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THE SUPREME COURT OF

WESTERN AUSTRALIA

FULL BENCH

WELCOME TO THE HONOURABLE JUSTICE MICHAEL LUNDBERG

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 1 DECEMBER 2022, AT 4.16 PM

QUINLAN CJ: The Court sits this afternoon to welcome the Honourable Justice Michael Lundberg as a judge of the Court. Before proceeding further, I invite Vaughn McGuire, a representative of the Whadjuk People, the traditional custodians of the lands on which we sit this afternoon to welcome us to country. In doing so I pay our respects to the Whadjuk People, to their Elders past, present and emerging, and to all the traditional custodians of the lands on which this Court sits throughout the State, including in particular the Yamatji People. Mr McGuire.

McGUIRE, MR: Thank you, ladies and gentlemen. It's a privilege for me to be standing here in - on a such special event to see the swearing in for Michael Lundberg as our first, I believe, Aboriginal judge and from the very heart of my own old people that has actually lived down on the river systems for thousands and thousands of years. The very heart is there in the Derbarl Yerrigan and throughout the people that have actually lived through this region over many, many years. That was always where our people would come together in unification, as a human race and to stand together in sharing stories, songs, dances with each other throughout the history of time.

So as a Whadjuk representative, I like to acknowledge Chief Justice Quinlan, our judges, Attorney General John Quigley, Justice Lundberg, his wife Annelies and their sons Ben and Tom and Dr Sue Gordon. It's lovely to see them and - but as we stand here as people in coming together for a change within the system, in the seasons, we pray that - our dear God gives Justice Lundberg a long life, give him the wisdom of justice. No matter what actually goes on in this country, justice needs to be served to those who deserve it.

And so with the very, very blessings of my own, our (indistinct) who have actually been here before me and before you, may they rise to actually give him the strength, long life and protection to him and his family throughout the many, many years to come. Aboriginal welcome to countries have always been established since our creators actually have given us the time to be here. Placed us as the carers and keepers of this nation, of this country. And throughout our times, teaching us the ways of land, so our people learn to live within the balance of nature, learn to live within the customs and caring for each other and family.

And throughout our years and lives, we did have justice here before settlement. And as settlement came, may we as Aboriginal people and the rest of Australia come together

in serving the right justice towards people who actually commit crimes and do wrong for us as human beings.

Hello and welcome. Welcome to Whadjuk country. My country and your country. Our country. Lands of my grandmothers and grandfathers who walked here before us. As I stand here speaking and you're seated, makes my heart happy, strong and proud to be here as a Whadjuk man, a representative of the oldest living race - human race within the world and every time I do a welcome, I love to do a song of unity, of our people when they used to come together, with all the 14 different nations just down on the foreshore here and as far as I was told, by my law fathers who are from the Badimaya people, their families would come down through their Pilbara systems, the Yamatji region in certain songs, ceremonies and times of coming together, unified as people.

Their songs about the trapdoor spider where my great-great-great grandmother was born in Kings Park. We know it as (indistinct) and of a song of unity in 14 different nations of Aboriginal people. Not only the Nyanganyatjara people or the Yamatji people or the Wangkatha people in the Goldfields region would come in ceremony time. And it goes a bit like this here. (Sings) So thank you very much, your Honour and may God bless you and each and every other judge on the entire Court panel.

QUINLAN CJ: Thank you. Thank you, Mr McGuire. May I commence by echoing those words of welcome. The Court warmly welcomes members of his Honour Justice Lundberg's family who are here with us. In particular his Honour's wife Annelies and their sons Ben and Tom. His Honour's mother Dr Sue Gordon AM and his parents-in-law, Jan and Pamela van den Brun. His Honour's brother Darren Lundberg and his wife Jaime. His Honour's father Rick could not be here but he is watching by live stream as are many other people throughout this State.

We also welcome many other distinguished guests here this afternoon including her Honour Judge Julie Wager Chief Judge of the District Court, Chief Magistrate his Honour Steven Heath, many of our judicial brothers and sisters from the District Court; Dr Adam Tomison, Director General of the Department of Justice; Ms Joanne Stampalia, Executive Director Courts and Tribunal Services; Ms Kelly Martinelli, Executive Manager of the Supreme Court; Director of Public Prosecutions, Mr Robert Owen and Assistant Director Commonwealth Director of Public Prosecutions; Mr Martyn Plummer, together with many past

members of this and other courts, friends, family and colleagues of Justice Lundberg.

Finally, I welcome those who will address the Court this afternoon. The Honourable John Quigley MLA Attorney General of Western Australia; Ms Rebecca Lee, President of the Law Society of Western Australia and Mr Brahma Dharmananda SC President of the WA Bar Association.

