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## JUDGES OF THE SUPREME COURT

\* THE HONOURABLE SIR JOHN MELLIS NAPIER, K.C.M.G.,  
CHIEF JUSTICE.

† THE HONOURABLE JOHN JEFFERSON BRAY, CHIEF JUSTICE.

† THE HONOURABLE REGINALD RODERICK ST. CLAIR CHAMBERLAIN.

THE HONOURABLE JOHN LEO TRAVERS.

THE HONOURABLE DAVID STIRLING HOGARTH.

THE HONOURABLE CHARLES HART BRIGHT.

THE HONOURABLE ROMA FLINDERS MITCHELL.

THE HONOURABLE GEORGE HENRY WATERS.

## ATTORNEY-GENERAL

THE HONOURABLE DONALD ALLAN DUNSTAN, Q.C., M.P.

\* Retired, 28th February, 1967.

† Appointed, 28th February, 1967.

## MEMORANDUM

A special sitting of the Full Court was held on Friday, 10th March, 1967, on the occasion of the presentation of his commission as the Honourable Chief Justice of the Supreme Court of South Australia by Dr. J. J. BRAY, Q.C.

THE HONOURABLE JUSTICE CHAMBERLAIN:—Chief Justice: May I tender you congratulations from your colleagues on your appointment, and I need hardly add our assurance of our co-operation.

THE HONOURABLE THE ATTORNEY GENERAL:—May it please the Court and your Honour: I am delighted to be able to express to your Honour the pride and pleasure which the Bar and the Government and the people of this State take in your appointment.

Since the announcement of your Honour's appointment, the Government has received expressions of appreciation of that appointment from all sections of the community, throughout which very real satisfaction has been expressed.

It is given to very few men in the law to have your Honour's talents and experience. To most lesser mortals, it is necessary or at least advisable to specialise in some particular area of the Court's work; in criminal work or matrimonial cases or industrial law or in equity matters or in company and taxation law or road accident cases and the like. Your Honour has throughout your career never specialised, but has become experienced in every area of the Court's jurisdiction, and, in the course of that experience, has shown a pre-eminence as counsel. Your Honour's erudition and single-minded life of learning is widely known, as is your concern for human beings, your tolerance of others and your unwillingness to be trammelled by useless and unnecessary convention.

The people of South Australia are confident that you will bring to this highest judicial office in this State a wholehearted concern for the due administration of justice and to see that right be done.

MR. A. K. SANGSTER, Q.C.:—May it please the Court: The Law Society of South Australia, supported, I am sure, by all who are concerned with the law and its administration in this State, offers your Honour the Chief Justice warm congratulations upon your Honour's appointment, welcomes this opportunity to express confidence in your Honour's qualifications for the office, and expresses loyalty to your Honour and to the whole Court.

Your Honour has already attained eminence in the practice of the law—an eminence well justified by your Honour's scholarly attributes, extensive learning in the law, great industry, and wide experience in many jurisdictions. Your Honour has likewise become prominent in the Department of Law at the University of Adelaide and in literary and other circles—a prominence again well founded. We now await with interest and confidence the influence of your Honour's special qualities upon the life and work of this honourable Court and its practitioners, upon the law, and upon the people.

## VIII

We wish you well.

THE HONOURABLE THE CHIEF JUSTICE:— My Brother *Chamberlain*, Mr. Attorney, Mr. *Sangster*, my Brethren of the Bench and the Bar, Ladies and Gentlemen: You, Mr. Attorney, and you, Mr. *Sangster*, have spoken very kindly of me, more kindly, I think, than I deserve. I am, I assure you, deeply conscious of the honour conferred upon me, the trust reposed in me, the responsibilities of the office I have assumed, and my own shortcomings as the holder of it. It is no light thing to sit in the seat occupied in succession by Sir Richard Hanson, Sir Samuel Way, Sir George Murray, and Sir Mellis Napier, and no one is more conscious of that than I. But to paraphrase the words of Sir Owen Dixon when he formally took his seat as Chief Justice of the High Court, it is futile for the newcomer to deplore however justly—and in my case I realise to the full how justly—his inadequacy as compared with those who went before him. His duty is to do the best he can.

