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WELCOME TO THE HONOURABLE JUSTICE HILL

FULL BENCH

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON FRIDAY, 7 JUNE 2019, AT 4.32 PM

QUINLAN CJ: The Court sits this afternoon to welcome the Honourable Justice Jenni Hill to the Bench of the Court. The Court acknowledges the traditional owners of the land on which we sit this afternoon, the Whadjuk people of the Noongar nation, and pay our respects to their elders, past, present and emerging.

I would particularly like to welcome her Honour Justice Hill's family here present: her husband, Andrew Wood; their children, Lachlan and Sophie; her Honour's father, Anthony Hill, and his partner, Cheryl; her sister, Dr Alison Hill; her brother, Graeme Hill, and his wife, Professor Adrienne Stone; and her Honour's father-in-law, Mr Ron Wood.

I also welcome from the Federal Court of Australia the Honourable Justices Katrina Banks-Smith and Darren Jackson; Chief Judge Kevin Sleight of the District Court, and many Judges of that Court; Ms Ros Fogliani, the State Coroner; Ms Amanda Forrester SC, Director of Public Prosecutions; and other distinguished guests including many past members of this and other Courts.

I also welcome those who will address the Court this afternoon, being the Solicitor General, Mr Joshua Thomson SC, representing the Honourable John Quigley MLA, Attorney General of Western Australia; Mr Greg McIntyre SC, President of the Law Society; and Mr Stephen Davies SC, President of the WA Bar Association.

Justice Hill's distinguished legal career has a well-earned reputation for excellence and integrity in the practice of the law, and the many other personal qualities that make her so well suited to appointment to this Court, will soon be the subject of detailed remarks from those at the bar table. I shall not hold you in suspense. It only remains for me, on behalf of the Court, to express how pleased we are, Justice Hill, to have you join us on the Court and to bring your talents to our work; to extend our warm welcome to you, Andrew, Lachlan and Sophie, to the family of the Court, and to assure you of our continued solicitude and support throughout what will no doubt be a distinguished judicial career. Yes, Mr Solicitor.

THOMSON, MR: Thank you, your Honour. I have been asked to appear on behalf of the Attorney General this afternoon. He greatly regrets that he is unable to be present on this occasion. This is one of the very few times when he has not been able to attend such a function personally. I also would like to begin by acknowledging and honouring the

people of the Whadjuk tribe of the great Noongar nation upon whose land we meet, and I pay my respects to their elders, past and present.

It is with great pleasure that I appear on behalf of the Attorney General and the West Australian Government, and also on behalf of the people of Western Australia, to welcome your Honour Justice Hill as a Judge of this Honourable Court. As the Chief Justice has already done, I acknowledge the presence of your family, and also of the many distinguished guests who have been already identified by the Chief Justice.

Your Honour grew up in Hobart in Tasmania, before moving to Canberra in 1981 and attending the Canberra Church of England Girls Grammar. Your Honour then studied at the Australian National University and graduated in 1992 with honours in a Bachelor of Science and Laws. Your Honour's appointment now makes three Judges of the Supreme Court who have studied at the Australian National University. Your Honour joins Justice Pritchard and Justice McGrath, who I believe were friends of your Honour even in university days. Together, your Honours plainly augment the diversity jurisdiction of the Court.

Your Honour has already seen first-hand what it is like to be a Justice of the Supreme Court. Your Honour was the associate to the Honourable Justice Walsh from 1992 to 1993. No doubt attracted by the more hospitable climate, your Honour moved to Western Australia to take up that role. I am told that your Honour generally has a passion for travel. While it has proved to be for the benefit of Western Australia that you moved here so long ago, it is perhaps somewhat ironic that your Honour has chosen the most remote capital city in the world in which to base yourself.

Your Honour's times as associate commenced a distinguished legal career. After finishing at the Court for the first time, your Honour was admitted to practice in 1994 and joined Bennett and Co as an article clerk. Your Honour there earned a reputation for hard work and diligence at the unrelenting pace for which Bennett and Co is well known. Your Honour's acuity and ability were recognised in 2001 by Bennett and Co when you were appointed as a partner.