Laws have governed the lives of men and women on this continent for tens of thousands of years. The societies that carry those laws to this day embody the longest surviving cultures on our planet. The rule of law is therefore deeply embedded in this land. It reflects a spiritual sovereignty that has never been ceded or extinguished and which co-exists with the sovereignty of the Crown. How could it be otherwise.

The legal tradition that is administered by this Court, the common law is of comparatively recent origin and even in the land where it originally took root, has existed for a fraction of the time that Aboriginal laws and customs have been acknowledged and observed on this land. When that new, relatively recent legal tradition first found expression on this continent, the existing legal traditions that had governed it for millennia were met with incomprehension and indeed hostility. The common law's reckoning with that lack of comprehension and the hurt and damage that it caused is even more recent still.

In many ways it is still only just beginning. And yet, as with its ancient counterpart, the common law having taken root in Australia, has its own mechanisms for self-correction. It aspires to reflect contemporary notions of justice and human rights that are the aspirations of the Australian community. Nevertheless the law's mechanisms for self-correction cannot meaningfully work unless those who are duty bound to administer it, in turn, reflect the diversity of those who are both subject to it and are entitled to its benefit and protection.

Justice Lundberg's appointment as the first member of this Court to be drawn from the Aboriginal peoples of Australia, therefore marks an important step in the history and life of the Court and on our commitment to a justice system that recognises and holds the confidence of all in our community.

His Honour's career in the law, which others will soon set out in detail, has been marked by excellence, passion and a prodigious work ethic. As to excellence, his Honour

is widely regarded as one of the State's finest commercial litigators who has worked nationally and internationally at the highest levels. His Honour has nevertheless remained firmly grounded throughout his remarkably successful career. He will after all always be a Hedland boy at heart. Indeed I would not be at all surprised if there is, lurking under those black robes, his characteristic red flannelette shirt, known to many of us as the Lundberg wonderland shirt.

As to his other qualities, I can personally attest as one of its grateful beneficiaries, to Justice Lundberg's prodigious work ethic. His Honour and I commenced at the University of Western Australia Law School on the same day. Were it not for his Honour's meticulous course notes and his insights into the indoor management rule, my law school career might have been very different. I only hope that at some point in the years ahead, I can return the favour.

It only remains for me, on behalf of the Court, to express how pleased we are, Justice Lundberg, to have you join us on the Court and in our work. We warmly welcome you, Annelies, Ben and Tom to the family of the Court and we assure you of our continued solicitude and support throughout what will no doubt be a distinguished judicial career. Yes, Mr Attorney.

QUIGLEY, MLA: May it please the Court and thank you, Chief Justice. May I commence by also thanking Mr McGuire for his moving Welcome to Country this afternoon and I would also like to pay my respects to the leaders, both past, present and emerging of the Whadjuk people of the great Noongar nation. I would also like to commence by recognising the distinguished guests, who your Honour has named this afternoon, which include, of course, Chief Judge Wager, Chief Magistrate Heath, the Director General of the Department of Justice, Dr Tomison and other distinguished guests present for this hearing this afternoon.

It is my pleasure to be here and to appear on behalf of the State of Western Australia and the government of this State and the people of Western Australia, to honour and to welcome the Honourable Justice Michael Lundberg to the Supreme Court of Western Australia.

I would like to begin by extending a warm welcome to his Honour's family and to his many friends here today. In particular his Honour's wife Annelies, his sons Ben and Tom, his Honour's brother Darren and Darren's wife Jaime. His Honour's mother Dr Sue Gordon AM and his Honour's

father, who is watching by live stream today, as you have mentioned, Chief Justice.

In the case of your Honour's appointment, there are a number of matters which have inexorably led to your Honour's appointment. Let me mention just some of them. Before your appointment your Honour was acknowledged as one of the foremost commercial solicitors in this State. Your Honour was a senior litigation partner at three international law firms, namely King & Wood Mallesons, Quinn Emanuel Urquhart & Sullivan, and lastly, Jones Day.

Your Honour was particularly recognised as one of the best lawyers in the energy and resources sector, intellectual property law, industrial relations and defamation matters. Your Honour regularly, as the partner in charge of a large scale litigation, not only in this State but throughout Australia and even internationally.

From my own experience I know that that at any one time there are perhaps a handful of people who are regarded as go-to solicitors. When everything is on the line, people want to go to a go-to solicitors. When there is a bet-the-company litigation, your Honour was always known as one of these people to go to. That was undoubtedly due to your Honour's formidable work ethic and ability to grasp the essence of complicated matters swiftly. As well, your Honour's strategic view of a matter was always highly regarded. These are essential qualities, which will continue to assist your Honour in performing your new role.

Another matter which pointed towards your Honour's appointment is that your Honour was always more than an able advocate. Your Honour has appeared as a leading counsel in many cases, including the WA Court of Appeal and the Full Court of the Federal Court.

