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THE SUPREME COURT OF  
WESTERN AUSTRALIA

FULL BENCH

WELCOME TO THE HONOURABLE JUSTICE GARY COBBY

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 29 FEBRUARY 2024, AT 4.17 PM

**QUINLAN CJ:** The Court sits this afternoon to welcome the Honourable Justice Gary Cobby as a judge of the Court. In doing so, we acknowledge the Traditional Custodians of the land on which the Court sits, the Whadjuk people of the Noongar nation and pay our respects to their elders, past and present.

We warmly welcome members of his Honour's family who are here present, his Honour's partner, GiGi Visscher, his Honour's father, Mr Glen Cobby, his Honour's brother and sister-in-law, Darryl and Tracey Cobby, and his Honour's nephews, Blake and Tyler. Also joining us via livestream are his Honour's sister and brother-in-law, Nerine and Wayne Martin, and his Honour's niece and nephew, Corey and Jasmine. And we welcome many other members of his Honour's extended family, colleagues and friends.

We also welcome many other distinguished guests this afternoon, including their Honours Justices Banks-Smith and Colvin of the Federal Court of Australia and their Honours Judges Herron, Levy SC, Vernon, Barone SC, Shepherd and Curwood SC of the District Court of Western Australia, State Coroner Ros Fogliani, Ms Joanne Stampalia PSM, Deputy Director General of the Department of Justice, Mr Michael Celenza, Manager of Superior Courts, Ms Kelly Martinelli, Executive Manager of the Supreme Court, Mr Robert Owen SC, Director of Public Prosecutions, Mr Martyn Plumber, Assistant Director Commonwealth Public Prosecutions, and Ms Catriona Macleod, President of Women Lawyers of Western Australia, together with many past members of this and other courts.

Finally, I welcome those at the Bar table who will address the Court this afternoon - Mr Craig Bydder SC, Solicitor General of Western Australia, Ms Paula Wilkinson, President of the Law Society of Western Australia, and Mr Brahma Dharmananda SC, President of the WA Bar Association. Justice Cobby's appointment fills a vacancy on the Court arising from the impending retirement on 5 April next, of the Honourable Justice Tony Derrick. Justice Derrick has served as a judge of this Court for almost six years, prior to which his Honour served as a judge of the District Court for eight years.

We take this opportunity to publicly acknowledge and thank Justice Derrick for his contribution to the life and work of the Court, to the administration of justice, and for his 14 years of judicial service to the people of Western Australia. That we can publicly acknowledge Justice Derrick at the welcome for his replacement as it

were, is due to the Executive Government and the Department of Justice again having ensured that judicial appointments are made in a timely manner and indeed, prior to the retirement of existing judges.

Mr Solicitor, could I ask you to convey to the Honourable Attorney General the Court's gratitude for his long and continued commitment to the proper resourcing of the Court and of his support for the independent judiciary generally. Justice Cobby, whose appointment took effect exactly one month ago, brings to the Court over 30 years of experience in complex commercial litigation, principally in this Court, including the Court of Appeal, and in the Federal Court of Australia.

The speakers at the Bar table will no doubt address in more detail his Honour's achievements as a solicitor, barrister and Senior Counsel and his Honour's vast contribution to the profession, particularly as a teacher, trainer and mentor. Sitting on this side of the Bar table, as recent consumers of his Honour's advocacy in the past, the members of the Court, of course, bring an additional perspective to his Honour's qualities and attributes, including those qualities that will contribute greatly to his work as a judge.

As an advocate, both at trial and on appeal, Justice Cobby's reputation was always one of candour and of precision. Particularly in large-scale complex commercial litigation, these qualities are indispensable to the attainment of justice in a way that does not leave even the successful party worse off than when it started. All too often, modern litigation becomes so burdened with the multiplication of inconsequential and even unarguable side issues that its core function, the resolution of the real dispute, can be lost.

As counsel, Justice Cobby never fell into this trap. To the contrary, his Honour's approach to every case, and his reputation borne of that approach, was always such that the Court could be confident that only properly sustainable and considered points would be advanced or maintained and that the Court and the parties would not become entangled in procedural dead ends or speculative claims or defences. His Honour combined this precision with admirable candour, with which his Honour could be relied upon to make concessions where appropriate and to identify hidden difficulties where they needed to be grappled with.

