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THE SUPREME COURT OF

WESTERN AUSTRALIA

FAREWELL TO THE HONOURABLE JUSTICE LE MIERE

FULL BENCH

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON FRIDAY, 25 FEBRUARY 2022, AT 4.02 PM

**QUINLAN CJ:** The court sits this afternoon to mark the retirement and to celebrate the contribution made by the Honourable Justice Rene Le Miere to the work of this court, to the administration of justice, and to the people of Western Australia as a judge of the court for over 18 years.

In doing so, we acknowledge the traditional owners of the land on which the court sits, the Whadjuk People of the Noongar Nation, and pay our respects to their elders, past, present, and emerging.

We particularly welcome his Honour's family who are both here in person and virtually. His Honour's wife, Philippa Rezos, and their daughter, Camille, who were able to be here present with us, and joining us virtually their three daughters, Lucienne, Dominique, and Gabrielle. We're also fortunate to have present his Honour's brother, Paul Le Miere, and sisters Patricia Le Miere and Michelle Parkinson.

We also welcome the heads of the other courts in Western Australia: her Honour Judge Julie Wager, Chief Judge of the District Court, and many judges of that court; his Honour Judge Hylton Quail, President of the Children's Court; his Honour Magistrate Steven Heath, Chief Magistrate; and, her Honour Ros Fogliani, State Coroner. We also welcome Justices Banks-Smith, Colvin and Jackson of the Federal Court, the Solicitor General, Mr Joshua Thomson SC, Ms Amanda Forrester SC, Director of Public Prosecution, and many other distinguished guests including many past members of this and other courts.

We particularly welcome those who will address the court this afternoon, the Honourable John Quigley MLA, Attorney General for Western Australia, Ms Rebecca Lee, President of the Law Society of Western Australia, and Mr Martin Cuerden, President of the WA Bar Association. Since the establishment of this court in 1861, in addition to his Honour Justice Le Miere, there have been 90 judges appointed to the court. In the course of his 18 years of judicial service, Justice Le Miere has shared the bench with 45 of those judges, exactly half of the judges ever appointed to the court.

No doubt were it not for the provisions of the Judges' Retirement Act 1937, his Honour would have served with many more. Nevertheless, to have served with half of the judges appointed to the court in its entire history provides some glimpse of the breadth and depth of his Honour's contribution to the life of the court and to the community that it serves. The harrowing signs of conflict we're

witnessing today in Ukraine are a sobering reminder to all of us of the importance of the rule of law in all spheres, both local and international.

All the more reason to celebrate today the contribution made by Justice Le Miere to the maintenance of the rule of law and in turn to the liberty and freedom of our own community which the rule of law protects. During his service on the court Justice Le Miere has delivered countless judgments in all aspects of the court's jurisdiction, both civil and criminal.

His Honour is rightly acknowledged for his particular skill in resolving large and complex commercial disputes by bringing a clarity and precision to the identification of the issues that reduces those disputes to their essence. Try as some parties might, from time to time, to add more and more complexity to disputes, they have been unable to compete with his Honour's capacity to peel away the complexity and reveal what is often a simple question that resolves the disputes.

His Honour achieves this in a way that appears effortless, but which leaves no stone unturned. It is an example to us all. At the more human level, his Honour has also for many years been the judge responsible for the management of claims brought for personal injuries arising from exposure to asbestos. Claims such as these are invariably urgent. They are conducted during periods of significant illness and personal stress on the part of plaintiffs and their families, and they require the authority of the court to be exercised always with one eye to the human toll that it exacts.

There too his Honour's calm and courteous manner and his dedication to the provision of justice have touched countless lives. In all of his Honour's judicial work there has been a conspicuous commitment to service and sheer hard work. In recent years that commitment has seen his Honour, when faced with trials extending well beyond their estimated duration, convening the court to sit on Saturdays.

His Honour's stamina on those occasions outmatched that of teams of lawyers and on one occasion a battle of wills with counsel as to whether counsel would continue in cross-examining late into a Saturday night. Needless to say his Honour prevailed on that occasion also. It is one of the sad ironies then that his Honour is required to retire tomorrow at midnight, not by choice but simply by reason of his Honour's impending birthday.