I'm told that when you - I'm told that your benchmark for briefing counsel was whether you considered that they would do a better job than you would do. That rather narrowed the available field. I know that when your Honour appeared - well, I know that when a former State Solicitor was looking for counsel, he rang me up and immediately said, "Can I have Lundberg?"

And you were the first choice of a former State Solicitor, I think, which only reflects on what I've been saying as the go-to counsel, and I know that when you appeared on this interstate case for the State Solicitor, interstate counsel, both Queen's Counsel and Senior

Counsel, remarked that you were better than most of the other counsel appearing on that case at the bar table. No doubt your Honour's ability in court was developed in your formative legal years when you worked, indeed, at the State Solicitor's Office.

Your Honour's ability as an advocate will mean that you're able - you're well able to treat the arguments of counsel, who will appear before you in the future with the respect which they may or may not deserve. Your Honour is also well suited for the appointment, having regard to your Honour's commitment to public service and serving the community.

I've already mentioned that your Honour commenced your legal life at the State Solicitor's office, where you remained for five years. Your Honour has also recently been involved in promoting proper legal education as a member of the Law Advisory Board at the Curtin Law School as well.

Throughout the time you worked at major commercial law firms, your Honour played an integral pro bono role for various matters for an - for indigenous individuals and groups. These matters included acting as solicitor for Mr Gene Gibson, who erroneously spent five years in prison due to a miscarriage of justice and police misconduct, and whose wrongful conviction for manslaughter was overturned by the Court of Appeal in 2017.

Of course, Gene was an Indigenous man from the East Kimberley with limit - for whom English was a second language. During that case, and that appeal, you worked closely on that matter with Justice Vandongen, whom I am sure you will be glad to join on this Court. Of course, your Honour's interest in helping the plight of Indigenous people is an integral part of your Honour's identity. Your Honour is the first Indigenous Supreme Court Justice to be appointed in Western Australia.

Your Honour knows personally the situation of many less fortunate than yourself, having grown up in Port Hedland, and I should say that your Honour has set a fine example in using your legal skills for the benefit of the Indigenous community. I acknowledge specifically the presence in the court today of your mother, Dr Sue Gordan AM. She was the State's first Indigenous magistrate and a member of the Stolen Generation.

Dr Gordon spent almost 20 years on the bench of the Children's Court. It has become clear that your Honour's

appointment is the source of significant pride in the community. I was gratified to read an opinion article in the Western Australian by the legal academic Emma Garlett, who wrote of being mentored by your Honour while you were the litigation partner at King Wood Mallesons. Ms Garlett wrote:

He mentored me, guided me and taught me about the law, the holistic approach required to get the best outcome for clients and how to succeed in the law. I know that I'm not the only Indigenous person Michael mentored. There have been countless others.

She concluded her opinion piece by writing:

We have all heard the saying, "You can't be what you can't see." That is why this judicial appointment is especially profound for us as Indigenous people. To have representation in the judiciary, to give our children a good role model to help avoid the overrepresentation of Indigenous people in the justice system.

Perhaps more succinct was Mark Nannup on Facebook, who reposted an online article about your appointment with the comment:

Holy F.

Let's just say the words to the effect of "Holy moly":

That's my uncle. That has made my day. Super emotional and I'm very proud. Moment for our family.

Your Honour is a highly qualified and experienced member of the Western Australian legal profession. Your Honour brings to the Court a wealth of experience in the practice of law over the last 27 years. Your Honour's appointment as the first Aboriginal judicial member of the Court is also a significant milestone in the history of the Western Australian justice system.

As I have said, this continues the impressive work of your mother. Justice Lundberg, on behalf of the government of Western Australia, and on behalf of all the people of Western Australia, I congratulate you on your appointment, and I wish you all the very best in the next stage of your service to the people of Western Australia. May it please the Court.

QUINLAN CJ: Thank you, Mr Attorney. I'm disappointed you couldn't quote Mr Nannup more directly. Yes, Ms Lee.

LEE, MS: May it please the Court. It is my privilege and personal pleasure to appear this morning representing the Law Society of Western Australia in welcoming the Honourable Justice Michael Lundberg to the bench of the Supreme Court. May I also welcome the members of your Honour's family and acknowledge the friends and colleagues, distinguished guests, and members of the judiciary, past and present, here today, and those who are joining us online.

Following on from the beautiful Welcome to Country by Mr McGuire, may I also pay my respects, and those of the Society's, to the elders, past, present and emerging, of the Whadjuk people of the Noongar nation. On the first day of the Noongar season Birak, it seems fitting to have this ceremony to mark the commencement of this next phase of your Honour's career.