These qualities, so essential the efficient and cost-effective resolution of commercial litigation, his Honour

now happily brings to the judicial role. No doubt, his Honour's quiet, pleasant and understated manner will mean that counsel may take a while to realise when they are being chastised for running spurious points or obscuring the real issues. So, let this be a gentle warning now. Justice Cobby, the judges, Master, registrars and staff of the Court are delighted to have you join us on the Court and bring your talents to our work. Please be assured of our continued solicitude and support throughout what will no doubt be a distinguished judicial career. Yes, Mr Solicitor.

**BYDDER, MR:** May it please the Court. It is a great honour and privilege to appear this afternoon on behalf of the State of Western Australia, its Government and people, to welcome your Honour Justice Cobby to the Supreme Court of Western Australia. The Attorney General has asked me to convey his congratulations to your Honour and his regret that he is unable to appear this afternoon to personally welcome your Honour to this Honourable Court.

I join in acknowledging the Whadjuk people of the Noongar nation as the Traditional Custodians of the land on which we meet and pay my respects to their elders, past, present and emerging. And may I also join in recognising the distinguished guests, welcomed by your Honour, the Chief Justice, here this afternoon, and in warmly welcoming your Honour Justice Cobby's family and friends who are here with us today or watching the livestream of today's ceremony, especially your Honour's partner, GiGi, father Glen, brother Darryl and sister-in-law, Tracey, and sister Nerine and brother-in-law, Wayne.

Justice Cobby, you are a very highly regarded member of the legal profession and as his Honour, the Chief Justice, has observed, come to this Honourable Court with more than 30 years' legal experience as both solicitor and counsel. Your Honour was admitted in 1990 and practised as a solicitor for 18 years, particularly in commercial litigation. Your Honour joined the Independent Bar in 2008 and appeared regularly before this Honourable Court in both the General Division and the Court of Appeal as well as before the Federal Court and the High Court.

At the Bar, your Honour continued to be involved in commercial litigation, including regularly appearing as counsel in complex commercial trials, often involving significant issues of credibility. Your Honour's practice extended to a wide range of other areas, including administrative law, insolvency, mining law, proceeds of crime, professional negligence and succession. Much of

your Honour's practice in this Honourable Court since joining the Bar was in the commercial and managed cases list.

That list plays an important role in the efficient management of cases, which need to be resolved quickly or are likely to be marked by interlocutory disputes, or may involve a lengthy trial, or otherwise place a significant burden on the Court's limited resources. The efficient management of these cases is important, not only to the due administration of justice but to the economic life of this State. May I say to your Honour that your long experience in cases of this kind will be invaluable to the work of this Court.

Over the course of your career, your Honour has also been prepared to act pro bono when requested, and indeed, did so in a number of matters. Acting pro bono publico, that is, acting for the public good without payment or for significantly reduced fees is an important way in which legal practitioners can simultaneously improve access to justice and live up to the highest ideals of the legal profession. The importance of pro bono work to the administration of justice and the ideals of our profession can be illustrated by some of the cases in which your Honour acted pro bono.

They included helping an elderly couple to recover the legal title to their home and to discharge a mortgage, which had been obtained by fraudsters who had abused their relationship with that couple, acting for franchisees in a complex case, which involved the alleged overcharging of expenses by the franchisor, and acting in a lengthy hearing under the High Risk Serious Offenders Act where the reliability of expert evidence was an issue. Expert evidence being central to the difficult decisions judges of this Honourable Court must make under the Act, affecting as they do, both personal liberty and the protection of the community.

Your Honour has also made a significant contribution to the legal profession more broadly, including as a member of the board of Francis Burt Chambers and of the Legal Practice Board since 2018. And indeed, your Honour became chair of the Legal Services and Complaints Committee in March of last year. Your Honour's contribution has extended to the continuing legal education of barristers since 2014, including as a presenter for the Western Australian Bar Readers' Course and as a trial advocacy coach for the Australian Bar Association.

