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HIGH COURT OF AUSTRALIA

SPECIAL SITTING

WELCOME TO

THE HONOURABLE JUSTICE KIRBY, AC, CMG

AT

BRISBANE

ON

MONDAY, 17 JUNE 1996, AT 9.39 AM

Following Judges were present:

Court of Australia

The Hon. Mr Justice Spender
The Hon. Mr Justice Drummond
The Hon. Mr Justice Cooper

Supreme Court of Queensland

The Hon. Mr Justice McPherson, CBE
The Hon. Mr Justice Davies
The Hon. Mr Justice Pincus
The Hon. Mr Justice Demack
The Hon. Mr Justice Shepherdson
The Hon. Mr Justice Ambrose

Court

The Hon. Mr Justice Buckley
The Hon. Mr Justice Jordan

District Courts of Queensland

His Honour Judge Boulton

E.K. Hampson, AO, RFD, QC, President, Bar Association of Queensland

Schafer, President, Queensland Law Society

TRANSCRIPT OF PROCEEDINGS

HONOUR: Mr Hampson?

HAMPSON: May it please the Court. Your Honours of the different
It is a great pleasure for me, on behalf of the Queensland Bar, to
see your Honour Justice Kirby to your first sitting in Brisbane as a
Justice of the High Court of Australia.

Your Honour is well known to all of us here today. As you observed at
your swearing-in in February, you are no novice. Indeed, you have served in
the office of various kinds for more than twenty-one years. In fact, you
have taken the judicial oath no less than ten times. "Well and truly sworn", to
use the phrase.

Your Honour's outstanding career in the law has led to your
recognition, the announcement of which was enthusiastically welcomed by
the legal profession in this State. Indeed, such is your Honour's public profile
that many Australians are aware of your achievements and your willingness to
share your opinions and viewpoints with insight, frankness and some degree of
candour.

Your contribution to law reform through the Law Reform Commission,
your interest in international law and your deep concern for human rights give
you a special place in the Australian legal community.

At your swearing-in as a Justice of this Court, your Honour observed
on occasions such as these, and I quote "very occasionally, wise counsel is
given" - hopefully this is one of those rare occasions. I can do no better than
ask your Honour to remember the prayer of counsel about to appear before a
Judge.

"O may he let me feel comfortable in his court and offer me words of
encouragement and praise;

May he let me speak first and may he listen without interruption;

May he not complain if I fail to take him to a relevant authority or to
answer his probing question;

May he understand my world of strain and pressure, my need to remain
calm and relaxed;

may he keep his court room a place of peace and order wherein I may
renew my spirit in the warmth of his smile and wherein I may be well
refreshed from day to day."

I commend that payer to your Honour for silent recitation in Court at
late times.

Your Honour's gentlemanly demeanour, your intellectual integrity and
your dedication to the concept and practice of justice in this country
in human rights will make you an asset to the Court.

On behalf of the Queensland Bar, I wish your Honour a long and
glorious career on the High Court of Australia.

Your Honour is, and always will be, a welcome visitor to this State.

May it please the Court.

HONOUR: Thank you, Mr Hampson. Ms Schafer?

SCHAFFER: On behalf of the solicitors of Queensland, I am pleased to
welcome the High Court to this State. It is a matter of considerable
importance that the Court visits here. It demonstrates more eloquently than
ever could, the importance of the Court, its relevance to this State and
its accessibility to the citizens of the State. The justice system is enriched by
its presence and participation.

The solicitors of Queensland particularly congratulate your Honour
Justice Kirby on your appointment to the Court and welcome you on this your
visit in that capacity to this State. Like solicitors, your Honour has
engaged extensively with the community we all serve. I refer to your roles
on the Conciliation and Arbitration Commission, the Australian Law Reform
Commission, your interest in human rights, privacy rights and the right of the
minority. You are known as one who favours inclusivity. You are most
welcome and you have our deep expression of support.