It is a career which has been marked by a strong work ethic, which has seen your Honour become a highly experienced commercial litigator. It's a work ethic which would have assisted you as you started your career in Western Australia's Crown Solicitor's office in 1994, followed you to Mallesons Stephen Jacques in 2000, through the transition to King & Wood Mallesons in 2012, becoming the head of the dispute resolution group and partner in charge of the Perth office. It is a work ethic that came with you to Quinn Emanuel Urquhart & Sullivan in 2018, and then to Jones Day in May last year, and it's a work ethic which will no doubt serve you well on the bench of this Honourable Court.

You have some stiff competition with other members of the bench having a reputation of being bred for work. You will not likely be met with any complaints as to such a work ethic, not merely because of the workload of the Court, but at a minimum to avoid standing in an orderly line in front of your mother, the former Magistrate Dr Gordon AM, to lodge such complaints. Members of the profession say you have a sense of humour as big as your intellect, that your wit is sparkling, and your personal connection with friends and colleagues is strong.

Your reputation in the large law firms was one of encouraging collegiality. You have received peer recognition, such as in Doyle's Guide, where your Honour has been ranked as a pre-eminent commercial litigator in the Western Australian market over the last several years, and

leading arbitration lawyer throughout Australia. Impressively, your Honour has achieved best lawyer rankings across nine practice areas. Litigation, mining law, international arbitration, alternative dispute resolution, intellectual property law, natural resources law, construction and infrastructure law, commercial law and professional malpractice litigation.

As has already been mentioned, your Honour has also been a valued mentor to many junior lawyers, and you've also been a strong supporter of the Law Society. Over the years, you have chaired Law Week panels and presentations, written for the Society's Brief journal and contributed to the Law Society's mentoring program and CPD programs. Reflecting on your Honour's stellar career, it can be said with confidence that your Honour has always respected the diversity of the community you served and upheld the high standards of integrity and trust.

In the handbook for judicial officers, the Honourable T.F. Bathurst talks about trust in the judiciary, and I quote:

To maintain judicial legitimacy, it is essential that judges are chosen on their ability to inspire trust in the community they serve. Trust is not built simply by producing technically sound judgments. It is also built on the perceived values at the heart of the judiciary. Character, experience and empathy with litigants is extremely important. All the more so with judges in trial courts who interact on a daily basis with members of the community.

Throughout your Honour's career you have built trust in your competency, your integrity and your commitment to do right by all manner of people. On behalf of the legal profession of Western Australia and the Law Society, we warmly congratulate you on your appointment and wish your Honour all the best in this new role serving the community and in the administration of justice. May it please the Court.

QUINLAN CJ: Thank you, Ms Lee. Mr Dharmananda.

DHARMANANDA, MR: May it please the Court. May I also acknowledge the traditional owners of the land on which we meet, the Whadjuk people who form part of the Noongar clan. I also pay my respects to the Elders past, present and emerging. On behalf of the WA Bar, it is my great privilege and pleasure to speak at this welcome of the

Honourable Justice Lundberg. At the risk of being a caricature of myself, may I again refer to Justice Marcus Solomon's research, an exploration of why we have these welcome ceremonies. They serve the purpose of ensuring the Court is seen as transparent, open to all, and that judges are selected without favour to maintain the integrity of the system and the rule of law.

May I say, with great respect, the appointment of your Honour will, without any doubt, serve these purposes. Your Honour brings to the Court significant legal ability and a prodigious work ethic. This is to say nothing of your Honour's conviviality, gregarious nature and immense ability to work in a team and to bring out the best in all. These skills will also serve the administration of justice. It has been said by no less than the Honourable Tom Bathurst KC, the former Chief Justice of New South Wales, that diversity in the judiciary is necessary for justice to be done and seen to be done.

Your Honour's appointment is to be applauded, not just from that viewpoint but because your Honour is a fine lawyer who is befitting to be a judge of this Court. As homo sapiens, we all share similar DNA. Your Honour's appointment was made because of your Honour's sheer ability, not simply because of your Honour's rich genetic background. La Trobe University research study recently concluded that the DNA of our First Nations people is ancient and that we, homo sapiens arrived in Australia some 55,000 years ago. The value of that rich tradition cannot be understated.

I first met your Honour in the early 2000s when your Honour joined our old firm Mallesons Stephen Jaques, as KWM then was. Your Honour and I worked on a banking case together. I recall your Honour telling me that you knew what work needed to be done because you could see in your mind's eye how the trial might look and run. Your Honour takes a holistic approach to matters, looking at the big picture and then fine tuning the detail.

I think it was years later that I came to understand the great benefits of your Honour's holistic approach, an approach taught at the State Solicitor's Office. Pity us who have not had the benefit of training at the Crown. At Mallesons, your Honour was a workaholic. Your Honour was an everywhere man, supervised a team of lawyers and also was involved in management at the firm. Your Honour worked all hours, often late into the night. You once told a young lawyer, "You do your best work after midnight".