From there, your Honour's horizons expanded. In 2005 you were appointed as a partner of Norton Rose Fulbright. You continued there for a decade. While there, you burnished your high reputation as one of the most capable

commercial litigators in this State. In 2015, your Honour then left your position at Norton Rose to join Clifford Chance, another international law firm. At Clifford Chance, your Honour was a partner in the litigation and dispute resolution team which was primarily concerned with major commercial litigation and arbitration. Your Honour specialised in the energy and resources sectors, advising on corporate and shareholder disputes and investigations.

It is not too much to say that at every stage your Honour has excelled in some of the most demanding and rigorous roles. Your Honour has dealt with some of the most complicated commercial disputes which have come to this State, and, indeed, even in other states. The Supreme Court is indeed fortunate to have been able to attract someone of your calibre to judicial office.

Your Honour has also found time to be a role model for many other women in the law. Among other things, you have been a member of the joint Law Society/Women Lawyers of Western Australia Committee and an ex officio member of the Human Rights and Equal Opportunity Committee. Your Honour was acknowledged for your role in promoting women as a joint winner of the West Australian Women Lawyers Association, Woman Lawyer of the Year Award in 2011. Your Honour has also been a member of CEOs for Gender Equity of WA.

On behalf of the Attorney General, the WA Government and our State community, I congratulate you on your appointment and wish you well in your service to the people of Western Australia as a Judge of this Honourable Court. May it please the Court.

QUINLAN CJ: Thank you, Mr Solicitor. Yes, Mr McIntyre.

McINTYRE, MR: Yes. If it please the Court. I echo the acknowledgement of the Chief Justice and the Solicitor General that we are on Whadjuk Noongar land, and acknowledge the centrality of the ethos of respect for first nations peoples and their leaders which the Law Society holds dear and is reflected in its reconciliation action plan.

It is my privilege this afternoon to appear on behalf of the Society to welcome your Honour to this Court at this beginning of the next phase of your distinguished legal career. I am informed that both of your Honour's parents were teachers, and your Honour has noted that academic excellence was both valued and expected in your family.

I am informed that your Honour had designs on being a speech pathologist but, upon discovering that the university course would involve certain biological dissections, decided that law would be a much more civilised calling. Your Honour, however, maintained a passion for science and obtained a Bachelor of Science degree along with a Bachelor of Laws with Honours from the Australian National University, as has been noted.

I am told that upon graduating, your Honour had a number of graduate offers from Sydney-based firms but decided to move to Perth to take up your position as associate to Justice Walsh at this Court, whom I am very pleased to see is in attendance with us today.

Upon being admitted to practice in Western Australia, your Honour joined the Law Society and has remained a highly valued member ever since. As has been mentioned, your Honour was a member of the joint Law Society/Women Lawyers of WA Committee, and a member of the Law Society's Courts Committee, and more recently, a member of the Human Rights and Equal Opportunity Committee. That came about because the society headhunted you to take Elizabeth Heenan's role on the Equal Opportunity Committee of the Law Council Australia, which you commenced in 2017. That, of course, involved you reporting back to our Society on Human Rights and Equal Opportunity.

Your Honour is also a former member of the Society's continuing professional development, general and commercial litigation committee. As has been mentioned, your Honour began your career at Bennett and Co, working there giving you the opportunity to advance your skills as a litigator, and your Honour has always enjoyed, we are told, the process of preparing and presenting an argument which has developed for your Honour a reputation as a first-class litigator, highly respected by both colleagues and clients. It's the most remarked upon quality of your Honour among the colleagues whom I have consulted.

Throughout your career, your Honour has taken on the task of making positive changes in workplace cultures and in the broader culture of the legal profession. Your Honour was a member of the committee which conducted the 20-year review in 2014 of chapter 2 of the Chief Justice's Gender Bias Taskforce, dealing with the careers of women in the legal profession. Your Honour has continuously sought to promote gender diversity, and diversity in other areas such as ethnicity and age.