That irony was on full display during one of the large commercial trials heard by his Honour last year where it was necessary for witnesses to give their evidence by video link from various parts of the globe and issues arose as to the start times necessary to accommodate the various time zones. His Honour, having proposed a timetable that would involve his convening court at 4 am and 5 am Western Standard Time, was met with affidavits sworn by earnest young solicitors for the parties to the effect that their witnesses could not possibly be expected to give evidence during non-working hours, solemnly making clear that, quote:

Some of our witnesses are in their early 60s,  
your Honour.

Typically his Honour met such chutzpah with a polite but wry smile. Behind the scenes his Honour has made an enormous contribution to the work and the committees of the court: the Executive Management Committee; the Civil Practice Committee; for over a decade the National Chief Justices Rules Harmonisation Committee; and, has served as a member of the governing council of the Australian Judicial Officers Association. And, most significantly, I venture to suggest, as the senior puisne judge of the court for almost seven years.

His Honour has been the model of a senior judge of a court, providing the moral and pastoral ballast of the court necessary to keep it afloat, supporting and guiding colleagues in their work and always being available to share his considerable wisdom, all of which his Honour does with a characteristic humility and understatement. If I might be indulged one note of personal thanks, when I joined the court three and a half years ago Justice Le Miere had already been the senior judge of the court for three years.

As the first Queen's Counsel with whom I was briefed at the Bar, I had long been and will always be his junior. As an incoming Chief Justice I could not have asked for a more supportive mentor and guide than his Honour. I will be forever grateful for the support and the kindness that he has shown me and so many others. Justice Le Miere, on behalf of all of the members of the court with whom you have served, all 45 of them, we thank you and wish you, Philippa, and family all the best in the next phase of your service to the law and the people of Western Australia. Yes, Mr Attorney.

**QUIGLEY, MR:** May it please the court, I understand that I can address the court without my mask without risking another \$1000 this morning.

**QUINLAN CJ:** You are directed to do so, Mr Attorney.

**QUIGLEY, MR:** Thank you, Chief Justice. I would like to commence my address this afternoon by recognising all the distinguished guests already welcomed by your Honour this afternoon, and I particularly pay my respects to the traditional owners, the Whadjuk People of the Noongar Nation, their elders, past and present and emerging. It is with great pleasure that I appear on behalf of the Government of Western Australia on this occasion of your Honour Justice Le Miere's retirement and to acknowledge your Honour's significant contribution to the administration of justice in this state as a member of this court for over 18 years.

I would like to begin my address by extending a warm welcome to your Honour's family and many friends who join us here today, and I particularly acknowledge your Honour's wife Philippa, your daughter Camille, who have been able to be present today, and I also acknowledge that your Honour would have wished your other daughters, as the Chief Justice has mentioned - Lucienne, Dominique and Gabrielle - to be present, but there are times - because of the times we live in, that wasn't possible.

I also acknowledge your Honour's siblings, Paul, Patricia and Michelle. There is an obvious starting point in thanking your Honour. You are presently the longest serving judge of the court and are the senior puisne judge. His Honour the Chief Justice has already mentioned that it is only by stint of the statutory provisions of the retiring age that your Honour does retire tomorrow.

Of course, I've known your Honour for decades. We went to the same school, Aquinas College, where I was several years ahead of you, which would give the audience some insight as to the age differential where your Honour has the advantage over me of several years. But I leave it to others to mention the many detailed things that your Honour has done to contribute to the life of the court, some of which have been mentioned by the Chief Justice already, but which include the managing of the commercial managed case list and, in particular, the court committees which you have run.

I will also focus on why your Honour's judicial characteristics should be regarded as an example for all

judges. When a judge retires there is a temptation to sum up their judicial career in one word. That word represents the essence of your Honour's recollection of how a judge should handle themselves judicially. In your Honour's case, the word which springs immediately to mind is one of "humanity".

