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THE SUPREME COURT OF

WESTERN AUSTRALIA

FULL BENCH

WELCOME TO THE HONOURABLE JUSTICE SOLOMON

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON WEDNESDAY, 18 AUGUST 2021, AT 4.15 PM

THE ASSOCIATE: All right. Good afternoon everybody. Court will start shortly. It was asked if you would turn your mobile phones and any other devices off or on silent. I also sincerely apologise for the air con. It will turn on soon.

QUINLAN CJ: The court sits this afternoon to welcome the Honourable Justice Marcus Solomon to the bench. The court acknowledges the traditional owners of the land on which we sit this afternoon, the Whadjuk people of the Noongar Nation and pay our respects to their elders past, present and emerging. I warmly welcome his Honour Justice Solomon's family who are here present. His Honour's wife, Linda and their children - their daughters Rachel, Hadassah and Avia, their sons Eli and Halal. Their son-in-law, Michael Schwartz and his Honour's mother-in-law, Mrs Janet Berinson.

Unfortunately, their son, Rabbi Shua Solomon and daughters-in-law, Mehal and Jackie, are unable to be present due to COVID restrictions in the east but are hopefully able to view the proceedings which are being live-streamed. Also, among his Honour's distinguished guests, I would very much like to welcome Rabbi Daniel Lieberman, Chief Minister of the Perth Hebrew Congregation, Dr Michael Levitt, Chief Medical Officer of Western Australia and President of the Perth Hebrew Congregation, Mr Shula Lazar, Principal of Carmel School, Mr Mark Majzner, President of Carmel School, Rabbi Ari Posner, Rabbi of the Beit Midrash of WA and Mr Darryl Zulberg, President of Beit Midrash of WA.

I also welcome many other distinguished guests here this afternoon, including the Honourable Alannah MacTiernan MLC, the Honourable Justices Katrina Banks-Smith SC, Craig Colvin SC and Darren Jackson SC from the Federal Court of Australia, Chief Judge Julie Wager of the District Court and many of our judicial brothers and sisters from the District Court, his Honour Hylton Quail, President of the Children's Court, Ms Ros Fogliani, State Coroner, Ms Joanne Stampalia, Executive Director Court Services and many past members of this and other courts. Finally, I welcome those who will address the court this afternoon, Mr Joshua Thomson SC, Solicitor General for Western Australia, representing the Attorney General and the Executive Government, Mr Matthew Howard SC, President of the Australian Bar Association, representing the Law Society of Western Australia and Mr Martin Cuerden SC, President of the WA Bar Association.

Justice Solomon commenced with the court two weeks ago on 4 August 2021. His Honour has had an auspicious start. Not only has his Honour thrown himself into the work of the court in both its civil and criminal jurisdictions, I'm reliably informed by the principal registrar that in that short time his Honour has already assumed the mantle of "the nicest judge on the court." No doubt, given the wide reputation of the judges for their great equanimity, this is a significant achievement. Justice Solomon's appointment brings forward the appointment of a replacement in the court for a future retirement. A step for which we acknowledge, Minister MacTiernan and Mr Solicitor, the support of the Executive Government in relation to the increasing burdens on the work of this court.

His Honour, of course, brings an outstanding reputation for legal ability, judgment and a sense of principle, which those at the bar table will soon address in more detail. On the last of these occasions, I indicated that one often looks for a sense in which an appointment is a first. In Justice Solomon's case, the firsts are both local and international. At the local level, Justice Solomon is the first person appointed to this court from Quayside Chambers, a set of barrister's chambers in Perth, established a little over five years ago, and in relation to which his Honour was a founding member.

His Honour's collegiate present and leadership, particularly of junior members of chambers, will be greatly missed, I am sure. And so, we thank Quayside Chambers for letting him go, as it were. At an international level, his Honour's appointment has also been recognised as the first occasion upon which an Orthodox rabbi has been appointed to the bench of a superior court, certainly in Australia and perhaps anywhere in the world. This is, we trust, a reflection not only of his Honour's conspicuous skills and talents, but also, demonstrative of the diversity of life experience and perspectives from which our judicial must be drawn if it is to serve the community for whom it exists.