These are goals which the Law Society is very much aligned with your Honour. It's of crucial importance that the community sees our diverse society reflected in its judiciary, and in that regard it's certainly of significant benefit to this Court for your Honour to be adding to the strong female representation on this Bench.

Your Honour has sought to use her influence as a leader in the profession to create positive outcomes. While at Norton Rose Fulbright, your Honour led moves towards flexible working arrangements and your Honour was also a member of the CEOs for Gender Equity. A female colleague at Clifford Chance described you as:

a fabulous dresser, always put together sartorially, a huge champion of women, inclusive, bubbly, and someone who instantly made colleagues comfortable.

Those are all qualities which we hope will be helpful in your present role. It's a pity your Honour will be consigned to the current enveloping black tea cosy-style robe which has become fashionable as judicial attire. You could adopt an expansive view of what amounts to an interlocutory application where no robe is required, as I mistakenly did in my first appearance before the Chief Justice Quinlan shortly after his appointment.

Your Honour has certainly had a significant influence in promoting diversity within the legal profession and has left a lasting legacy in that regard. Your Honour's appointment to this Court presents an opportunity to further that positive influence from within our judiciary. Your Honour will no doubt be missed by colleagues and clients alike as your Honour leaves practice behind.

However, this appointment will certainly benefit the broader community of Western Australia as your Honour administers justice with integrity and impartiality in this new chapter in your career. On behalf of the Law Society, I congratulate your Honour on this appointment, and wish you all the best for a very successful judicial career. If it please the Court.

QUINLAN CJ: Mr McIntyre. Mr Davies.

DAVIES, MR: On behalf of the West Australian Bar Association, may I present our compliments and congratulations on the occasion of your Honour's appointment as a Judge of this Court. I wish to associate the Bar Association with each and all of the complimentary remarks that have fallen from others. I also wish to

acknowledge the presence in Court of your Honour's husband, Mr Andrew Wood, and your Honour's children, Lachlan and Sophie, and record, for the purposes of the transcript, that each of them is looking justifiably very pleased and proud of your Honour's achievement that we are marking by the sitting of this Court.

Your Honour comes to the Court with a number of qualities that make your Honour eminently suitable for appointment. I propose to mention but three of them. The first is a deep and lengthy experience in the field of litigation and, in particular, in the area of difficult, complex and lengthy commercial litigation that is the mainstay of the work of this Court in the exercise of its civil jurisdiction. That is a quality most desirable in a Judge of this Court, and it is a quality that can only be obtained by direct personal experience and your Honour has obtained that experience and obtained it hands-on and at the coalface in the three different firms in which your Honour has been a member.

In that regard, I should add that at various times during your Honour's career, at each of those firms, there had been hopes held by many at the Bar that your Honour might be persuaded to join us and practice as a barrister. Had your Honour done so, there is no doubt that your Honour would have succeeded and prospered, but alas, it was not to be.

The second matter to mention is your Honour's commerciality. And to guard against any sensitivity that that expression is in some way inapt in this Court, I mean, of course, your Honour's ability to cut to the core of the matter and address the issue or issues that are important. In a time of ever increasing complexity, both in the law and in matters evidentiary, that is increasingly a critical skill for a Judge of this Court.

The third matter, and final matter, arises from, again, the longevity of your Honour's career as a lawyer, or, more specifically, as a litigator. The length and depth of your Honour's experience as a litigator is such that your Honour understands from your Honour's own, deep experience that as important as the skill of cutting through is it must be tempered and leavened with the appreciation that our legal system is fundamentally a process and that it is critical that the important features of that process are duly observed.

It's for those reasons, among other, that your Honour's appointment has been almost universally acclaimed.

I say almost because, as with all things, there are exceptions. I am able to offer the intelligence, the necessary releases having been obtained from the clients, that purveyors of high-end women's clothing in this city, supported by their interstate and international brethren, having conducted some basic research on the news of your appointment in relation to judicial salaries, sought counsel's advice. They came to Chambers hoping for advice that there were grounds to injunct your Honour's appointment, and they left disappointed with the advice that they were bound to give certain notices to their financiers. But it is of no matter, because Andrew has told me there are enough clothes in your wardrobe to take you right through to the age of 70. The Bar Association welcomes your Honour's appointment as a Judge of this Court.