Perhaps the reason for you choosing - the reason for choosing that word is because of the way in which your Honour has treated counsel who have appeared before the court. I have been told that your Honour has always been unfailingly polite and courteous, even on those occasions which counsel has been underprepared, or the argument which counsel advanced did not look so good. Your Honour would listen, evaluate the propositions which were put with care and diligence.

I've been informed that your Honour deals with so-called difficult counsel under extreme provocation by diffusing the situation with your calmness and focus upon the issues in the case rather than the personality of the parties or their legal representatives. Your Honour has always considered the contentions of those who appeared before you with gentle inquiry. No person could ever complain that before you - that they had not ever received a proper hearing from your Honour.

In an important way, that is one of the most significant features of doing justice. However, the primary reason why I would choose the word "humanity" is due to the way in which your Honour has considered and disposed of cases before you. There is no doubt that your Honour was able to discern the reason why people acted as they did and to judge what had occurred with insight and understanding. In short, your Honour could be relied upon in every respect to act judicially.

Having said that, there are other words that also summarise the pith of your Honour's judicial career. One of those words, I'm told, is "unappealable". One counsel has informed me that he tried on quite a number of occasions to appeal the judgments of your Honour. Initially he would have attacked the task with zest, only to be given short shrift by the Court of Appeal. As the years passed by, he said, he learnt the hard way that it is a very difficult task to unpick any considered judgment delivered by your Honour.

He cannot recall that he ever succeeded, which just shows that the careful and detailed consideration which your Honour applied to every case before you typically led

to a just outcome. Again, this aspect of your Honour's judicial career confirms how suited to the task your Honour has been. It is a reflection of your Honour's keen intellect and legal precision; however, due to your Honour's humility, you have never worn those characteristics as a badge of your office.

Another word which is associated with your Honour perhaps is - which wasn't in our legal lexicon in Western Australia before you dealt with them - was the mega trial. Your Honour has been responsible for hearing many difficult and lengthy civil cases. Unless one has participated in such cases it is difficult to appreciate the mental strength which is required to conquer the many thousands of documents, to listen to witnesses over a number of weeks or months, to hear argument about difficult and contested points of law, and then have to produce a judgment which assimilates all of these things.

Your Honour has done this many times at the highest level of difficulty. Your Honour's ability to take control of a case and conduct a mega trial has made you one of the most respected members of this court. Your Honour has often made many counsel from other states appearing before you on important mega trials which attract national media attention. The skills which your Honour has demonstrated in carrying out mega trials means that your Honour would be regarded as one of the premier trial judges throughout our nation.

And yet, may I remark, that your Honour has remained humble and focused upon the issues of every case which is before you which has assured those who appear in front of you that the judgment that you will make will be unaffected by the celebrity status of any party or the importance and standing of any counsel. In other words, parties have always been confident that your Honour would act judicially, impartially and fairly.

It is fair to say that your Honour's ability to handle a mega trial will be sorely missed by the profession and no doubt by the members of this court. Your Honour, on behalf of the Government of Western Australia, I'm here to thank you for the extraordinary service which you have provided to this state as a judicial officer of the highest repute over the last 18 years. We thank you. May it please the court.

**QUINLAN CJ:** Thank you, Mr Attorney. Yes. Ms Lee.

**LEE, MS:** May it please the court. I also wish to respectfully acknowledge the traditional owners of the land on which we meet, the Whadjuk People of the Noongar Nation, and pay my respects to their elders, past, present and emerging. Today it is my privilege to appear on behalf of the Law Society of Western Australia and the wider legal profession to farewell the Honourable Justice Le Miere.

May I also welcome family members of your Honour and acknowledge your friends and colleagues, both those present here today and those who may have liked to have attended in person but were unable to do so. Your Honour's career has many highlights. One aspect of your distinguished career which is of particular significance for those I represent is your Honour's long record of service to the Law Society.

Your Honour was a member of the Council of the Law Society from 1983 to 1991 and during that period you also served as editor of brief for three years and then president of the Law Society for two years in 1989 and 1990. Being president for two years requires an immense effort and time commitment, and the Law Society will always be indebted to your Honour for your long and ongoing service and support.