In that regard, his Honour's appointment to this court was, I am sure, the first to be the subject of headlines in The Jerusalem Post, both in its print and online editions. This recognition was, no doubt, a source of immense pride to his Honour, just as it was the source of immense jealousy on the part of at least one head of jurisdiction, whose appointment did not even crack a mention in L'Osservatore Romano. Your Honour is no stranger to family and community, for which you have a deep appreciation and commitment.

It is, therefore, the court's great pleasure to welcome you, Linda and your whole family to the family and community of the court, and to publicly express our commitment to supporting you in your service as a judge of this court. As you do so, we trust that you will be guided by the admonition of the Torah, "Tzedek, Tzedek Tirdof." Yes, Mr Solicitor.

THOMSON, MR: May it please the court. I would like to commence by recognising the distinguished guests welcomed by your Honour the Chief Justice here, this afternoon. And I would like, particularly, to pay my respects to the traditional owners, the Whadjuk people of the Noongar Nation, their elders, past, present and emerging. It is my pleasure to appear here today on behalf of the State of Western Australia and the government and the people of Western Australia, to honour and to welcome the Honourable Justice Marcus Solomon to the Supreme Court of Western Australia. I should say that the Attorney General, the Honourable John Quigley MLA, had been very much looking forward to delivering this speech, personally.

Unfortunately, he has been detained in Parliament at the eleventh hour, by reason of an opposition motion within his portfolio, as Minister for Electoral Affairs. He apologises for not being able to be here in person. Before commencing my formal remarks, I would also like to extend a warm welcome to his Honour's family and many friends that are here today. I particularly acknowledge his Honour's wife and his children who can be present, both in person and by video. His Honour was born in Newcastle, New South Wales, as the second son to Julia and Jeffrey Solomon, making him seventh-generation Australian on his father's side, and fifth generation on his mother's side.

His Honour includes convicts in his ancestry, with one of his first Australian ancestors arriving in 1800, having been sentenced to penal transportation. His Honour commenced his schooling in Newcastle and moved to Perth at the age of seven and continued primary school in Perth. He attended Mount Lawley Senior High School until Year 10 and was awarded dux of Year 10 before completing Years 11 and 12 in Melbourne at Yeshiva High School. His Honour then pursued higher Yeshiva studies in Melbourne, Israel, and finally, then, in New York, where he received his rabbinic ordination.

His Honour again returned to Perth and commenced study at Murdoch University in the field of Arts and Education, with his initial passion noted to have been in education, and his first dream being to become a teacher of Jewish

studies. However, his Honour commenced a Law Degree at UWA and he completed it with first class honours in 1990. Throughout this period, his Honour also taught Jewish studies at Carmel School in Perth. And while studying Law full-time, became the Director of Jewish Studies at Carmel from 1988 to 1990.

I think I'm correct in saying that his Honour was the only person to receive first class honours in his year at law school, and I think I remember seeing his Honour receive that at the time. Your Honour has since continued serving the Carmel school in various capacities, including school board member, senior vice-president and most recently, since 2011, governor of the Carmel school board. In 1991, your Honour completed your articles of clerkship at Dwyer Durack. Also in 1991, you were admitted as a practitioner of the Supreme Court of Western Australia and in 1992, as a practitioner of the High Court. In 1993, you Honour established the Beit Midrash of WA Incorporated, which was a Jewish educational institution, and you have served since then in an honorary capacity as a rabbi.

Your Honour worked as a lawyer at Dwyer Durack from 1992 to 1995 and you attained partnership in that year, which was a role you carried out until 2000. From 2000 to 2006, your Honour was managing partner and senior property litigation partner for Gadens Lawyers. During this time, your Honour was a member of the Gadens National Board and head of the National Gadens Lawyers Native Title Group. In September 2006, your Honour was called to the Bar. Also, in that year, established under the auspices of the Beit Midrash of WA, your Honour inaugurated the Perth Yisheva, WA's first tertiary institution of Jewish studies and Talmudic law.

