The Hon Justice Susan Kiefel

In a ceremonial sitting of the High Court of Australia on 30 January 2017, her Honour Susan Mary Kiefel AC QC was sworn in as chief justice of the High Court of Australia. In addition to the judges of the High Court, sitting on the bench were the Hon Sir Gerard Brennan AC KBE, the Hon Robert French AC, the Hon William Gummow AC, the Hon Michael Kirby AC CMG, the Hon Kenneth Hayne AC QC and the Hon Susan Crennan AC QC.

Senator George Brandis QC, Commonwealth attorney-general, spoke on behalf of the government.

He noted that:

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 6 October 1903, only 12 people have occupied that highest of judicial offices. Your Honour will be the 13th Chief Justice of this Court, the fourth from Queensland and the first woman.

In a narrative that is now familiar but no less remarkable, it is now well known that her Honour left school at the age of 15, worked as a legal secretary, during which time her Honour completed her secondary schooling at night, and having decided to become a barrister, undertook study then provided by the Barristers’ Admission Board.

Her Honour was called to the Queensland Bar in 1975, at the age of 21, and went into fulltime practice. After a decade in practice her Honour attended Cambridge University to undertake further legal studies obtaining a Masters of Law and was awarded the CJ Hamson Prize in Comparative Law and the Jennings Prize.

Her Honour returned to practice at the bar. In 1987 her Honour became the first female appointed silk in Queensland. In 1993, her Honour was appointed to the Supreme Court of Queensland, the first woman appointed directly from the bar to be a judge of that court. In 1994, her Honour was appointed to the Federal Court of Australia, serving in that court for 13 years before, in 2007, being appointed to the High Court of Australia.

Mr Brandis observed:

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 to 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…

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.

Ms Fiona McLeod SC, speaking on behalf of the Law Council of Australia acknowledged the ‘landmark moment for women in the history of this nation.’ Ms McLeod noted that her Honour’s oath was administered by the next most senior puisne judge of the court, Justice Bell, which ‘presenting a powerful and enduring image of equality and an inspiration to many’. Ms McLeod also observed that with her Honour’s appointment to chief justice ‘women have filled the three highest constitutional offices appointed in this land’.

Mr Patrick O’Sullivan SC, president of the Australian Bar Association noted that during her Honour’s 18 years at the bar, her Honour was known as an excellent cross-examiner and for her preparation and planning.

Mr Christopher Hughes QC, president of the Bar Association of Queensland stated that her Honour:

was a popular figure at the Bar and, as we have heard, your Honour served on the Council of the Bar Association of Queensland and served for a period as the Honorary Secretary. In 2004, your Honour was made a life member of our association. We are proud to repeat that you were the first woman to be made Queen’s Counsel in Queensland, the first woman barrister to become a Supreme Court judge and the first woman from Queensland to sit on this Court.

The chief justice remarked:

At the opening of the High Court in 1903 the first Chief Justice, Sir Samuel Griffith, said that ‘[w]e know that we shall be expected to solve difficult questions, to compose strife between states, and possibly between the states and the Commonwealth’. Sir Samuel was right on each count. There have also been important historical events affecting the Court, such as when the right to appeal to the Privy Council was finally abolished. It was important because it enabled the High Court to assume its present position as the final arbiter of appeals in Australia and more confidently to develop the common law of Australia.

In the year preceding the opening of this Court, Australian women were given the right to vote at federal elections. It was then that they truly became part of ‘the people’ to whom our Constitution refers. That year also saw the first woman graduate in law from an Australian university. It
would not be until 1987 that a woman, the Honourable Mary Gaudron, was appointed to this Court.

When I came to the Bar in 1975 there were very few women members of the profession. This is not the occasion to consider why this was so. The point presently to be made is that this has changed and so has the composition of this Court. In more recent times the appointment of more women to this Court recognises that there are now women who have the necessary legal ability and experience, as well as the personal qualities, to be a Justice of this Court. There seems no reason to think that that situation will not be maintained in the future. It may well improve.

Sir Samuel Griffith also spoke of the 'weighty and responsible duties' the new Justices had undertaken. Chief Justices, like the other Justices, give a part of their lives to the service of this Court and thereby to the people of Australia. That service is not given for the purpose of personal acknowledgment or the enhancement of reputation. It is given to ensure that this Court is maintained as an institution in which the government, the legislature, the legal profession and the people of Australia can have confidence.

Her Honour acknowledged the great responsibility she has assumed, and the high integrity and ability of the chief justices who have preceded her. Her Honour concluded that with 'the co-operation of my colleagues I trust that I shall discharge it well and justify the confidence that has been reposed in me'.