For me personally it is an interesting and wonderful coincidence that I wrote an article published in brief after your Honour's welcome ceremony to the Supreme Court on 2 February 2004, and here I am now speaking at your Honour's farewell sitting in February 2022. At that welcome ceremony the then Law Society president Mr Ian Weldon spoke about one feature of your Honour's career which, when approached, your Honour had apparently suggested he mention.

It was the goal your Honour scored for the Subiaco Master's against Armadale in 2000, being, in fact, the only one you had ever then scored. Apparently that singular goal was of such a quality that you were obviously reluctant to sully its image or impair its reputation by scoring any others of less fine court. I believe your Honour's passion for soccer has not diminished.

I'm told your Honour's chambers have been regaled with Liverpool material and you've also been an assistant coach in under 16 soccer teams. Your Honour is renowned for your courteousness and has always performed the administration of justice with the greatest integrity, skill and impartiality. Your Honour has not only demonstrated academic ability but have found commitment of passion for justice.

Your Honour has previously said the responsibility judges have when making decisions which affect the rights, interests and in some cases the liberty of those who appear before them calls for firmness, care and compassion. Your Honour has lived up to the high standards you have set yourself, and it is also known within the legal corridors that your Honour has also been very compassionate to self-represented litigants who appreciated your calm and clear manner in assisting them through the process.

Members of the profession, including your peers, have expressed to me the high regard in which they hold your Honour. You have been given some of the most complex cases as we have heard, which you have handled extremely well, and your Honour's mandatory retirement inflicts a great loss on this court. On behalf of the Law Society of Western Australia and the wider legal profession I wish your Honour all the very best for your goals - yes, I said that - in the future. May it please the court.

**QUINLAN CJ:** Thank you, Ms Lee. Yes, Mr Cuerden.

**CUERDEN, MR:** May it please the court. I too pay my respects to the traditional custodians of the land on which the court today sits, the Whadjuk People, who are part of the great Noongar Nation, and I too pay my respects to their elders, past and present. It is my great pleasure and privilege to appear this afternoon on behalf of the Western Australian Bar Association to join in farewelling your Honour as a member of this court.

As has been observed more than once, your Honour has now reached the age at which the Western Australian Parliament decided in 1937, some 85 years ago, that judges should turn their minds to things other than judging. It is not clear that judges choosing to keep working after aged 70 was a rampant problem in Western Australia prior to 1937. The record in this state seems to have been held by Sir John Northmore who retired as Chief Justice in 1946 aged 80, closely followed by his successor, Sir John Dwyer, who retired as Chief Justice in 1958, aged 79, both having been appointed to the court prior to 1937.

Sir John Dwyer's successor as Chief Justice, Sir Albert Wolff, had been appointed to the court in 1938, so after that any challenge to Sir John Northmore's record became impossible. There would be very few people who would agree - who would disagree in principle with the concept of a statutory retirement age. The retirement forced upon your Honour, however, once again highlights

that the real issue is whether in 2022, 70 is the correct number.

It might be thought that your Honour would be the poster boy for those who seek to make the case that it should be higher. In the last eight months alone your Honour has delivered judgments in six major cases. Your Honour's reasons across those six judgments run to a total of 1075 pages and over 4500 paragraphs. This doesn't take into account your Honour's judgments in all costs and interlocutory disputes.

I regret that time and other commitments have not permitted me to count paragraphs back beyond July 2021. As the Chief Justice has mentioned, last year your Honour, no doubt being aware from your vast experience in the area of employment and industrial law, that the Bar is effectively a non-unionised workplace and on occasions your Honour reintroduced a six day working week and sat in the early morning before conventional working hours in order to both accommodate witnesses giving evidence from out of the jurisdiction and to accommodate timeframes.

Some of those who appeared before you as counsel in those trials - even though many years behind your Honour in proximity to the so-called statutory age of senility - found it difficult to keep up. This tends to reinforce the arbitrariness of your Honour's now forced retirement. A qualitative analysis, as well as a quantitative one, leads to the same conclusion. Your Honour has continually dealt with some of the most difficult work that comes before this court in its civil jurisdiction.