I'm told your Honour offered a young barrister a new brief on Christmas Day. I shall not go on about your Honour's time at our old firm, lest I'm mistaken for a bit player in Tom Stoppard's *Rosencrantz and Guildenstern are Dead*. But I should say one more thing about your Honour's old firm Mallesons. Mallesons' oldest predecessor firm was Stone James and Co.

Stone James started in 1832 a few short years after settlement in 1829. Your Honour's connection to Western Australia is thus both ancient and relatively new. You were a partner at one of the oldest law firms in Australia.

Your Honour is a great friend and mentor, who has earned loyalty and respect from your colleagues. When your Honour moved from Mallesons to Quinn Emanuel and then to Jones Day, many in your team followed you. Your Honour has always been willing to go anywhere, whatever the personal cost to meet the needs of your clients. I'm told your Honour once travelled first class to London to have a conference with a QC, only to be told you had to meet at the QCs summer house in the south of France. One can only imagine the burden of that. Not unlike, I suppose, having to travel to our north-west to take evidence on country.

Your Honour's love of music is well known. Your Honour's favourites include Midnight Oil. I understand you know and often recite the words of more than one Cold Chisel song usually at the end of social functions. Hopefully this tradition continues at the Court's social gatherings.

Your Honour has a strong sense of justice, is extremely well-read in the law and can apply the law in a shrewd, precise and effective manner to meet your clients' needs and the ends of justice. Your Honour has a wonderful sense of humour and self-deprecating style. Your Honour brings that rare quality of being able to be legally precise and yet understand that the law must be applied to serve humanity and justice. On behalf of the WA Bar, may I again, congratulate your Honour on your well-deserved appointment to the Court. May it please the Court.

QUINLAN CJ: Thank you, Mr Dharmananda. Your Honour.

LUNDBERG J: Thank you. Kaya wanju. Hello and welcome. Can I join with the acknowledgement already given by others today in relation to the traditional custodians of Whadjuk Boodja and pay my respects to Elders past, present and emerging. I recognise their strength and resilience and their continuing connection to this land. I also recognise

other Aboriginal people here today from other parts of the State, including custodians of Wajarri Yamatji land.

Thank you to Vaughn McGuire for his wonderful Welcome to Country for which I'm very grateful. And I endorse and support the Chief Justice's reference to the concept of spiritual sovereignty, as reflected in the Uluru Statement from the Heart.

Your Honours, members of the profession, former colleagues, family and friends, ladies and gentlemen, thank you all for your attendance here today and the honour which you do me by your presence. Thank you to the Attorney General, to Mr Dharmananda and Ms Lee for their kind words today. My father-in-law is a characteristically direct Dutchman, recently explained to me "that kind words on your appointment as a judge are all well and good, but let's see what they say on your retirement". And so while I'm reasonably happy that I've put in a solid effort over the past three decades of legal practice, I'm conscious that the real job and hard work very much lies ahead of me.

On Monday of this week I started, what I can only describe as my dream job. I extend my gratitude to the government through you, Mr Attorney, for the trust and confidence that is reposed in me. I undertake to discharge the duties bestowed on me to the best of my ability. I'm extremely grateful for the warm welcome the members of this Court have extended and the members of other courts in Western Australia, as well as the entire Court staff.

The evident collegiate nature of the Supreme Court owes much to the stewardship of Chief Justice Quinlan, as well as those who have preceded him. There has been no end to the offers of assistance this past week. The response from the broader legal profession has also been quite humbling. I want to thank those who have travelled some distance to be here today, from Sydney, from the Pilbara, from Meekatharra and from the Kimberley.

Sadly, some friends and relatives could not make the journey and some are attending funerals in the north-west. My father, as has been indicated, has some mobility issues and also cannot be here. Happily, the Court has arranged for a live stream facility. I would also like to thank my two inaugural associates who started with me this week and who have been warmly welcomed to the Court by the current associates. I'm sure my two new recruits will set high benchmarks for the associates who follow them - no pressure, guys.

I also wish to recognise my former colleague from Curtin University, Professor Dale Pinto who was the chair of the Academic Board and a member of the University Council. May I say at the outset how enjoyable and rewarding I found my four years serving on the Council. Being an organisation with a soul and within which a divine spirit of service pervades, to quote the university's namesake, the former Prime Minister.

There are four other people in this room today I want to mention at the outset. They have been instrumental in my litigation practice for an extended period. Of the many factors involved in leaving the profession to join this Court, leaving my team was one of the most major emotional decisions. As a team, the four of us have worked together across three law firms. From Mallesons to Quinn Emanuel, to Jones Day. As they know, I value their support immensely.

First, there is the trio of young men who have supported me, some would say carried, for the better part of the last decade. Pierce and Reece, being the two brothers from Collie and there is Adam, who is not from Collie. I'm extremely confident the legal careers of these formidable litigators will flourish.