On 30 January 2017 the Honourable James Edelman was sworn in as a justice of the High Court of Australia at a ceremonial sitting in Canberra.

In his speech on the occasion the attorney-general of Australia, the Honourable George Brandis QC, observed that Justice Edelman’s appointment: ‘at the young age of only 43, is yet another significant moment in what has been, by any measure, already a remarkable career’. The attorney further pointed out that in the 114 year history of the High Court only three persons have been appointed at a younger age: Sir Edward McTiernan, H V Evatt and Sir Owen Dixon.

Justice Edelman was born and raised in Perth, where he attended Scotch College. Upon completing school his Honour attended the University of Western Australia, graduating with a Bachelor of Economics in 1995 and a Bachelor of Laws, with first class honours, in 1997. After completing his articles at the firm then known as Blake Dawson Waldron, Justice Edelman became associate to Justice Toohey of the High Court.

In 1998 Justice Edelman travelled to the United Kingdom, where he studied at Oxford University, obtaining a D Phil. His Honour then joined the Western Australia Bar, practising from the chambers of Malcolm McCusker QC.

In 2005 Justice Edelman returned to Oxford University, taking up a position as lecturer in law and becoming a fellow of Keble College. His Honour was in due course appointed Professor of the Law of Obligations at Oxford University, at the age of 34. While in the United Kingdom Justice Edelman also practised as a barrister at the London Bar, from One Essex Court Chambers.

In 2011 Justice Edelman returned to Perth upon his appointment as a judge of the Supreme Court of Western Australia. In 2015 Justice Edelman joined the Federal Court, in its Brisbane registry.

In addition to his work as a barrister and judge, Justice Edelman has found the time to publish widely, having published numerous books and articles, often in the area of restitution. As was observed by Patrick O’Sullivan QC, President of the Australian Bar Association in his speech at the swearing-in:

As we have heard, your Honour brings a breadth of academic knowledge to the Court. Your Honour’s continued academic output is impressive, having authored numerous books, book chapters and scholarly articles over a range of topics. During your doctorate, your Honour was editor of the Oxford University Commonwealth Law Journal of which you are now a patron.

In his remarks at the swearing-in, Justice Edelman reflected on the role of a judge in creating the common law:

Ronald Dworkin once described the process of adjudication by a metaphor of a chain novel with each judge writing a part of the story. Where the story contradicts itself, to use the words of Isaac Isacs in different context, the judge needs to evolve order out of chaos. The metaphor may not be perfect but, looking backwards, the continuity of the common law can seem like a chain novel. As judges decide
cases between litigants the story evolves, usually slowly, as each judge attempts to write that which is true to the story and, when the texture is truly open, both true and right in the sense of consistent with the underlying values of the law. I am deeply conscious of the increased responsibility that I now bear in that process.

His Honour also commented on his youthful age in taking up the position, observing:

Mention has been made today of the potential length of service that comes with an appointment at the age of 43. Twenty seven years as a Judge of this Court might seem to be a long time when measured against a single lifetime, but in the life of the law it will not be much more than a blink of the eye. Many principles of our law have been developing for centuries. Indeed, in three cases in England and another in Australia only since the turn of this century, the House of Lords and High Court of Australia relied upon the work of jurists who worked on similar problems in the classical period of Roman law nearly two millennia ago.

The attorney-general concluded his speech at Justice Edelman’s swearing-in as follows:

Respected judge, internationally esteemed scholar, teacher, prolific author, champion lifesaver and adored husband and father, it is difficult to find something your Honour has not mastered. The common threads to your achievements are a love of the law and a commitment to public service. God willing, you will be a member of this Court until the year 2044. So, your Honour has the opportunity before you, vouchsafed to very few, to shape the jurisprudence of Australia for decades to come. I have no doubt that, with your immense intellectual gifts and your fine human qualities, your Honour will seize that opportunity and accomplish it with distinction.

On 8 December 2017 the Hon Justice Michael Walton was elevated from president of the NSW Industrial Commission and Court to a judge of the Supreme Court at a ceremonial sitting in the Banco Court. Arthur Moses SC, senior vice-president of the New South Wales Bar Association, spoke on behalf of the bar, while Gary Ulman, president of the Law Society, represented the solicitor branch of the profession.

In September 2016, State Parliament legislated to invest in the Supreme Court the dwindling judicial functions of the Industrial Relations Commission (IRC). The Industrial Relations Commission’s workload had declined since 2006 when the Commonwealth took over the state’s industrial relations powers in relation to the majority of the private sector. The commission’s jurisdiction is now limited to the public sector and local government. In 2011 the Industrial Court’s occupational, health and safety jurisdictions were transferred to other courts.