Your Honour's reputation as one of the best commercial judges and one of the finest judges to have sat on this court is, with respect, universally recognised. Your Honour's workload has not been limited to commercial cases. Your Honour has, for example, dealt with much of the difficult work of this court in mesothelioma cases as the Chief Justice has mentioned. I will not speak further about your Honour's very significant contribution to the administration of justice in this state over the last 18 years.

One of the advantages of being the last speaker is that those who have gone before me have already spoken to that. What I would like to do as the representative of the Bar on this occasion is to comment on the relationship between your Honour and counsel who appeared before you. The importance of the professional relationship between the Bar and bench is well understood.

The relationship between counsel and a trial judge, particularly in long and difficult trials of the type in which your Honour was almost always engaged, is particularly important. Trials of complex cases, usually document intensive, which last weeks and sometimes months, are not easy. They have the capacity to test the relationships between all involved.

What characterised such trials before your Honour - and I say this based on my experience as well as my discussions with many others - are three things. The first was your Honour's unfailing sense of fairness and courtesy, even in the most difficult of circumstances, towards counsel and all who appeared in your courtroom. Those who appeared before your Honour, like me, are unable to recall a single instance in which your Honour expressed irritation with counsel, no matter what the circumstances.

The one caveat to this, however, is that experienced counsel who knew their judge knew to check how Liverpool Football Club had fared overnight. It was observed more than once by more than one person that there was a direct correlation between that result and your Honour's disposition the following day. The second was the patience and care with which your Honour listened, both to evidence and submissions.

Neither counsel nor a witness ever left your Honour's court thinking that they had not been properly heard and understood. The third is the confidence which counsel would feel at the end of a trial, leaving the case in your Honour's hands. There was always a comforting sense of confidence at the end of a trial that your Honour would reach the right answer. Of course, whether that was a good thing depended on which side of the case one was on.

At last year's Bar and Bench Dinner I invited your Honour to speak on behalf of the bench. In doing so I observed that it would be the last Bar and Bench Dinner before your Honour retired and that as you were the senior puisne judge and enjoyed the respect and admiration of the whole of the Bar - and the legal profession generally, for that matter - you were the obvious choice to speak on behalf of the bench.

Your Honour was gracious enough to accept that invitation, and I repeat that sentiment on this occasion. I am, however, pleased to hear that your Honour's retirement does not mark the end of your Honour's involvement in the law completely. I understand that following your Honour's retirement from this court you

intend to not practice the law within section 15 of the Judges' Salaries and Pensions Act 1950 as a mediator and arbitrator.

Your Honour was quoted in today's West Australian as saying you hope the phone rings. It would be apparent from what I and the speakers before me have said that there is little doubt that it will. Your Honour has made an enormous contribution to the work of this court and the administration of justice in this state. Your presence on this court will be sorely missed by all who have had the good fortune and the pleasure of appearing before you. On behalf of the Western Australian Bar I wish your Honour the best for a long, healthy and rewarding retirement. May it please the court.

**QUINLAN CJ:** Thank you, Mr Cuerden. Your Honour.

**LE MIERE J:** Chief Justice, Mr Attorney, Ms Lee, Mr Cuerden, your Honours, colleagues, friends, I acknowledge that we meet on the traditional lands of the Noongar Nation. In the 1960s in my mother's birthplace, Liverpool, the largely impoverished but life affirming supporters at the Kop end of Liverpool Football Club's Anfield Stadium adopted the song You Will Never Walk Alone as their anthem.

At a staff farewell this morning the Chief Justice and my associate, Bridget Rumball, accompanied by Justice Fiannaca on piano accordion, and Graham Kelly on guitar, led the staff in honouring me with a stirring rendition of the song. A variant of that song expresses my life as a judge. When you walk into court, hold your head up high and don't be afraid of the battle. At the end of a trial there's a precedent and the sweet, silver song of a judgment. Sit on through objections, sit on through exceptions, though your decisions be doubted and appealed. Sit on, sit on, with truth in your heart, and you will never walk alone.

In my years on the court I have tried to judge with truth in my heart and I have never walked alone because of the support and friendship of colleagues and friends. I thank the Chief Justice, Mr Attorney, Ms Lee, and Mr Cuerden for your words of praise.