Your Honour undertook a wide commercial practice at the Bar, inclusive of complex matters relating to property, contracts, Corporations Act, insolvency, building and construction, equity, administrative law, disputed estates and trade practices. You conducted matters in all superior courts and in local and international arbitrations, where you have acted as both counsel and as arbitrator. In 2013, your Honour was recognised for your exceptional advocacy as an appointee to the role of senior counsel. From that point on, you were a member of the Legal Practice Board in the Professional Affairs Committee and you taught advocacy to junior barristers for the Australian Bar Association and the WA Bar Association.

Your Honour provided extensive pro bono legal advice to community groups and to legal practitioners before the

Legal Profession Complaints Committee and the State Administrative Tribunal. In 2015, your Honour was appointed as a member of the Governance Review Panel, along with the Honourable Ray Finkelstein, to consider submission and provide recommendations for the appropriate governance and corporate structure for several large Jewish colleges and institutions in Victoria, following the release of the final report by the Royal Commission into the institutional responses to child sexual abuse. From 2017, your Honour was the coordinator of the WA Bar's continuing professional development program.

From 2019, your Honour was appointed by the New South Wales Jewish Board of Deputies, as a member of a governance review group to make recommendations to the Sydney Ecclesiastical Court, regarding administration, governance, case management and practice and procedure; to ensure ongoing compliance with Australian law, following the decision of the New South Wales Court of Appeal in Uhman's case. This appointment was alongside the Honourable Justice Stephen Rothman of the Supreme Court of New South Wales. I'm informed that your Honour loves holidaying at Ningaloo Reef, and that it has been suggested that you may hold the record of the holidaymaker that has spent the most amount of time holidaying at Exmouth never having picked up a fishing rod. Your Honour remains committed to and enjoys teaching religious studies to children and adults every Sunday for three to four hours.

Your Honour enjoys listening to music while working in your chambers, and I'm told that you particularly enjoy listening to many of the comic operas by Gilbert and Sullivan. In fact, your Honour is known by your colleagues, friends and family for your quick wit and sense of humour, and ability to write and sing many humorous, clever and generally witty lyrics accompanied by the music of and referencing many well-known Gilbert and Sullivan ditties at many occasions.

Above and beyond all of your Honour's achievements, nothing is more important to you than your family. Your Honour has six children with your wife Linda, three of whom are married, and you are - have three grandchildren. Your Honour has been known to run from valedictory assemblies to be in court for a trial and to fly to Sydney or Melbourne for a day or two between cases to see your children and grandchildren, although I am told that you would convincingly make submissions as to your unavailability to attend any school sports swimming carnivals.

Your Honour looks forward every week to the end of the day on Friday to have your family around the weekly Sabbath dinner table. Reflecting on your Honour's career to date, it is clear that you are eminently qualified to be appointed to sit on the bench of this court. Your extensive expertise in practicing the law and your service to the legal profession and the people of Western Australia give me every confidence in your abilities as a judge in the Supreme Court of Western Australia, and I have been asked to convey that the Attorney General has that confidence as well.

Justice Solomon, on behalf of the government of Western Australia, the Attorney General of Western Australia and the people of Western Australia, the Attorney General congratulates you on your appointment and wishes you all the best in the next stage of your service to the people of Western Australia. May it please the court.

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

HOWARD, MR: May it please the court. It is my privilege and a personal pleasure to appear this afternoon representing the Law Society of Western Australia, of which your Honour was a member for much of your career. The law society joins in acknowledging the traditional owners of the land on which we meet, the Whadjuk people of the Noongar nation. On the society's behalf I pay respect to the elders past and present.

At the opening of this legal year in New South Wales, Chief Justice Bathurst spoke about the public's trust in institutions and more public - more particularly in the judiciary. The legitimacy of the judiciary, the Chief Justice said, depended on a level of trust and the competency, motivations and values of its judges. Further, that trust had to be widespread across the community, not merely amongst those who have had, historically, a privileged relationship with the law.

Most relevantly for this afternoon, the Chief Justice said that to maintain judicial legitimacy, it was essential that judges were chosen for their ability to inspire trust in the community they serve. Particularly for judges in trial courts, their character, experience and empathy with litigants was extremely important. Trust in such judges would be substantially based on how people in the court felt they had been treated.