Then, there is the fourth member Deborah Osborn. We worked together for 12 years before her recent retirement. She was the senior lawyer who cut through many a legal Gordian knot when others couldn't. I have been blessed by being surrounded by enthusiastic, driven, bright lawyers in practice, including the four just mentioned. There are many more sitting in this Court today, and they have all made the challenging work of commercial litigation and arbitration an easier journey than it might otherwise have been.

Allied to those four people, I wish to recognise that the past 18 months, working with one of my best mates, Adam Conway at Jones Day, has been an absolute delight. It is helped that Adam is also a Pilbara boy, although he is from Karratha, not Port Hedland, but no one is perfect. I regret my departure has shortened our time together in practice.

The subject of diversity of the court system has been mentioned already today. The author of a recent article on judicial diversity highlighted the importance of a judiciary capable of drawing on the diverse professional and life experiences of its members to test assumptions that may go otherwise unchallenged. Let me say how pleased

I am to be joining a court system which is already diverse in terms of gender, ethnicity, religion and background, and I'm very happy to add to that diversity.

In this regard, I take the opportunity to recognise my fellow Hedland alumni, their Honours District Court judge David MacLean and his brother Magistrate Gavin MacLean, who demonstrate the increasing diversity of the Western Australian judiciary from an Aboriginal perspective. I'm deeply honoured to join that list and extremely proud that my family, the Gilla family, can be represented in that way. From a national perspective, I also recognise that I follow Justice Lincoln Crowley, who was appointed to the Queensland Supreme Court earlier this year, as the first Indigenous judge of a superior court in this country.

In between leaving private practice and commencing with this Court, I took the opportunity to return to the region of my childhood, the Pilbara. My two adult sons were kind enough to join me for that week of reflection. A road trip, travelling through Karratha, Roebourne, Wickham, Port Hedland, South Hedland, and down through Karijini National Park.

Travelling through the Pilbara brought back memories of people, places and experiences and permitted a time of reflection on matters of significance, both in terms of my appointment to this Court and my time in the profession. To reflect on the natural beauty and endlessness of the Pilbara landscape. To reflect on family, on the experience and pressures of being a commercial litigation partner and on the helping hands which have provided me with support.

Perhaps the most profound moment for me was reflecting on the duality of my life and my family. A country childhood, followed by adult life in the city, with an ancestry spread between Meekatharra on my mother's side and Melbourne and Sweden on my father's. Our childhood in the north was perennially tinged with the red fine dust of iron ore, with school holidays typically spent travelling to remote Aboriginal communities, and on those long journeys, being forced by my mother to listen to both kinds of music, country and western, which I suspect is an experience that will require specialist counselling on my part in the years ahead.

I recall bush meetings of Aboriginal elders at the Yule River, which is just south of Hedland on the road to Roebourne. I recall many visits to the remote Jigalong community so that my mother could speak with local elders. I recall having the late Auntie Alice Bilari Smith as my

babysitter in Roebourne, a well-known Banjima woman. In the late 1970s, I recall watching the controversial Amax drilling convoy pass through the protests of old Aboriginal men at the Twelve Mile Reserve on its way to drill on the land of the Yungngora people at Noonkanbah in the Kimberley.

As it happens, over 40 years later, I had the privilege of representing the Yungngora people in legal proceedings which have only recently concluded. And I recall the stockpiles of iron ore and salt, which at least from a child's perspective, seemed to cast long shadows over Port Hedland.

Returning to my reference to duality, beyond that rural childhood and more than a universe away, commencing in 1994, I started a career in law. It has afforded me the opportunity to travel around the State, this country and the world in a job that I have loved, working with truly remarkable lawyers, and it's in that guise that most people in this room know me.

As for families, the structure of my family has been somewhat atypical. We had the loving support of my father's family in Melbourne, including Grandma Lundberg, Auntie Charlene and Uncle Bob. The other family in Hedland was the Derschow family, a large Aboriginal family headed up by June Derschow and her husband, the late Frank Derschow. They, in effect, adopted my mother, my brother and me, before we found my mother's family.

The Derschow family know how vital their love and support has always been. And we always had the support of the Sister Kate's Kids, the Stolen Generation group who have supported each other since growing up at the orphanage in Perth in the 1930s through to the 1960s. Orphanage being something of a misnomer, of course, given the inhabitants had parents who were very much alive.

Then there is the family on my mother's side. Hedland will always be home for me, but the country of my mother's birth is Yamatji land, much further south, near Meekatharra. That town represents the centre of gravity of my family on my mother's side, most particularly my late grandmother, Molly Gilla. It is where my mother was born and where most of her 11 brothers and sisters were born.