I was starting to feel like Brian in Monty Python's Life of Brian. You know the scene where the multitude is praising and hailing Brian as the messiah until his mother shouts, "No, he's not. He's just a naughty boy". I was worrying that somebody would shout out, "No, he's not". As a judge, as in life, I have been lucky, and everything I

have done has been with the help and support of my family, friends and colleagues, many of whom are here today.

Chief Justice, thank you not only for the extravagantly kind words you spoke of me today, but for the respect and generosity you have shown to me throughout your stewardship of the court. Mr Quigley, thank you for your laudatory words. Through you I thank the people of Western Australia for the opportunity and honour to have served as a judge of this court.

Judicial independence lies at the heart of our democracy. I am proud to have been part of a court which, throughout my years, has decided cases fairly, fearlessly, and impartially. A challenge before this government, as every government, is to maintain and foster that crucial judicial independence. Ms Lee, unlike Mark Antony, it is your role at a judicial memorial service to praise the retiring judge, not to bury him.

Thank you for your kind words. Lawyers often get a bad press, but in my years as a judge I have found most lawyers to be conscientious, dedicated to advancing the interests of their clients, and to cooperate in resolving cases efficiently and expeditiously. I have, as you mentioned, tried to treat litigants in person with fairness and consideration, but not all of them have appreciated the judgments that I have delivered, and one of my associates handed to me today a reminder of a letter that was received by one litigant in person after having received an advance copy of the reasons for judgment. It reads:

Dear, Mr Le Miere. I am disgusted with your judgment. I won't be showing up, otherwise I might spew up on you, as you deserve. I don't throw my pearls before swine. When you're grovelling about in the pits of hell, along with your other evil, violent, Satanic, bastard political and government male friends, I hope you remember me.

Mr Cuerden, thank you for your overly generous words which you've delivered with the wit and good humour I have come to expect. Your members are the face and voice of litigation in the courtroom. I'm grateful for the ever willing cooperation and assistance of your members, which has lightened my burden in dealing with the cases before me. I look forward to renewing my relationship with your members on a more personal basis when I leave the court and pursue my post court career.

In recent years counsel from other states frequently appear in this court. Local counsel usually make counsel from out of state welcome, but sometimes a little local knowledge can come in handy. Before I recount this story, I remind you, as has been noted already, that I am a Liverpool fan and, as some as you may know, there is nothing Liverpool fans dislike more than Manchester United.

On this day Mr Bennett appeared for the plaintiff and the defendant was represented by a barrister from Sydney who had the same name as a former famous Manchester United player. I will call him for today Mr Robson. I'm not sure what Mr Bennett said to Mr Robson before we began but taking appearances went like this. Mr Bennett:

Good morning, your Honour. I appear for the plaintiff.

Judge:

Thank you, Mr Bennett.

Robson:

Good morning, your Honour. I appear for the defendant. My name is Robson, like the Manchester United player.

Judge:

Mr Robson, Manchester United are not welcome in this court.

Mr Robson looked across the bar table to Mr Bennett, who had a self-satisfied grin on his face. As you know, section 3 of the Judges' Retirement Act of 1937 renders my judicial life extinct on my 70<sup>th</sup> birthday on Sunday. However, turning 70 is another opportunity. Peter Mark Roget was nearing his 70<sup>th</sup> birthday when he was forced to retire from the Royal Society, London's esteemed collection of scientists, so that the younger generation could begin its work.

Instead of resting on his laurels, Roget turned to a project that had interested him since the time he was a young man, a scientific ordering of language. The first edition of Roget's Thesaurus was published when he was 73, and he oversaw every update until he died at age 90, but my favourite is life-long yoga enthusiast Tao Porchon-Lynch who fell and broke her hip at age 87, requiring hip replacement surgery.

Her doctor told her she would have to slow down and take it easy on herself, advice she did not take to heart. A month after her surgery she began taking ballroom dancing lessons and at age 93 was winning dancing competitions and still teaching 12 yoga classes a week. She sent her doctor a photo of herself lifting herself off the ground with her legs crossed and balancing on her hands, along with a note which said:

I just wanted to show you there's nothing you can't do.