QUINLAN CJ: Thank you, Mr Davies. Justice Hill.

HILL J: Chief Justice, current and past members of this Court, members of other Courts, Mr Solicitor, Mr McIntyre, Mr Davies, members of the legal profession, family and friends, I would like also to start by acknowledging the traditional owners of the land on which we meet, and pay my respects to their elders, past, present and emerging.

Firstly, I would like to thank everyone for being in attendance today, for giving up both their precious time, but also to attend on what is a wet and wild Friday afternoon in Perth. I have been absolutely overwhelmed by the kind words and messages of support that I have received from the profession since the announcement of my appointment.

For everyone present in Court, apart from my children, the addresses given today are a somewhat airbrushed view of my career to date, designed to show me in the most favourable light possible. To my children, I hope that the addresses given go some way to answering the question posed by my daughter when I told them of my appointment, as to why I had been appointed.

Chief Justice, thank you for your welcome today and over the course of this week. It is particularly an honour to be the first judicial appointment since your appointment as Chief Justice. I was fortunate to have the opportunity to work with you and many other members of the Court when they were at the Bar, and I gained much from those experiences. I am confident that I will continue to seek their advice and experience while I am in my present role.

Mr Solicitor, I am honoured to have been appointed as a Judge and to be given the opportunity to serve the community of Western Australia. Mr McIntyre, thank you for your generous address. As you noted, I have been a member of the Law Society for my entire career and have enjoyed my work on the committees, particularly the joint Women Lawyers/Law Society Committee. As with many volunteer roles, you gain so much from the experience, and I encourage everyone present, particularly junior members of the profession, to volunteer for the Law Society committees.

Mr Davies, thank you for your kind words. I have known and worked with you on a variety of matters and have greatly benefited from that experience, and I look forward to you and other members of the bar appearing before me in my new role.

As has been noted, I have been appointed directly from a private firm. I believe that I am only the third solicitor, and the first woman, to have done so. At the moment, I understand that I am the ninth woman appointed to this Court, and it is gratifying to know that when the next woman is appointed, that we will finally reach double figures. That said, I acknowledge that gender is but only one measure of diversity and is the only measure of diversity that I bring to this Court.

Mr Thomson drew attention to the fact that I was not born in Western Australia, but that I first came to Western Australia to take up a role as an associate in this Court to then Justice Terry Walsh. I am absolutely delighted to see Justice Walsh and his family in Court today. During my time as an associate at this Court, I observed first-hand the variety in the work of the Court, the importance of keeping up-to-date, and the time and effort that this required from its judicial officers. Justice Walsh's work ethic, commitment to the role, and efficiency continue to inspire me, and I hope to emulate these characteristics during my time on this Court.

Having spent two years at the Supreme Court, I decided that I would not take up my graduate role in Sydney but that I would remain in Western Australia. As I applied for what were then articles, I experienced discrimination for the first, and I believe only, time in career. Not, I hasten to add, because of my gender, but because I was from the dreaded eastern states. I am extremely grateful to Martin Bennett and the then partners of Bennett and Co, for seeing past my State of origin and offering me articles.

In many ways, my time in the profession has mirrored the changes in the legal profession in Australia over the last 25 years. When I first joined the profession in 1994, most firms were State-based practices undertaking mainly local or State-based work. In the early 2000s, the national integration of legal practices started. In 2005 I joined what had then become the integrated national firm of Deacons. In 2010 and 2011, the large international firms began their march into the Australian legal profession. My final years in practice were at two international firms who both lay claim to being the first mover in Australia, namely, Norton Rose Fulbright and Clifford Chance.

Now, I am conscious that the addresses by counsel may give the impression that my professional life has been relatively smooth sailing, and that I have effortlessly balanced the competing professional and personal commitments in my life, including two periods of parental leave for the birth of my children. It is important, on this occasion, to dissuade those present of such an impression. Firstly, so that I can acknowledge the many people who have assisted me over the years, and, secondly, so that those who are struggling with the juggle of work and family commitments, realise that they are not alone.

