

The Hon Justice Susan Crennan

On 8 November 2005, the Honourable Susan Maree Crennan was sworn in as a justice of the High Court of Australia, becoming the forty-fifth person to be appointed to the court.

Crennan J completed a law degree at the University of Sydney and was admitted to practice at the Bar in February 1979. Her Honour was resident in Sydney during her first year at the Bar, and read with the current Commonwealth solicitor-general, before moving to Melbourne with her family at the end of that year.

A person of great industry, prior to these events Crennan J had obtained a Bachelor of Arts degree in English literature and language, and had worked as both a trade mark attorney and teacher. Subsequently, her Honour obtained a post-graduate diploma in history from the University of Melbourne, receiving first class honours for a thesis on aspects of Australian constitutional history.

At the Bar, Crennan J had a broad practice with a focus on commercial, constitutional and intellectual property matters. Her Honour took silk in 1989. In 1993 she was elected chairman of the Victorian Bar Council. In 1995 she became president of the Australian Bar Association. Amongst other appointments, Crennan J has also served on the Human Rights and Equal Opportunity Commission, the Board of the Victorian Legal Aid Commission and the Law School Foundation of the University of Melbourne.

In 2003, her Honour was appointed a judge of the Federal Court of Australia.

The speakers at her Honour's swearing in as a justice of the High Court were Commonwealth Attorney-General Philip Ruddock, Mr John North, President of the Law Council of Australia, Mr Glenn Martin SC (representing the president of the Australian Bar Association) and Ms Kate McMillan SC, Chairman of the Victorian Bar.

Of her Honour's practice at the Bar, the attorney made the following remarks:

Within weeks of completing your law degree your third and final career change took place when you were admitted to practice in February 1979. From the beginning you kept very good company, reading with the present Commonwealth solicitor-general, Dr David Bennett, QC, who is also in court with us today. Your Honour proved to be talented, energetic and extremely hardworking and also very fast on your feet. The solicitor-general recalls an occasion when you attended six mentions across five courts in one morning.

At the end of that year your Honour returned to Melbourne with your family and began to practise at the Victorian Bar. Your Honour built a successful broad-based practice developing particular expertise in commercial, constitutional and intellectual property law. You were regularly briefed by the Commonwealth and a number of instrumentalities as well as appearing for numerous other parties of different persuasions.



Photo: News Image Library

You also had the distinction of being led by successive Commonwealth solicitors-general, commencing with Sir Maurice Byers QC. Your Honour appeared before this court as a junior on a number of occasions, including for the Victorian Government in the landmark section 92 case of *Cole v Whitfield*. You have also written widely on a range of subjects. Your Honour's dissertation on the commercial exploitation of personality was widely recognised as an engaging and instructive account of Australia's approach to intellectual property.

In 1989, only 10 years after becoming a barrister, your Honour was appointed queen's counsel, a well-earned endorsement of your talents and ability. Within a year your Honour was appointed senior counsel assisting the Royal Commission into the collapse of Tricontinental, a \$2 billion corporate disaster. The issues were particularly complex and difficult. However, your hard work and intellectual and administrative ability and your skills at cross-examination were widely recognised. One key figure in another corporate collapse from the same year likened being cross-examined by your Honour as going up against some of the all time greats of Australian Rules football. It is a bit like being picked for a fullback against Gary Ablett, he said at the time.

Of Crennan J's contribution to the wider Australian community and her family life, the attorney said the following:

Just two years ago, in recognition of your ability, your Honour was appointed to the Federal Court where you have served with distinction. The leadership and community spirit you first demonstrated at school has continued throughout your professional life. Your Honour has served on numerous legal and community based committees. In 1993 you were elected chairman of the Victorian Bar Council, the first woman to chair any Bar Council in Australia. One of your most notable achievements was to establish a formal pro bono scheme with the co-operation of the Law Institute and the Victorian Government. The following year your Honour became the first woman president of the Australian Bar Association.