I don't claim there's nothing I can't do, but I am able to reflect on 18 years as a judge. Competence and technical skill are prerequisites, but beyond that a sense of fairness and commonsense are qualities the community is entitled to expect from a judge. A sense of fairness is innate. Commonsense is something others must judge. And, of course, a judge should sit with truth in their heart.

I want to mention the fourth estate. The media play an important role in providing public access to the work of the court. Sometimes, particularly in reporting criminal cases, the media unjustifiably attack the judge rather than criticising their decision. However, my experience is that court reporters, particularly in civil cases, do an excellent job in informing the public of what has gone on. Sometimes, of course, reporters see things differently.

Not so long ago I decided a case I thought was about whether it was in the interests of the beneficiaries of a trust, having regard to the security of the trust property, the efficient and satisfactory execution of the trusts, and the faithful and sound exercise of the powers conferred upon the trustees, that the trustee ought to be removed as trustee. An online newspaper report saw things rather differently:

Explosive revelations in case of glamorous young widow who is suing her dead husband's family over his multimillion dollar estate as it is revealed she had a steamy fling with a real estate agent.

It's all a matter of perspective, I suppose. As I said at the outset, in my years as a judge I have never walked alone because of the support and friendship of my colleagues. I thank Kelly Martinelli and all the registry and administrative staff of the court who are integral to the court functioning and serving the community. You've always helped me and make things run smoothly.

I mention specially Arran Rennie, whose formal title is Caseflow Coordinator, but who does so much more to make the court a community, including adorning my office with Liverpool trophy replicas. More recently Arran has inducted me into the select group of Supreme Court Jambos, fans of the Heart of Midlothian Football Club. Special thanks to Anne Hatten and to Jamie Freestone in their work in organising this ceremonial sitting in COVID times.

Thank you to Josh Simpson and listing staff who carry out efficiently but very courteously the unwelcome task of asking busy judges to hear matters, sometimes urgently. Not all cases assigned to me have gone as I would have wished. Some years ago I presided over a defamation trial between two litigants in person. On the third day of the trial the defendant, who I will call Mrs Brown, was in the witness box when the plaintiff put a letter before her. Things then proceeded a bit like Monty Python's Dead Parrot scene. Mrs Brown:

To me, that's a very threatening letter. I want that in if it goes to trial.

Judge:

This is the trial, Mrs Brown.

Mrs Brown:

My goodness.

Judge:

This is the trial, Mrs Brown. This is it. There isn't going to be another one; this is it.

And then there was the Quran episode. I was swearing in a witness who was appearing remotely. It went like this.

Judge:

I'm first of all going to ask you to take an oath. I understand that you have a Bible with you and wish to take an oath on the Bible; is that correct?

Witness:

Yes. Just one slight thing, your Honour. I couldn't find my Bible, but I found a Quran. I don't know if that is acceptable.

Judge:

Well, are you a Muslim?

Witness:

No. I'm a Catholic, but -

he proceeded to take an affirmation. For most of my years on the court I was looked after and befriended by Alison Heuchan, who was much more than a secretary until her sad and unexpected passing last year. Alison was the queen of the pavlova and the heart of the 15<sup>th</sup> floor of the David Malcolm Justice Centre, otherwise known as the party floor. I've worked with two orderlies. The first was John Allen, who brought his SAS skills to bear in steering me through my first years on the court.

John was succeeded by Jeff Davidson who, for 15 years, managed to get us what we needed on a no questions asked basis and kept up spirits with his good humour and a fair sprinkling of Monty Python routines. His Monty Python collaborator was Graham Kelly, Justice Allanson's orderly, who, since Alison's passing, has adopted me as he would a foundling, for which I am very grateful.

I have been blessed with 18 wonderful associates. My first was my fellow Liverpool devotee, Jonathan Haeusler, followed by Caretta Kazakoff, Evan Sylwestrzak, Madeleine Pope, Katharine McKenzie, Alastair Forward, Luke Swanson, Annabel Lagrange, Lachlan Geddes, Thomas Camp, Alexei Chijoff-Evans, Radhika Kayarat, Madeleine Shellabear - and I pause to wish Maddy happy birthday today. I continue the roll of honour of my associates: Lawrence Page; Grace Gilbert; Andrew McLeod; Bridget Rumball; and, Calvin Rokich.