And your Honour's eminence in the practice of law was recognised by your appointment as Senior Counsel in 2018. Justice Cobby, your extensive legal expertise and experience, not least in commercial matters, together with your demonstrated commitment to the law and to serving the community make your Honour eminently qualified to join this Honourable Court and to make a great contribution to its work. On behalf of the Government and people of Western Australia, I congratulate your Honour on your very well-deserved appointment and wish you all the very best as you begin your judicial service to the community. May it please the Court.

**QUINLAN CJ:** Thank you, Mr Solicitor. Yes, Ms Wilkinson.

**WILKINSON, MS:** May it please the Court. It is a great privilege to appear here today representing the Law Society of Western Australia to welcome your Honour Justice Cobby to the Bench of this Honourable Court. And I join in acknowledging the Traditional Owners of the land on which we meet, the Whadjuk people of the Noongar nation, and on behalf of the Law Society of Western Australia, I pay my respects to their elders, past and present.

May I also welcome the distinguished guests here today and especially welcome and congratulate members of your Honour's family, and acknowledge friends and colleagues present here in Court today and those attending by the livestream in various places. Especially I welcome your father, Glen, and GiGi. Your Honour, you have very good friends among your colleagues who have spoken to me about you with affection and admiration and I thank them for their contributions to this speech.

Over the last 30 years, your Honour has had the conduct of a wide-ranging commercial practice in the Supreme Court and in the Court of Appeal and in the Federal Court. During the last 15 years while you've been at the Bar, you regularly appeared in highly complex commercial trials. You were appointed silk and became a Director of Francis Burt Chambers in 2018 until your appointment to this Court in December 2023.

You were described as having made a significant contribution to the work of the Board of Directors of Francis Burt Chambers and as a valued mentor to junior members of the chambers, helping them with what I am told was characteristic patience and kindness. You have been described to me by a former colleague of Francis Burt

Chambers as one of the most eminent commercial silks in the State of Western Australia.

You were a contributor to the Chambers' CPD program and a member of the Essential Trial Advocacy Court Coaching Faculty in 2019, 2020 and 2023 for the Western Australian Bar Association and a regular presenter at the Bar Readers' Course. Your Honour has been involved with the regulation of the legal profession since 2018 when you became a member of the Legal Practice Board. You accepted your appointment as Chair of the Legal Services and Complaints Committee in March 2023.

Throughout your time at the Bar as we have heard, you were known for acting in many matters on a pro bono basis. There are many more such pro bono matters that you were involved in as well as those ones that we've heard about today. I've been told that often those would be matters you just happened upon, not necessarily through chambers. Perhaps you had become aware of litigation that had become stalled for some reason. Perhaps just simply for lack of funds.

Whatever the reason, your colleagues say you were prepared to step in and help with no desire to be thanked or recognised for anything special or out of the ordinary. In relation to your pro bono practice, your Honour, your friend and colleague, his Honour Justice Steven Jones of the Family Court of Western Australia, informed me that this was a practice of very significant magnitude at the time you left to take up this appointment.

And, your Honour, I want to express my gratitude on behalf of the Law Society and the wider legal profession for your contributions over the years in the pro bono space. It is not something I was even aware of until I researched for this speech. Your Honour, I would now like to delve a little bit deeper into your history. In your school years you attended Bayswater Primary School, and then Cyril Jackson Senior High School.

You describe yourself as a product of State school and free university education and a supportive family. You were the first in your family at university. During the school years you worked on your friends' cars in the school vocational support centre. As you said, no one could afford a decent car. You patched up rusty old cars and kept them on the road for friends.

You were still patching up at least one old car to this very day, which is your very own 1989 Mazda MX5. You

say of your school years you were not a good student. You felt that in their devotion to teaching your cohort, your teachers had tried harder than we deserved. You were grateful for your education, but some comments you have made are suggestive of what appear to be misplaced feelings of unworthiness on your part.

And I wondered whether this is an example of the Dunning-Kruger effect in reverse, your Honour, where your cognitive bias has tended to lead you to underestimating yourself and your abilities at certain times. You have said disparagingly of yourself that the general assessment of you at school was that you would "like to do as little as possible to get through life". You seem to think this was correct, but the more I read about your Honour's life and talked to others, less this seemed to ring true.

People who choose to do as little as possible to get through life do not typically have large successful commercial pro bono practices, nor are they often described as eminent silks. When you left school, you may have been pushed toward medicine and law by your long-suffering teachers. You decided to take up law at UWA on the basis you said of the required contact hours of the first year: eight hours a week for law; 40 hours a week for medicine.