HONOUR: Thank you, Ms Schafer.

Mr Hampson, Ms Schafer, your Honours, ladies and gentlemen.

I would like, first of all, to thank both of those members of the
Queensland legal profession, of the Bar and of the Solicitors' branch, who
have spoken and given me such a warm welcome. I wish to express my
thanks to so many members of the Federal and State courts in

... who have attended this ceremony today to offer their friendship
... on this new step in my professional journey. Indeed, I thank you
... pending.

... has been said. I have been sworn to the judicial office and to my
... allegiance on many occasions. This is, I think, the tenth occasion on
... have been given a public judicial welcome of some kind or other. My
... to the Court of Appeal of New South Wales is captured in film and
... with my hand over my mouth during the whole ceremony. One
... states Judge visiting me, seeing the photograph, said that studies of
... gage have shown that such a gesture demonstrates a total disbelief of
... that is being said. Naturally, I have not had my hand near my
... on this occasion. But I have been renewing the warmth of my smile in
... on for compliance with the prayer which was read to me. I will
... that the prayer is seen by others who may have greater need of it.
... legal practitioners in the future will watch judicial hand gestures on
... Leave days in the High Court.

... have survived the 10 encomia that have been laid before me on these
... as only by living a life of searching self-criticism. Mind you, in that
... have occasionally been assisted by the helpful admonitions of others,
... some occasionally given by judicial officers of this State. Who, for
... will forget the assistance given to me in that regard by Connolly J.
... ABC Boyer Lectures in 1983 on "The Judges". Doubtless in a spirit
... by his Honour offered a few comments, with his usual diffidence,
... statement and hesitation, as to my broadcast lectures and opinions. I am
... I have survived long enough in judicial life to enjoy the friendship of
... J. as of other Judges of this State. It was my privilege to succeed
... the President of the Court of Appeal of Solomon Islands where, for
... years, with other Judges of this State, he performed sterling service,
... valued and admired. It is an important contribution to the rule of law in
... our country of the common law in which the judiciary and legal
... in Queensland has played a leading part.

... I am now in the sixth age of a legal life: articled clerk; solicitor;
... er, Law Reform Commissioner; Judge of the Federal Court and of the
... Supreme Court; Justice of the High Court. Only the seventh age
... sans teeth, sans eyes, sans taste, sans everything. I shall endeavour,
... your vigilant assistance, to ensure that the sixth and the seventh ages do
... erip.

... When I was sworn to the judicial oath for the first time in 1974, the
... Court was not yet established. The Family Court was about to be
... shed. None of the Judges of this State, except, I think, Demack J, were

at that time. The Supreme Court of Queensland comprised 14 Justices
Acting Justices. The Chief Justice of the time was Sir Mostyn
whom I did not know. The Senior Puisne Judge was Sir Charles
who was an elegant and kindly man whom I got to know quite well
Australian Academy of Forensic Sciences. Among the Judges of the
Court at that time were Walter Campbell J, George Kneipp J, Edward
J and Andrews J; all of whom I came to know well and all of whom
or knighted by Her Majesty the Queen. They were fine judicial
for us all. They took a lively part in their community beyond the
role.

The members of the Council for Law Reporting at that time were the
able Sir Arnold Bennett, QC, whose leadership at the Queensland Bar
Joan Priest's book on the life of Sir Harry Gibbs; also Mr John
an, then a member of the Bar (who has sent me good wishes for
and Mr Cedric Hampson, forever green, youthful, and energetic (who
owed our friendship by speaking for the Bar). Times change. That was
But over the years I have renewed, on many occasions, my associations
Judges and members of the legal profession of this State.

My work in law reform led me to an early encounter with my Chief
Brennan CJ, who was one of the foundation Commissioners of the
Law Reform Commission. Fitzgerald P later became a
member of that Commission. He was to advance to most important
positions to law reform and to the judiciary in this State. Many legal
practitioners of this State helped in the work of the Australian Law Reform
Commission. I worked closely with Andrews J and with McPherson J (as they
were), and Professor Ryan, later Ryan J. I am glad to see McPherson JA
today, with Demack J and others who participated in the Law Reform
Commissions, federal and State, in the work of law reform.