Each one of them contributed enormously to our work on the court. I have followed with pride their careers since they left the court. They're, without exception, fine professionals and outstanding people. I'm honoured that all but four of them are here today, and those who are not are beyond the border. The framed photo of us all that you presented to me this morning will have pride of place in my new chambers.

I acknowledge the important work of the registrars. In particular I thank Registrar Acacia Hosking. Without her help I would not have completed the last judgment which I handed down yesterday. I have served with three Chief Justices. David Malcolm, after whom this building is named, was a giant of the law. Wayne Martin, who I am pleased to call a friend, was a reforming Chief Justice who

brought changes to the court's operations that have enabled it to serve the community more efficiently, effectively and transparently, goals which the court does and must continue to pursue.

I'm grateful to the current Chief Justice, Peter Quinlan, both personally and for his leadership of the court. The culture of an organisation starts at the top, and the harmony and high morale of the court during these challenging times is a tribute to Chief Justice Quinlan. Jean Paul Sartre said that football is a metaphor for life. The effectiveness of the team depends on the unity of the players and group play. The effectiveness of the court depends on the contribution of each member and cooperation and unity of the team.

As has been mentioned, I have served with 45 judges and masters. Each of them has been a friend and colleague who has made my time on the court more rewarding. As I mentioned, the 15<sup>th</sup> floor is the party floor, mostly due to our irrepressible associates, but I want to give a shoutout to my 15<sup>th</sup> floor neighbours, Justices Larissa Strk, Jenni Hill, Jeremy Allanson, Jennifer Smith, Bruno Fiannaca, Paul Tottle, and Marcus Solomon, and an honorary mention to Justice Kenneth Martin who was my immediate neighbour before he went down in the world to the 13<sup>th</sup> floor.

To all of you, thank you. You have made it a pleasure to go to work each day or most days, anyway. There is often a perception that judges are remote from the communities they serve and they have little idea of real life. This has not been my experience. For that I thank my friends who are invited guests today. I'm sorry I do not name each of you. To do so would test the patience of you all who have sat patiently and listened to my monologue, but I do mention my speech coach, Dixie Marshall. Dixie, I hope it's going okay.

I'm happy and grateful to my brother Paul for joining me today. Paul has been by my side for all my years, but for the occasional adventures which took each of us away. I'm grateful to my sisters, Patricia and Michelle, and their partners, George Maslin and Gerard Parkinson, for joining me today. I'm so happy that one of my daughters, Camille, is here today, and her boyfriend, Ray Ogilvie.

It's a great disappointment that the closed border prevents Lucienne, Dominique and Gabrielle and Lucienne and Dominique's partners, Duncan McKenzie and David Ramondo, from joining this celebration. I hope they are watching by video link. It is a mark of how my life as a lawyer and my

wife's life as a lawyer has been good to us that Lucienne, Camille and Dominique are lawyers and Gabrielle is a final year law student.

Lucienne, Camille, Dominique and Gabrielle, you are by far my greatest achievement. You, above all, kept me in real life. On the day I was appointed to the court people were deferring to me and I might have thought I was a bit special, but when I arrived home that evening as I opened the front door one of the girls shouted "Dad" and summoned me to carry out one of those menial tasks that are expected of fathers. Ever since each of my daughters has kept me immersed in the important things in life whilst making me immensely proud of them.

My wife, Philippa Rezos, shares with me our wonderful daughters and everything else. Philippa has had several careers as a top lawyer as well as everything else that she has done. In my years on the court Philippa does much more than provide love and care. At court gatherings and legal conferences she is always well in front of me and knowing what is going on and picking up important information and social cues. Philippa is the most caring, thoughtful wife, and my partner in everything I do. To everyone here today, thank you for coming. You have honoured me with your presence. Thank you, all.

**QUINLAN CJ:** Thank you, your Honour. That concludes this formal sitting of the court. The court will now adjourn.

AT 4.53 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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