At a station near there, my mother was taken away by a police constable in the middle of the night in November 1947 to be assimilated. She had been monitored and followed for months. Ironically, police constables of the

day held a dual role. They were called native welfare protectors. The laws of the time were on any view abhorrent.

My mother's journey has been beyond imagination in many ways, emerging from a stolen childhood, being estranged from this country's citizenship, and then escaping the almost certain destiny of an Aboriginal woman in the 1950s, which was to become a servant for well-to-do families.

Decades later, Meeka is where my mother, my brother and I were reunited with our family. Only through the determination of Maitland Gilla did this happen. Maitland is my first cousin, but my brother in Aboriginal way. He searched tirelessly for my mother, his auntie, and found her in 1977 in Hedland. There were no records of my mother's birth, and my mother was actively taught to believe she was an orphan.

So finding a removed Aboriginal relative such as my mother was no easy task. Within hours of meeting, we travelled overnight to Meeka with Maitland to reunite my mother and her mother. It was the day I first met my grandmother, and what seemed to be half the population of Meekatharra. It represented a gap of 30 years that Mum and Molly had been separated.

The week in the Pilbara also brought into sharp focus that I grew up with an understanding that a life of public service was commendable, if not inevitable. It reminded me of the decades my mother has devoted to public service and serving the public, many of those in the Pilbara, striving to improve lives of Aboriginal people through Indigenous vocation and employment. My mother is not the only member of the family who has undertaken public service.

There is my father, of who I'm very proud. He has done many things in his life, none more patriotic than serving in both 1 Squadron and 2 Squadron of the Special Air Service Regiment in an era when that regiment attracted far less publicity than it does today. He fought in the Borneo confrontation and in the Vietnam War. His military service has always been an inspiration for me.

Many other members of my family on my father's side have served their entire careers in the police force. So, too, did my late stepfather Kevin, my wife, my brother and my brother-in-law have all been members of the public service for lengthy periods. All of this may explain my first career decision to join the Crown Solicitor's Office,

representing the interests of government agencies, often on your own in distant country courthouses, being sure not to exceed one's approved travel allowance, and staying at the second cheapest motel in town.

Guiding public servants and agencies through difficult legal challenges was a rewarding, if not cathartic introduction to a legal career, and during my time at that Office I enjoyed the boundless support of senior lawyers and my contemporary cohort, as well as from prosecutors of the DPP. On reflection, a catalyst for my departure from that Office was my involvement in the Waterside Workers' litigation in the late 1990s; my junior George Tannin SC in the Federal Court trial presided over by Justice Nicholson.

I recall his Honour being entirely unflappable during that trial, despite the intensity, emotion and urgency of the case. At its heart were allegations of civil tortious conspiracy brought by the Maritime Union of Australia against a statutory authority, a serving minister of the Crown and a former minister. I had the privilege of observing both Justice Ken Martin and the Honourable Rene Le Miere KC as two of the lead counsel in that case, and began to develop some insight into a world of litigation practice outside of the Crown.

It was also not lost on me that the private sector legal teams consisted of a phalanx of lawyers, vastly outnumbering the Crown team, which consisted of George, me and a small box of stationery at the end of bar table.

My week in the Pilbara also reminded me why I entered the legal profession. While my mother joined the magistracy in the late 1980s, it would be wrong to conclude that my attraction to the law as a career was driven along familiar lines. The truth is that a legal career was inevitable once I became aware, as an impressionable student at Hedland Senior High School, that Peter Garrett, the mesmerising front man of my favourite band, had undertaken a law degree.

Not only that but Midnight Oil were at the time campaigning for the spotlight to be directed on Aboriginal land rights and reconciliation. Knowing this, on a trip to Perth, my mum brought back to Hedland the Dead Heart cassette single. It featured the Oil's single Dead Heart, Warumpi Band's Blackfella/Whitefella and Coloured Stone's This Land. The Oils were touring in the north of Australia with the Warumpi Band at the time. I then stumbled across

Warumpi's earlier song Jailanguru Pakarnu on ABCs Rock Arena which is sung in the Luritja dialect of the traditional people near Alice Springs.

The coalescing of Aboriginal and non-Aboriginal forms of music and cultures certainly resonated with me, and drawing all those threads together I formed an impression that a law degree could empower one to affect societal change, but more selfishly, for a teenager, it could provide a spring board into a career in rock and roll. One obstacle to this has been an appreciable absence of music talent on my part which has meant this law degree stepping stone has lasted longer than I initially expected. So it goes.

Finally, my return to the Pilbara in recent weeks offers parallels to my arrival at this Court. Starting as a judge of this Court feels in many ways like coming home. I expressed this sentiment to her Honour Justice Smith when we spoke on the day my appointment was announced. This feeling of returning home, no doubt springs from the number of people on this Court with whom I've previously worked with or alongside. Whether at the Crown Solicitor's Office, at Mallesons, including my former law partner Justice Strk and former colleague Registrar Hosking, or as counsel I have briefed on various matters over the years. There are also several contemporaries of mine from law school here. Seeing familiar faces has made the transition much easier.