In the Solomon Islands I had the privilege to sit in January of this year
with Ben Williams J who was a marvellous colleague and whose service
with that of McPherson JA, is a wonderful example of the contribution
Queensland Judges and lawyers to the law in Solomon Islands.

In the Queensland Branch of the Australian Section of the International
Association of Jurists I have worked with Spender J and several other judges,
practitioners and academics whom I know and admire. Both in Solomon
Islands and in the High Court, and occasionally in the Court of Appeal of New
South Wales, I have seen the leaders of the legal profession of this State. Last
year in Canberra the High Court saw arrayed before us the leaders of the
Queensland Bar in the Wik Case. The assistance and contribution of the Bar

subject of favourable remarks at the end of the case offered, very
in my opinion, by the Chief Justice.

The High Court has been strengthened many times by the contribution
of those appointed from this State. The appointments of Griffith CJ,
McKenna CJ, Gibbs CJ and Brennan CJ, have greatly strengthened the
Court. We sit in the No 1 courtroom in Canberra under the watchful eyes of
Griffith CJ. Preparing myself for this visit to Queensland I read the biography
by Joyce on the life of Griffith CJ. One hundred and thirty years ago, in
1858, when he joined the legal profession of this State, there were but 100
practitioners. On his first day he had no briefs and nothing to do. So he
read *The Eyre*. Now, of course, a young legal practitioner beginning, with
nothing to do, would, I am sure, read the pages of the *Commonwealth Law*
Journal. But I am not sure that day would be quite so pleasurable.

It surprised me to find that Griffith CJ was the subject of great
controversy at the time of his appointment to the High Court. Many, with their
various positions in the Court, urged that Barton J should be appointed
to the vacant seat. But Barton J deferred to the obvious merit and quality of that
Chief Justice who led the Court in its foundation. Fortunate was the
selection for Queensland and Australia, in that inspired selection. Yet he came without
subsidy from the Commonwealth: no pension, a salary lower than he was
receiving as Chief Justice of Queensland, a dispute about circuits, and no
privileges were provided to him. They were days of severe federal economy.
But there was a large deficit to be dealt with. But Griffith CJ left his
mark on the Court, as have the other Queensland Judges who have served.
Seven of the ten Chief Justices of Australia have come from this State. That is
more than New South Wales: three out of ten. Only Victoria, with four
Chief Justices, ranks higher.

I think of my good fortune in life of serving in so many courts,
meeting so many friends, all over the continent of Australia. I was therefore
honoured when, last week, I received from Rehnquist CJ in the United States
participation at a Commencement Ceremony in May 1996 at the Catholic
University of America in Washington DC. He detected, in young American
lawyers, a growing malaise and discontent about a life in the law. A recent
survey by the Victorian Law Foundation showed a similar trend towards
discontentment in our own country. When I reflect upon my own most
interesting and varied life, and the many intellectual rewards which it has
brought me, I hope that we, in the Australian courts and in the law, can preserve
that which is good, moving with the times into a new millennium, but ensuring
a high level of professional satisfaction and professional endeavour that I
have known throughout my lifetime in the law. From that internal satisfaction
comes an enthusiasm and devotion to serve in the noble course of contributing

under the law for all of the people of Australia. In many years of
service I have been privileged to know many in the law throughout
who have served devotedly that noble cause. Not least in
and. Not least in Brisbane.

Thank you all very much for coming to this ceremony today. I realise,
that the words of praise that have been given and the compliment of
attendance is not simply directed to me but to the Federal Supreme Court
on which thanks you for sharing this occasion in Brisbane today.

The Court will now adjourn until 2.15 pm this afternoon when it will be
re-opened.

I AM THE COURT ADJOURNED