Your career choice was built around university contact hours, but you were not alone in that. When I gave the welcome speech last year for her Honour Justice Robin Cohen of the Family Court of Western Australia, she had an almost identical reason for studying law rather than medicine. And as with Justice Cohen, you needed to be in paid employment during your uni years. The need for that shaped your career choice. You had a job stacking supermarket shelves at Coles.

You worked six hours a night, usually finishing around midnight, but sometimes also not finishing until two or 3am. This cannot have been conducive to much of a social life at university, nor a healthy study program. But you did very well at university, nevertheless, and you made friends. You put your success at university down to the kindness of friends who shared their notes with you and you spent very little time studying, except close to exams.

Although you have admitted to reading widely around the law, which is probably another way of saying you actually did study quite hard. Your friend, Justice Jones, has a theory about your successes including at university. He says that you have a "Formula 1 brain" and he bases his opinion on observing many things about you over the years,



including your practice at the Bar right down to your efforts with the New York Times cryptic crossword, which gets progressively harder throughout the week.

So that by Thursday you might be saying to yourself things like, "I need to watch more classic German TV". And by Friday, maybe, just "crosswords are stupid". Judge Wendy Gillan has also commented on your encounters with the cryptic crossword. She said, "Despite the best efforts of Justice Steven Jones and me, Justice Cobby never learned the true beauty of a cryptic crossword, but he could be inveigled into the New York Times crossword".

So when your Honour says things like, "I wasn't a good student at university", it's clear to me and your friends that your method of studying despite constraining factors was very effective because you were awarded the Juris Doctor with Honours by thesis, and then the LLB without any discernible missteps. As your great mentor, John Ley SC, said to me about your earlier days of your career in the law, you "were always very smart in the way that you worked".

Having completed your studies, you wanted to get to work immediately. You say you were lucky to be offered a position at Freehills, now Herbert Smith Freehills. You acknowledge excellent training at Freehills and you believe you were incredibly lucky in this respect to have mentors such as Chris Zelestis KC, John Ley SC and Konrad de Kerloy. You said you also considered yourself lucky to have been Chris Zelestis' junior during two lengthy trials early in your career.

You believed the start you got at Freehills was so comprehensive that you learned just about everything you needed to know about commercial litigation in your first three post-admission years. Subsequently, you worked as a solicitor at a range of small, mid-tier and national firms practising in commercial litigation with a focus on insolvency litigation. When asked about your years as a solicitor, you said you "were never a very good employee".

You see, there's a theme here. And you didn't like being a solicitor all that much, but you stuck at this for 18 years before moving to the Bar. Turning back to your friends. Justice Jones told me that you, he and Judge Wendy Gillan were supportive of each other during the years when you were all working together at Francis Burt Chambers. These were obviously good times. This often manifested itself in the consumption of enormous quantities of coffee at the café at the bottom of Allendale Square.

Justice Jones said that he believed the coffee the three of you consumed over the years would have been enough for Mario, the café owner at Allendale Square, to buy himself a new car. Justice Jones describes you as "a voracious reader of history and popular science". Justice Jones also told me that you are ridiculously knowledgeable about computers, including computer hardware, and that rather than just buy a shiny new computer like almost the rest of us, he witnessed you installing the hard drive and all various other components into a compatible shell to assemble your own computer.

I did actually try and understand this a little bit better. Because I have no knowledge about how to build a computer myself. And I briefly searched online. And it looked incredibly hard. It did make me think though that your ability to repair old, rusty cars at an early age, the voracious reading around popular science, and your long-time interest in building computers indicates a meticulous, very precise side to your personality.

And on the career front, I then also wondered how many sliding door career moments you encountered in addition to the question of whether to go down the route to medicine or law. And when I asked GiGi Visscher about this, she agreed with me, said that I was right in these reflections. She said that you are a meticulous person. I now turn your Honour to reflections of a few of your many friends and colleagues. John Ley told me today that he is delighted by your appointment to this Court.