You have also served on the Human Rights and Equal Opportunity Commission, on the Board of the Victorian Legal Aid Commission. Your Honour has maintained close ties with the University of Melbourne. You have served as a member of its Law School Foundation and you have championed the scholarship scheme for indigenous people.

Despite the demands of your legal career you and your husband, Michael, have raised three children, Daniel, Brigid and Kathleen, and share the love of travel, music, art and literature. I know Michael, also a distinguished Victorian silk in your family, and your granddaughter, Hannah, are here with you today. They must be justly proud of your achievements.

I understand that your mother, Marie Walsh, who unfortunately passed away only recently, knew of your appointment to the High Court and was justly very proud.

I know that your Honour's experience, expertise, wisdom and compassion will ensure that you carry out your new duties with distinction. My belief is endorsed by one who has known you for more than 45 years, Sister Bonaventure, also known as Sister Mary, one of your former school teachers at Our Lady of Mercy Convent in Heidelberg.

Sister Mary set and marked the exam which you won a scholarship to the school. She said your success had not surprised her. Her Honour was, as she said only a few days ago, an outstanding student, and she also had a strong sense of justice and would champion the cause, is what she says of you. If something needed to be put right, she would put it right, to the best of her ability.

On behalf of the government and the people of Australia I extend to your Honour warmest congratulations on your appointment and very best wishes for a satisfying term of office.

In response to the attorney's and other speeches, Crennan J made the following remarks about the work of the High Court:

This court is an integral part of the life of the nation with the responsibility of maintaining the Constitution and interpreting it in accordance with what Alfred Deakin called 'the needs of time'. The court is also the final court of appeal in criminal and civil matters, determines disputes between citizens and government and between governments within our federal system. Because judicial power must be exercised in accordance with judicial process, it is the final protector of the rights of citizens. It is impossible not to feel the weight of the responsibilities involved.

Alfred Deakin introduced the Judiciary Bill into parliament on 18 March 1902 with a perfect sense of the distribution of sovereignty under the Constitution and within our democracy. He said of the Constitution:

'the statute stands ... but the nation lives, grows and expands. Its circumstances change, its needs alter, and its problems present themselves with new faces. The organ of

the national life which preserving the union is yet able from time to time to transfuse into it the fresh blood of the living present is the judiciary of the High Court of Australia.'

He compared changes to the Constitution which could be affected by a referendum with developments by this court and he said:

'the court moves by gradual, often indirect, cautious, well considered steps that enable the past to join the future, without undue collision and strife in the present.'

Half a century later on 7 May 1952, on the occasion of first presiding as chief justice of this court in Melbourne Sir Owen Dixon said, as Mr North remarked today, that the High Court had always administered the law 'as a living instrument not as an abstract study'. When I first took judicial office I remarked that a living instrument has a past, a present and a future and encompasses both continuity and change.

Now, over a full century later, which has seen the abolition of appeals to the Privy Council in 1986, the High Court has had the ultimate responsibility for the development of Australian common law matching a conception of Australia's history and nationhood in which all Australians can expect justice according to law.

Over time, particularly the last two decades, there have been many changes in the practices of the court, the work which comes before it, and the variety of the legal issues of public importance in respect of which special leave is granted. Those developments have occurred against a background of significant social change and major shifts in public and private values, but the images to which I have referred of a judiciary which transfuses fresh blood into our polity and of the law as a living instrument conjure up the human qualities needed for the impartial dispensation of justice according to law.

It has been the high reputation and abilities of the judges of this court which have commanded the confidence of the Australian community which in turn is so essential to the authority of the court and to the maintenance of our civil society. I am conscious of such matters and the responsibilities they entail and in that connection I am especially conscious of the loss to the court of my predecessor Justice McHugh. He had a commanding presence and a powerful voice on the court. He always showed an acute understanding of the way history illuminated the principles of the law and could guide the resolution of a legal problem. He made a great and I am sure enduring contribution to the development of the common law.

With the support of my colleagues, who have all given me a most cordial welcome, and of the profession, and encouraged by the trust and goodwill expressed today, I look forward to discharging my responsibilities as the 45th Justice appointed to this court.