



**THE LAW SOCIETY  
OF NEW SOUTH WALES**

**Speech By**

**DOUG HUMPHREYS OAM**

**PRESIDENT**

**LAW SOCIETY OF NSW**

**WELCOME TO CHIEF JUSTICE ALSTERGREN  
AND DEPUTY CHIEF JUSTICE MCCLELLAND**

**DATE: MONDAY 10 DECEMBER 2018**

**LOCATION: Courtroom 8A, Level 8, Own Dixon Commonwealth Law  
Courts Building, 305 William Street, Melbourne**

May it please the Court.

I (too) acknowledge the traditional custodians of the land on which this Court stands, the Kulin nation, and pay my respects to their elders: past, present and emerging.

I appear on behalf of the Law Council of Australia, the Law Institute of Victoria, and in particular the Law Society of New South Wales, whose members I represent. I also appear on behalf of the ADF Reserve Legal Panels. The whole of the profession is represented here today. I congratulate your Honours on your appointments.

Your Honours bring an enthusiasm and energy to a legal system that is in need of significant reform. This is a great foil to the negative nature of the general, but particularly current, debate in family law.

You have been appointed at a time of recognition that family law needs reform and a time of co-operation between the Courts.

It is a time in which the whole family law is being reviewed by the Australian Law Reform Commission. Your intended changes and innovations of the court system can only serve to complement the important work, as there will always be a large body of family law cases that have to be dealt with by the Courts.

Your Honours have taken ideas from outside the family law, realised that different types of cases have to be dealt with differently and changed the leadership structure of the Court to create specialist divisions in migration, industrial and general federal law, intellectual property, and of course family law.

You have redesigned case management offensives for new cases and engaged on campaigns to bring old cases forward to settle or be heard.

This energy will no doubt be used on the Family Court.

By having a single point of entry, harmonising rules, forms and case management approaches of both courts, this will lead to dramatic improvements.

Your Honours have not been afraid to take chances and be bold. In the face of negativity, from some areas, to change, and media criticism, you were not perturbed. The results, which we have heard about, are there to see.

The two of you will make a formidable team, one needed in these times of change.

Justice McClelland, your Honour has been, as we have heard, a strong advocate for change as Attorney General and you do not shy away from a fight to establish much-needed reform.

You bring the wisdom of being a leading politician, a great lawyer, a distinguished Commonwealth First Law Officer and a well-admired Judge of this Court.

Your Honour has been long devoted to the local area of St George, where you were born and raised. You attended Connells Point Primary School and Blakehurst High, where you were school captain in 1975.

A former junior representative footballer, your Honour is a proud supporter of the St George Illawarra Dragons rugby league team.

You also have a valued background as a solicitor, serving as Partner at Turner Freeman lawyers, where you specialised in labour and sporting law, and a record of engagement with the Courts prior to your appointment, as you served as Associate to Justice Phillip Evatt between 1981 and 1982.

What some present might not know is that I went to the University of New South Wales with your Honour in the late 70s. I don't believe anyone from our cohort was ever struck off – so it was a good year.

We perhaps followed different paths during our careers, but we have both been devoted to the law. I have watched your legal, political and judicial career unfold with interest and admiration.

What I have observed, at UNSW and since, is the most urbane and gentle manner. You are a man of great decency. Your Honour is easily able to connect with people from all walks of age and professions and employment. The yearbook speaks of a young man committed to the betterment of 'the working man'.

You have certainly lived up to the promise that you showed as a young man at the University of New South Wales, at which you have served as a Visiting Professorial Fellow and for which you developed a course, *Regulation and Control of Labour Organisations*.

As Attorney General you delivered reform in the family law jurisdiction with the powers to consider the financial affairs of de facto couples.

Your tenure saw changes to the law to ensure equality between the consideration of same-sex relationships and other relationships before the law, with the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008*.

Also while Attorney, your Honour put an emphasis on Australia's human rights obligations at home and abroad, including opposing the death penalty, and you also oversaw the Australian Government's implementation of recommendations of the Victorian Bushfires Royal Commission.

You have discharged your duties as a Judge of this Court with distinction since 2015, bringing the same hallmarks you exhibited

while in Government of fairness, a commitment to reform, and protecting the vulnerable to your service of the people of Australia on this Court.

You will bring a kind-hearted manner to this Bench so often needed in a Deputy Chief Justice.

Once again, I congratulate you and the Chief Justice on your appointments to this honourable Court.

This is the time for us all to band together to fix this system. Only when the Court has exhausted all internal reform options can it properly approach government for more resources.

Let me make it clear however, from the profession's perspective, there will still be a need for superior court judges to hear complex family law matters at first instance. Further, there will ultimately be a need for additional resources in order to clear the current backlog in

a timely manner. This is an issue government should address with the Court.

The paradoxical thing about lawyers is that we have a couple of traits:

Firstly, we hate the way things are.

Secondly, we hate change.

I am told the Chief Justice used an analogy at a Law Institute of Victoria function recently. That is, that if this Family Law Court was a piece of litigation, after 18 years of fighting, 6 separate expert reports, countless inquiries and senate hearings – all at a time when we all know and agree to most of the same elements – the parties should go to a mediation for a day, drop their guard and settle. Not for the sake of the Court, politicians or the profession, but because

of the litigants. Those poor families who are suffering daily during this protracted and unproductive controversy.

So, if you want the name of a good mediator, let me know!

Change is never easy. It takes courage and the resolve to see it through.

These appointments are a line in the sand, a point in time to say, "enough is enough". It is time for the court and the legal profession to put aside any differences and just get on with it.

We welcome your Honour's appointments and look forward to supporting you in your endeavours.

As the Court pleases.