It is not for me to pronounce upon the judicial office before I have performed any judicial act. But there are some things I believe I should say, despite my lack at this stage of any great qualification to say them. The law exists to serve men, to provide a just settlement of their disputes and to protect them against violence and dishonesty. Amongst other things, it represents the elements of stability and permanence in the community. It should be neither in advance of the times nor too far behind them. There are, I believe, enduring principles of justice and fair dealing which are not subject to alteration with the changing of the seasons or the passing of the years. But the mode of application of those principles must vary with the habits and customs and beliefs of the particular time and particular place. The primary task of adaptation is for the legislature, not for the Courts. The judge is the minister and not the master of the law. He must deal fairly by it. As Aristotle said, "To seek to be wiser than the laws is the very thing which is by good laws forbidden". But within the ambit of judicial discretion and judicial creativity, confined and delimited as it rightly is, the judge should be mindful of the needs and the opinions of the age in which he lives.

What I have said of the law applies, if I may say so, *mutatis mutandis* to the image of the judge himself. Necessary restrictions surround his office. Not all things which are permitted to other men are permitted to him. But I believe that the provisions of the self-denying ordinance which judges in the past have so conscientiously imposed upon themselves, can reasonably be submitted to review in the light of the changing nature of the age in which we live, and of the way of life of a democratic and egalitarian community.

Until now I have been first an amalgamated practitioner, and then an advocate alone. I hope that I shall never forget the all-important role which both the solicitor and the barrister have to play in the administration of justice. When one is at the Bar, one is more conscious of the deficiencies of the judge than of the deficiencies of the advocate. I have not yet learned to shift the angle of vision. As at present advised I am fully

conscious of the necessity to afford counsel a hearing which is patient, courteous and complete. If I depart from that, I am sure that the Bar will find means of making its opinion known.

It is right before I conclude, that I should make some acknowledgments. I desire first to thank all those who have been at any time in the past my partners. All of them have been generous in their tolerance of my idiosyncracies and unfailing in their help. From each of them I have learned something, and from none have I received anything but kindness and loyalty. It is not, I trust, invidious if I single out for special mention Sir Keith Wilson, to whom I was articulated, and whom I am delighted to see here today. I would also thank all my former staff, particularly the permanent members of it. I know I have not always been easy to serve, but I have always been faithfully and generously served. I would thank all the members of the profession with whom I have been associated, firstly as a junior, then later as a senior. I have learnt from all of them and I am grateful to all of them. I would thank, too, all those with whom I have been associated in the University, an association which I have greatly valued. I thank all those who have expressed themselves so generously in their welcome of my appointment and I am grateful by the large attendance here today, and not least by the attendance of the retired judges of this Court, Sir Herbert Mayo, Sir Geoffrey Reed, Sir George Ligertwood, and Sir Bruce Ross. I thank those whom I am now proud to call my brethren on the Bench for their welcome and their assistance—an assistance of which I have already availed myself and of which I expect to avail myself much more. I would thank my brother *Chamberlain* for the kind words which he has expressed about me today. Lastly, and in a much more personal sense, I would thank all my friends, both in the profession and out of it, for whose loyalty, comradeship and affection, manifested sometimes under trying circumstances, I can never be sufficiently grateful.

Mr. *Sangster*, you have been kind enough to refer to my literary ventures. It is true that I have been associated with the arts in various forms, and I make no apology for that. Besides giving me great personal satisfaction and many valued friendships, it has enabled me to learn many things of which I would otherwise have been ignorant. If I may be permitted the comparison, as Edward Gibbon said the experiences of the officer of the Hampshire Militia were not useless to the historian of the Roman Empire, so it may be that the experiences of the litterateur may not be entirely useless to the judge of the Supreme Court of South Australia.

Once again, Mr. Attorney, Mr. *Sangster*, Ladies and Gentlemen, I thank you all.

To adopt the familiar quotation used a few days ago in this place by my illustrious predecessor whose long and eventful reign and distinguished personality fill me with awe, "Let not him that girdeth on his armour boast himself as he that putteth it off". I assure you that it is with a deep sense of responsibility and humility that I gird on mine. I will only say I will try and do my best according to my lights and I trust that I will never forget that I am a man and subject to all the frailties of humanity. If I do forget it I am sure I can rely on my friends to let me know about it.