He also said he was very grateful when you followed him as Chair of the Legal Practitioners Complaints Committee, also that you didn't stay there very long. John reminded me that when you took up your appointment to the Legal Practitioners Complaints Committee, you took up a voluntary position, which he considered was in the same category as your pro bono work. He also said that you are very well known for disparaging or undervaluing yourself. I have been told more than once while trying to write this speech that you are a notoriously modest person. Your friend and colleague, Judge Wendy Gillan said this of you:

At the start of his legal life, Justice Cobby was a very clever but also very assertive trial lawyer, a bit of a bare-knuckle fighter.

And I can I just interpose at this point to say that was something I heard on more than one occasion.

Your Honour remained very clever and assertive, but he mellowed over time. He has proven to be a great supporter of young people, particularly women at the Bar, and always made himself available to help anyone who was prepared first to do some of the thinking work in the matter. He is also very kind but would probably deny this. Justice Cobby will make a great trial judge because of his intellect but also his enormous trial experience. He likes to kayak, and he can be persuaded to take a whiskey from time to time.

An anonymous colleague and Law Society member who wanted to contribute today said the following:

Gary's generosity is legendary. He always was extremely generous with his time, to be a mentor and to assist other practitioners.

Ante Golem, the immediate past president of the Law Society, spoke to me about briefing you while you were at the Bar, when you arrived in Perth from Melbourne about 10 years ago. This was a case in which you were the junior to Justice Craig Colvin of the Federal Court. Ante said that this was supposed to be just a little matter, although, really, it was supposed to last five weeks in court. But it actually lasted for three and a half years. Ante said that as a result of being involved in this matter, you and he spent a lot of time together for years. And he spoke of your patience, your great sense of humour, your warmth and intellect.

He said that you have the greatest qualities in abundance and that you are an ideal choice to be a judge of this Court. He also reflected on his knowledge of your pro bono practice and how well known you were for caring for the underdog. And on the subject of the underdog, your Honour, I just now need to mention something which is very personal to you, and it is the species, *Felis catus*, the domestic or house cat, the classic pet underdog of our times.

Cats are a prey species. They cannot afford to show vulnerability and do not demonstrate pain or illness. In their interaction with we large and unpredictable humans, they invariably have trust issues. Feeding them is never enough to win them over. I speak from experience. While writing this speech only yesterday, it came to my attention that cats love you, and that you love cats. In at least one case, a neighbour's cat decided you were much better company than their owner and moved in with you.

One of your cats, a calico cat, was a miserable creature, except around you. It appears your home is never without a cat in attendance. Your Honour, people like me recognise that cats are instinctively great judges of human character. So, your Honour, I personally am very pleased, along with all of your other undoubted talents and strengths, including your propensity for unjustifiable self-deprecation, that an avowed and proven cat lover has been appointed to this Honourable Court.

Your Honour, a lot of people, as I have said, contacted me about you. For example, Catriona Macleod, the President of Women Lawyers, emailed me this morning, reminding me of the cat question. In closing, your Honour, on behalf of the Law Society and the wider legal profession of Western Australia, we warmly congratulate you on your appointment. And we wish your Honour all the very best in this new role in serving the community and the administration of justice. May it please the Court.

**QUINLAN CJ:** Thank you, Ms Wilkinson. Yes, Mr Dharmananda.

**DHARMANANDA, MR:** May it please the Court. May I also acknowledge the Traditional Owners of the lands on which we meet. On behalf of the WA Bar, it is my privilege and pleasure to speak at this welcome for the Honourable Justice Gary Cobby. Justice Cobby is more than amply qualified to be a judge of this Honourable Court. Your Honour is a graduate of UWA, with both a Bachelor of Laws and a Bachelor of Jurisprudence with Honours.

Your Honour was a prolific advocate at the Independent Bar since you joined in 2008 and took silk in 2018. You were rightly sought after as the counsel of choice for your tremendous analytical ability, coupled with your powerful forensic skills, including in the practised art of successful cross-examination. As our young Bar seeks replenishment from constant erosion as meritorious members moved from Bar to Bench, your Honour's skills will be missed.

Equally, such skills will now be harder learned by a new breed of young barristers, looking around for mentors and teachers who are now even more few and far between. Your Honour is much respected and applauded for your willingness to mentor, train and assist a never-ending stream of young barristers who sought your help. Your Honour was always willing to help, however busy you were. I understand your sometimes apparently off-putting style of

asking "what do you want?" was not a sufficient disincentive.