Having enjoyed the largesse of big law for the past 20 or so years, described by one former Crown colleague on this Court as "22-year experiment with the private sector", there was no surer reminder that I was returning to public service territory than being told that I (1) had to pay for soft drinks from the Court fridge and (2) advance funds for the Court Christmas lunch later this month. Such fiscal measures would have caused a small insurrection at any of my three former law firms.

Together with those moments of Pilbara induced reflection, let me briefly conclude by appreciating the series of helping hands which have assisted me to this point on the climb. I've worked with many wise and giving lawyers and partners at the Crown Solicitor's Office, Mallesons, Quinn Emanuel and Jones Day. Some of the Crown lawyers sit on the Court today and I thank Chief Justice Quinlan, Justice Smith and Justices of Appeal Mitchell and Pritchard for their guidance and support in my early years.

I owe much also to Carolyn Thatcher SC, Robert Cock KC and George Tannin SC for their wisdom, and three of my contemporaries, the Solicitor General Joshua Thomson SC, Deputy President of the SAT John O'Sullivan and former Commissioner of the Industrial Relations Commission and one of my closest friends, Damien Matthews - all of whom I worked with at some length in the '90s and with whom I shared experiences which helped shape my career.

I should mention the supportive partners at Mallesons, who took a chance on employing a government lawyer and allowed me the opportunity to become a partner of that firm. I spent 18 wonderful years there and was given a feast of exciting litigation work by Alan Murray, Nigel Hunt, the late Ian Cochrane, Larry Iffla, Jeremy Wade, Geoff Rogers, Leigh Warnick SC and Rob Cole.

My thanks also go to Rob Lilburne who allowed me to satisfy my desire to undertake industrial relations litigation at Mallesons which was a dynamic and unpredictable space in the first decade of the 2000s, as those who practised in that area at the time will attest it was a tremendously supportive group of partners.

May I also recognise those litigation partners with whom I have worked very closely. Mr Dharmananda at the bar table, of course, both as partner and as counsel. Ben Luscombe, who taught me how to run a leveraged litigation practice, to develop long-term client relationships as a litigator and to manage large scale litigation.

My passion for my work and the litigation practice which I leave behind, owes much to Ben. Mark Darian Smith, who introduced me to the exciting and frequent flyer point friendly world of international arbitration. Beau Deleuil, who I followed to Quinn Emanuel from Mallesons, deserves my thanks for his support and guidance over the 17 years or so we worked together.

Then, there is Paul D. Evans. Paul was my opponent for many years and then became my fellow partner after he concluded his term as the State Solicitor and as we both made the journey into US law firms. Working with Paul was undoubtedly one of the happiest times I've had in litigation and afforded me the opportunity to draw upon the formidable Freehills litigation DNA which Paul brought with him to Quinn Emanuel.

Finally, there is James Wang, the first Taiwanese partner in the Australian Mallesons partnership, whose candidature as a partner I was proud to sponsor. We worked

together for 13 years and spent many days in the litigation trenches.

There have been many senior barristers I've worked closely with or indeed juniored over the years. From Western Australia, interstate and the London Bar. Some of them sit on this Court today and on the Federal Court and there are many at the bar table this afternoon. Justice Ken Martin and Chris Zelestis KC were perhaps the most frequent and also the most influential of counsel I observed in action.

Finally, in closing I want to thank the members of my family here today, both for their past support and in the expectation that it will continue. I hope that expectation is not misplaced. I've already mentioned my mother and father and my late step-father. My in-laws, the van den Bruns and the Hallidays have given us amazing support. My brother Darren has perfectly fulfilled the job description of an older brother, guiding me for the past 50 years or so, being the family's rock and reminding me to call our parents when I forget, which is occasionally.

My two boys, now young men, who have emerged largely unscathed from two decades of my care. They are my greatest sources of pride, and my many cousins - in an Aboriginal way - my brothers and sisters including Mado, Susan, Lino, who is here today; Berta, Noelene, Beverley, Warren, Normy, Colleen - who is also here today and my nephew Josh Nannup, who I see at the back of the Court, amongst the veritable cast of hundreds of members of the Gilla and associated family spread across Western Australia.

And then there is the love of my life, my wife Annelies. Tomorrow is our 27th wedding anniversary. Without her love and support, the dream job on this Court I have now started, would be as remote as my rock and roll career. She deserves all the recognition. Thank you for your patience.

QUINLAN CJ: Thank you, your Honour. That completes this afternoon's ceremonial sitting. The Court will adjourn.

AT 5.11 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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