I have been extremely fortunate over my professional life to have mentors and sponsors in each of my workplaces who have kept me in the profession and have contributed to the successes that I have had. As a junior lawyer at Bennett and Co, I worked with practitioners of the highest quality, including Martin Bennett and Judge Stephen Lemonis, on a wide range of matters. I learnt the importance of legal excellence, developing a strategy for the resolution of matters, and to not be what one client termed "a two-handed lawyer". With the benefit of hindsight, I recognise the small and not so small gestures that Martin, in particular, made to support me in my career, from validating my opinions in front of clients, to providing me with opportunities to work on the most difficult and challenging cases.

When I first moved to Deacons, I was fortunate to work with a collaborative and high-performing team. This period remains one of the happiest and most fulfilling of my career. In particular, I am grateful to Derek La Ferla, Chris McLeod and Shaun Temby for their encouragement and active sponsorship over my time at the firm, particularly in encouraging me to take on the role of Head of Office, and then to stand for election for the partnership council.

Just over four years ago, I moved to Clifford Chance. For those that know me, they will know that I am a big fan of the five-year plan. The fact that I was only at Clifford Chance for four years is an indication only that the Attorney General and the Chief Justice are extremely persuasive, and not in the failure of my planning process. I thrived in the collaborative and intellectually demanding environment at Clifford Chance and thoroughly enjoyed my time there.

I have been fortunate at each of Norton Rose Fulbright and Clifford Chance to have allies, namely, people with whom I could have the most honest of conversations about the challenges I was facing, and who would not judge me as a result of those conversations. In particular, I want to thank Liz Hallet, Liz Allnutt and Leanne Nickels at Norton Rose Fulbright, and Tracey Renshaw and Angela Pearsall at Clifford Chance for their support and guidance.

On a personal front, I want to start by acknowledging the lifelong support and encouragement of my parents, my father, Tony, and my mother, Peta. My only sadness on this occasion is that my mother, a West Australian by birth, did not live to see this day. My parents provided me and my siblings with every opportunity, including supporting each of us in our academic studies as well as their unwavering love and devotion. My parents were both teachers and for as long as I can remember both worked full-time. They provided a lived example of how to balance a dual career household and how to manage work and family responsibilities.

To my elder sister, Dr Alison Hill, and my younger brother, Graeme Hill, and sister-in-law, Professor Adrienne Stone, thank you for travelling from the United Kingdom and Melbourne, respectively, to be here today. To Graeme and Alison, particular thanks must go for your contribution in sharpening my advocacy and mediation skills while we were growing up.

I am fortunate to have the best parents-in-law that one could hope for. In particular, my father-in-law, Ron, has always been prepared to come to Perth at short notice to assist Andrew and I in managing our competing travel schedules, or for long periods of absence by either of us. Without this support, I am not sure how we could have managed over the years.

When I went back to work after Lachlan was born, we used a combination of childcare and nannies to assist us. Initially, Mrs Pina Scaffetta joined our household as

Lachlan's nanny. We were very fortunate to have Pina for well over 10 years, until her retirement, and she was, and remains, an important part of our family. After Sophie was born, this role was shared with Anna Wilshaw, who left to have her own family and remains a close friend. I am grateful to each of them for their love and devotion to Lachlan and Sophie, and their assistance over the years.

Turning finally to my immediate family. I start with my children, Lachlan and Sophie. You are my and your father's greatest achievement. I am so proud of you and the people that you are becoming. I also know that I will always be able to rely on you to continue to provide me with 180-degree unsolicited feedback to ensure that I keep it real.

Finally, and most importantly, to my husband, Andrew. Quite simply, I would not be in this position unless you had sacrificed promotion in your military career to support my career. The life of an army wife, moving every three years, is simply incompatible with the demands of a legal career, which requires length of time in one spot. I will never be able to repay you for this, and I am very grateful for your love and support over the many years we have been together. Finally, can I thank everyone once again for their attendance this afternoon.

QUINLAN CJ: Thank you, Justice Hill. Court will now adjourn.

AT 5.00 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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