Your Honour always helped, and often distracted yourself from your work, to find solutions for any young barristers that had the courage, nay the intelligence, to seek your Honour's assistance. For those who have known your Honour for more than the last 15 years, it is alleged, perhaps not without basis, that your Honour was "a very gruff and aggressive young man, showing great promise, albeit a little rough around the edges".

It has been said your early style of advocacy was hugely aggressive and may I say it politely, even rude. It is an enormous credit to your Honour that you took stock, tempered your delivery, and became an extremely effective advocate. May I say with the greatest of respect, the Road to Damascus is no less worthy because it has been travelled more than once. Your Honour did your articles and early training at a leading, large law firm, moved for one reason or another to several small and medium-sized firms, finally appreciating that the Bar was your home.

I am told that your Honour has said that those who end up at the Bar were people who didn't belong at any law firm and couldn't get along with anyone else. When I said a similar thing some 18 years ago when I joined the Independent Bar, I thought my insight was new indeed. I, like your Honour, have come to appreciate that we, at the Bar, are different, and do not belong in our own special and different ways.

Your Honour has been described by more than one person as a pleasure to work with, clever, diligent, thoughtful, welcoming, generous with your time, constructive in your feedback, moderate, pragmatic and reasonable. It is said your Honour never over-egged the pudding. Your Honour was not political. Apparently, at your farewell drinks at Francis Burt Chambers, your Honour said that there was nobody in the room that you "hated".

And this was a different experience from when you left other places. The amalgam is a good place. The Bar is just a better place. I understand you are now the third of the 1984 UWA law graduates to become a judge of this Honourable Court. This is apparently despite the head of Law School at the time saying that the 1987 cohort may not achieve great things but were the nicest and most amenable group of students of that era. The head of Law School may have been wrong on at least one account.

I shall not mention any stories about your 1985 Australian Law Students Conference in Melbourne, save to record that your Honour ended up dancing in a group that included Kylie Minogue in a Toorak nightclub. The breadth of your Honour's knowledge and understanding of legal principle will no doubt assist in your Honour's day-to-day work as a judge. Your Honour is fiercely ethical and would immediately correct the slightest mistake and withdraw a question or a point if, on reflection, the point was mis-founded.

Your cross-examination was highly effective, shifting between a conversational style and then asking the killer question, having cornered the witness by a process of gentle persuasion. I understand your Honour has both courage and decisiveness. I am told that you were interested in a property that was up for auction. You went to the auction with some trepidation, having never bid at an auction before. Apparently, neither nerves nor fear distracted you from making the highest bid and buying the property there and then.

Your Honour's ability to make a call on the spot will likely assist your Honour's judicial work. I am reliably informed that you once visited a friend in hospital who had some cardiac problems. The friend was fit and in good shape. Apparently, your Honour commented that your lifestyle choices had been good ones, in that it was not you who had any cardiac issues and had to be in hospital. In *Sapiens: A Brief History of Humankind*, Yuval Harari explains that 90 per cent of our food intake still comes from a handful of plants, including wheat, that our ancestors began domesticating some 12,000 years ago.

The Honourable Justice Marcus Solomon has told me more than once that eating rice each day is almost a religious requirement. Harari is probably right to argue that wheat domesticated *Homo sapiens*, rather than the other way around. In Neil Oliver's *The Story of the World in 100 Moments*, Oliver argues that there is a trinity of sorts of giants of science, with Newton and Einstein on either side and James Maxwell in the middle.

In the most beautiful maths equations ever written, Maxwell demonstrated that electricity, light and magnetism are all the same. Oliver explains that geniuses are often difficult or challenging and often ruffle feathers. But James Maxwell was different. He was measured and calm. Oliver argues that perhaps Maxwell came as close as anyone ever has, as close as the Buddha, Allah or Jesus, to understanding the connectedness of all things.

Your Honour's rounded personality, calm conviction and humble style reflect the virtues of James Maxwell. They will hold you in good stead for office as a judge of this Honourable Court. The WA Bar congratulates your Honour again on your appointment. May it please the Court.

