Mahla Pearlman AM) brings to three the number of women who hold Superior Court office in State courts of New South Wales. Of course, there are other women in other courts, including the Honourable Justice Mary Gaudron, Justice of the High Court of Australia and a number of judges of the Family Court of Australia.

When in 1965 Justice Roma Mitchell was first appointed to the Supreme Court of South Australia, the judges of that Court decided, out of comity to her title, to drop the "Mr". All judges then became simply "Justice".

Similarly, just prior to the appointment of the Justice Sandra Day O'Connor to the Supreme Court of the United States occurred, the Justices of that Court decided to drop the "Mr". There have been similar moves in many of the States of the United States as women were appointed. Like moves have occurred in other countries of the common law, for example in Nigeria all superior court judges in courts to which women are appointed have adopted the title "Justice".

When Justice Mary Gaudron was appointed to the High Court of Australia, the Justices of that Court decided that they would uniformly drop "Mr" from their titles so that all Justices would be described in exactly the same way as "the Honourable Justice".

After a brief flirtation with a return to "Mr" following the retirement of Dame Roma Mitchell, the judges of the Supreme Court of South Australia have now reverted to dispensing with "Mr". They are uniformly described as "the Honourable Justice".

Despite the appointment of a number of women judges to the Family Court of Australia, that Court for some time persisted with an arrangement similar to that which obtains in this Court. Women judges were described as "Justice". Male judges were described as "Mr Justice". However, in the last four years, the title "Mr" has been dropped. All judges of the Family Court of Australia male or female, are now designated "the Honourable Justice".

Within the Court of Appeal, being part of the Supreme Court, it has been thought inappropriate by some judges to adopt a new title until this is done uniformly throughout the Supreme Court. On the other hand, individual Judges of Appeal have elected to drop "Mr". These have included Kirby P, Samuels JA and Cripps JA.

Reasons for changing to the single, uniform title of "Justice" include:

1. This has been done by other courts in Australia, the United States and elsewhere as soon as (or before) women are appointed;
2. If the change is considered appropriate for the High Court of Australia, our country's highest court, it should also be appropriate for State courts to which women are appointed;
3. The adoption of a uniform title would show appropriate respect for Mathews J and other women Judges and remove the point of discrimination in the title which presently exists between her description and that of other judges of the superior courts of the State;
4. The change would reflect desirable modern efforts to reduce symbols of discrimination. The title "Mr Justice" derived from a time when not only were there no women judges but women were forbidden the study of law and admission to the legal profession;
5. There are now very large numbers of women studying law. Although they are generations younger than the judges of the Supreme Court, they are entitled to expect from those judges a modern and non-discriminating approach to judicial titles. They look to the judges of the State's highest courts for leadership in the removal of needless symbols of differentiation between males and females as lawyers;
6. Increasingly, the public and the legal profession, legal journals and the popular media are adopting gender-neutral descriptions of judges and deleting "Mr";
7. The present differentiated titles may be interpreted by some as indicating attitudes held by the office-holders to the removal of discrimination and symbols of discrimination. It is desirable that, by the adoption of a single, neutral description any such attitudinal appearances or the need to exhibit them should be removed; and
8. The adoption of a change on a level of the courts would encourage those who have held back until the Supreme Court as an institution acceded to a change which, individually, they support and which is bound in due course to be adopted uniformly throughout Australia as more women are appointed to more superior courts.