The Hon Justice Walton is descended from three generations of tradesmen: his father was a plumber and his paternal grandfather and great grandfather were bricklayers. He was educated at Our Lady of Lourdes Earlwood and Christian Brothers High School Lewisham. He graduated with a Bachelor of Economics degree from the University of Sydney in May 1979. He became increasingly interested in industrial relations and completed a fourth year honours thesis on shearers’ communities in the late nineteenth and early twentieth century.

Upon graduation, he worked as an industrial officer at the Australian Workers Union then senior industrial officer at the Gas Industry Salaried Officers Federation. It was there that he first impressed Jeff Shaw QC with his adroit and persuasive advocacy before the Industrial Relations Commission.

His Honour’s fascination with industrial relations soon translated into raw ability at the bar table. He enrolled to study law and attained a Bachelor of Legal Studies from Macquarie University in May 1987.

His Honour worked for a short time as a legal clerk at the specialist industrial law firm of Turner Freeman Solicitors. He was called to the bar in March 1989 and read with Paul Blackett. He took a room in HB Higgins Chambers, where the late Jeff Shaw QC was then head of chambers.

His Honour appeared in a number of significant High Court cases, such as Nationwide News Pty Ltd v Wills in which he was led by Jeff Shaw QC and David Jackson QC; Re: Australian Education Union Ex parte the State of Victoria; and Printing and Kindred Industries Union; Ex Parte Vista Paper Products, with Stephen Rothman and against Ian Callinan QC.

His Honour was counsel assisting the Cash in Transit inquiry in 1995-96, as well as the Inquiry into Pay Equity in November 1997 to August 1998. Both these inquiries have led to long-term benefits for employees in this state. One led to the implementation
of safety measures, which have minimised the risk to security guards, while the other led to pay equity for women in a number of industries.

His Honour was appointed as vice-president of the Industrial Relations Commission in December 1998 and in the ensuing years industrial relations in New South Wales benefited greatly from his insight and innovation. An excellent illustration was the resolution of a significant industrial dispute at Port Kembla Steelworks in 2001-2002.

Arthur Moses SC described the appointment of Justice Walton as more of a transition, not just from one judicial role to another, but from one era of industrial relations to another.

Your Honour is the last of your kind. In February 2014 you were sworn-in as the 12th and final president of the Industrial Court and Industrial Commission. You now join on the bench of this court Justice Schmidt, who previously was a long-standing judge of the Industrial Court.

District Court Appointments
On 31 January 2017 Tanya Bright was sworn in as a judge of the District Court of New South Wales. Arthur Moses SC spoke on behalf of the New South Wales Bar.

Before being appointed her Honour worked in criminal law, most recently as prosecutor in the Office of the NSW Director of Public Prosecutions, Gosford. Her Honour practised in criminal law for 24 years and prosecuted over 140 trial including, among other notable cases, Toomey, a difficult and complex arson case involving the deliberate lighting of over 30 fires by the accused in Central Coast national parks in 2006 and in which her Honour successfully secured a conviction.

As a Crown prosecutor her Honour appeared before Judge Roy Ellis, whom she now joins on the Bench. His Honour has described her Honour in her capacity as a prosecutor as understanding the obligations to conduct cases fairly and someone who was always thoroughly prepared.

With the swearing in of Judge Bright, there are now twenty-four female Judges of a District Court bench of seventy-six.

Local Court appointments
Rodney Brender was sworn in as a magistrate of the Local Court of New South Wales on 27 February 2017. His Honour had a commercial and equity practice at the bar, encompassing banking, insolvency, consumer, trade practices and competition law, fair trading and real property.

Susan Horan was sworn in as a magistrate of the Local Court of New South Wales on 31 January 2017. Before her Honour was appointed, she practised primarily in criminal law, including as a senior federal prosecutor of the Office of the Commonwealth Director of Public Prosecutions.

James Gibson was sworn in as a magistrate of the Local Court of New South Wales on 23 January 2017. Before being appointed his Honour was a Crown prosecutor at the Office of the NSW Director of Public Prosecutions.

Brett Thomas was sworn in as a magistrate of the Local Court of New South Wales on 6 February 2017. His Honour previously practised in the areas of criminal law, and also personal injury, workers compensation and family law.

Julia Virgo was sworn in as a magistrate of the Local Court of New South Wales on 23 January 2017. Before her Honour's appointment she worked in civil litigation as a senior lawyer at Clayton Utz as the professional support lawyer of the civil litigation group.