**QUINLAN CJ:** Thank you, Mr Dharmananda. Justice Cobby.

**COBBY J:** Thank you to the Chief Justice. For once, I am going to read a speech rather than just ad lib. I appreciate that all the speakers before me have paid their respects to the Traditional Custodians of the land on which this sitting is taking place. But I wish to pay my own respects to the Traditional Owners of the land on which this Court sits, the Whadjuk people, who form part of the Noongar people of the south-west of Western Australia, and to their elders, past and present.

Thank you, Chief Justice, Mr Solicitor, Ms Wilkinson, and Mr Dharmananda for your very kind words. It is traditional on these occasions to say how generous the speeches have been and how sanitised the accounts of the judge's career are prior to appointment. Sitting here today, I can say both of the speeches have been extraordinarily generous, and that the stories of my career have been thoroughly sanitised. I thank those who have known me for a long time for keeping the truth to themselves. But I can't remember dancing with Kylie Minogue in Melbourne. I am sure that was worth being there for.

Chief Justice, I thank you for your welcome to the Court, both today and more generally. As of today, I have been a judge for a month. The welcome and the support I have received from you and the Court has been extraordinary. My new colleagues and all of the Court staff have been extremely generous with their time and remarkably patient with me. I have also learned more about Taylor Swift and Swifties in the last few weeks than I would have thought possible.

Mr Solicitor, I would be grateful if you could express my gratitude to the Attorney General and the Government for the trust and confidence that has been placed in me. I am very conscious of the responsibility entrusted to me and will do my best to ensure that I discharge it well.

Ms Wilkinson, I thank you for your kind words, not just because they were very kind, but because they have saved me from speaking longer today. Despite having been a barrister for some time, I do not like to be the centre of attention.

Mr Dharmananda, thank you for your eloquence on the part of the Western Australian Bar Association. You lead a branch of the profession which plays an important part in the administration of justice for which I was honoured to be a part of for over 15 years.

In 2008 I was lucky to be able to attend the first essential trial advocacy course run by the WA Bar Association and the Australian Bar Association from which I learned a great many things about how to approach a case as a barrister. It certainly helped me change my overly aggressive style. I greatly enjoyed the chance to help as a coach in the course of more recent years. I always appreciated the time that people gave up to teach me when I was a young lawyer and have sought to do the same. Law is an incredibly difficult profession to try and learn on your own.

I would also like to thank everyone here today for taking the time to attend. There has been a spate of appointments in this and the District Court over the last few months, and I expect that ceremonial fatigue has set in by now. I am grateful for your support in attending this sitting.

I have been very lucky in life. I was lucky to be adopted by my parents, Glen and Dorothy. Both left school at a very young age to begin work as was common at the time. Dad became a boilermaker and Mum was shop assistant until I came along, following which she stayed at home and looked after me, and then my siblings. My sister, Nerine, was born two years after me and my brother, Darryl, four years after that. Mum and Dad were the greatest possible parents. They gave me, Nerine and Darryl a wonderful childhood full of love. We received unqualified support in everything we did.

I learnt the importance of doing the right thing from observing how my father dealt with issues. His example has served me well throughout my career. I am grateful that Mum lived to see me graduate from university and become a solicitor, to attend Nerine's wedding to Wayne, and to meet my sister-in-law, Tracey. She would have been very proud of us all today. As you have heard, I'm a product of the State education system and free university education.

When I was there, my high school's main claim to fame was a view of the superphosphate plant across the school oval. Although my teachers tried hard, I think it would have surprised them to see me appointed to this or any other court for the reasons that Ms Wilkinson expressed.



As you've heard, I worked part-time through university, being the first of my extended family to attend there. I was lucky that at the time a university education was free and I would not be here today if it was not for the introduction of free university education by the Whitlam Government. Because I worked nights, I did not attend the university as often as I should have done.

In Law School I developed the practice of taking a month off work to prepare for and take the exams. That worked reasonably well until I had to write a thesis. As a result, I spent the first 15 or so years of my legal career working in the area of company law that I did not have the time to read while I was at university. That made passing that course an interesting exercise and exam technique, which is the thing I did specialise in at university.

I am, as was noted, the third judge of this Court appointed from my year at Law School after Justices Archer and Lemonis. When I graduated, neither I nor any of my extended family knew a lawyer. I had no idea about how to obtain my first job. I was lucky that when the time came to apply for articles, the demand for bodies was such that I received more offers than I had interviews.

I was also lucky in that on the advice of an acquaintance I accepted an offer of articles of what was then Freehill Hollingdale & Page, now Herbert Smith Freehills. I owe a great deal to John Ley SC, Konrad de Kerloy, John Symington and Paul D. Evans for the training I received and the opportunities given to me over the four or so years I was with that firm.

As someone who grew up in a home that did not have a telephone until after they finished high school and seen a single cheque in their entire life, the opportunity to learn how commerce worked was priceless. I was particularly lucky to have the chance as a very young lawyer, afforded to me by Konrad, to work with Chris Zelestis KC on a number of matters which went to trial, including some where I was allowed to junior Chris despite my knowing nothing about what I was doing.

Chris taught me pleadings, mainly by ripping up everything I wrote and getting me to do it again, and the importance of legal analysis at every case. The things he taught me in those very early years were the foundation of my career. It is, I think, an indication of how good a place Freehills was to learn at that time, but I am now the fourth judge of my cohort to be appointed after having

worked there. I follow Justices Derrick and McGrath of this Court and District Court Judge Gething.

As it has been said, unfortunately as a solicitor I was a very poor employee. After leaving Freehills, I worked for a number of small or medium firms and another national firm, but also took time away from the profession from time to time. I was lucky in June 2000 when Lee Christensen and Paul Tottle, now Justice Tottle, hired me after I had not worked for six months. I was with them for the next five years.

While there, I came to know Stephen Penrose, Andrew Mason and Paul Sheiner well. I then went on to work with Leigh and John Vaughan, now Justice Vaughan, at their firm, again with Andrew Mason and Paul Sheiner. That was an enjoyable time. At a relatively early age I thought that I might try to become a barrister, but my indifferent employment history and my wastrel ways made that seem difficult.

I am very lucky to have met David Barber through work at Freehills when he was an insolvency accountant. After he changed careers and became a financial advisor, Dave gave me some good advice, I think mainly out of pity, but which resulted with me unexpectedly gaining a windfall some years later. It was that which enabled me to join Francis Burt Chambers on April Fool's Day, 2008. David is, in a large way, responsible for my appointment to this Court.

I then spent more than 15 years in practice as a barrister. That has surprised me. I expected not to receive a brief for at least the first year or two and, perhaps, ever. At the time I joined the Bar I was known for being overly aggressive and rude, and fairly. I was therefore very grateful to Andrew Mason, Paul Sheiner and Stephen Penrose in particular for having confidence in me when I first joined the Bar.

I've been lucky to make great friends of the Bar. I won't name you, but I'm glad that many of you are here today. I should make special mention of her Honour Judge Wendy Gillan of the District Court and the Honourable Justice Steven Jones of the Family Court. Both of whom became very close friends when they moved to Francis Burt from Wickham Chambers. I missed each of them greatly following their respective appointments to the Bench.

I am going to try, after today, not to think too much on what it may be that I am always last in these lists of judges that I've spoken of today. To my family, thank you

all for the support over the years. You have tolerated my absences due to work more than I have deserved, and you have kept me grounded during all the time I have literally worked in an ivory tower. AS I said at the start, I have been lucky in life.

The luckiest thing is that when I joined Chambers, my partner, GiGi, was my next-door neighbour. I would never have met her otherwise. And if anyone, it's GiGi that is responsible for my mellowing over the years. I'm doubtful I would have done it on my own. GiGi often tells me that I would be nothing without her, and while I would never admit it to her, that is true. It has certainly helped keep my ego in check to be so often told that I cannot explain anything clearly.

Those of you who know GiGi well, know her to be one of the most intelligent, generous and kind people around. It is a continuing surprise that she continues to put up with me, particularly after the long days and weekends I devoted to work instead of to her. Finally, I thank everyone who was kind enough to offer their congratulations following the announcement of my appointment. I apologise to you all for not responding. It was humbling to receive so many good wishes from so many people, and to be honest, I didn't know what to say in response. I thank you all.

**QUINLAN CJ:** Thank you, Justice Cobby. That concludes today's sitting. The Court will now adjourn.

AT 5.04 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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