The emotional intelligence and personal attributes of the judge were more likely to foster trust than their mere

technical legal skills. It is in no way an overreach to say that your Honour's appointment meets those requirements of a good appointment exactly. As has been outlined, your Honour has had, to date, a distinguished legal career. That career has led to the hard-won experience brought by the unglamorous grinding away at the cold face of trials and appearances in all courts and tribunals.

Your personal attributes include your calmness, your respect for all people, your great learning, patience and self-control. Your sense of humour and the depth of your understanding of the human condition must not be left out of that review. Simply, there is a sense of inevitability of our being here today. That inevitability is perhaps made more manifest when it is understood your Honour's relationship with this state's ninth Chief Justice, Sir Albert Wolff, who was the first Jewish judge appointed to this court's bench in 1938.

Sir Albert Wolff's grandfather was your Honour's great-great-grandfather. There have been many other signs to us even more recently that your Honour was leaving the narrow confines of practice as one of the state's busiest silks. To take two recent examples only which pointed to the Olympian remove sometimes thought to be required of judges, in the course of the last big trial that your Honour was engaged in, your Honour had to be reminded as to which of the three parties your Honour was appearing for.

And in the same case, your Honour managed to forget your learned junior's name when announcing appearances. You gave, instead, the name of the party that you were representing. Your Honour may not have ended up in the law but for the timely and early intervention of your now wife and her family. The way your Honour tells it, there was a period early on when you were not taking your life that seriously and were simply doing the things you enjoyed.

That statement, of course, needs to be put into its own context, of course, as by then your Honour had already travelled overseas and had completed the studies which had led to your rabbinical ordination. Nonetheless, as your Honour tells it, it was suggested to you by Linda that you needed to get more serious about your life. On the other hand, Linda reports, I am reliably told, that her father the formidable Jo Berinson, a giant in the WA legal and political world, asked you early in the relationship how you proposed to support a family on your then salary.

Given that your union has produced six children, of whom five are physically here today, and three grandchildren

and counting, it was a typically pertinent and farsighted question. In any event, it is common ground that your Honour then buckled down, got serious and went into the law. Your Honour's passion for teaching has never diminished. Outside of your teaching in the community, as we've heard from the solicitor, the legal profession and advocacy training through the Australian Bar Association have been the blessed recipients of your Honour's gifts.

At this point it would be remiss of me not to pass on the heartfelt congratulations and admiration of the National Advocacy Training Counsel of the ABA. As an advocate, your Honour was always meticulously prepared and focused on truly assisting the court more carefully and vigorously representing your client. One could not hope to have a better or fairer or more pleasant opponent. The bar and the profession have lost a leader, a great role model and advocate.

The sorrow of juniors and instructors is profound. They have lost a confidante, a mentor and a calm - a calm source of wisdom. We have also lost a great courtroom thespian. Your Honour's rhetorical devices in court are many. They include, of course, the apparently thoughtful and complete disarming beard-stroke, the lowering of your Honour's voice to a grumble which allowed your Honour to make devastating submissions while apparently being more sad than angry, and finally, a manoeuvre which, for some of us of a certain age, invokes Batfink and his wings of steel.

Your Honour sits down in apparent displeasure from something an opponent has done while flapping noisily the opposing sides of your Honour's silk gown across your lap. It is a manoeuvre that will not be easily replicated in your Honour's new judicial gown. The community's trust in the administration of justice will have been, and will continue to be, fostered and nurtured by your appointment. The Law Society congratulates you on your appointment. We look forward to appearing in front of you for years to come. May it please the court.

QUINLAN CJ: Thank you, Mr Howard. 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 of the great Noongar nation, and I too pay my respects to their elders past and present. It is my privilege to appear this afternoon on behalf of the Western Australian Bar

Association to join in welcoming your Honour as a member of this court.

It is also, as my learned friend Mr Howard expressed it, a pleasure to appear this afternoon, although I must confess the pleasure is tinged by the sense of loss which the bar feels on this occasion, as we have lost one of our ablest, finest and best loved members. Indeed, when consulted on your Honour's appointment I did consider, for the reasons I've just mentioned, what could be - what could be said against it.

But in the end, had to accept that there was nothing that could possibly have been said as your Honour was, quite frankly, the obvious choice for appointment to this court. Indeed, the only thing, and the least remarkable about your Honour's appointment, is that it has not occurred until now. The Solicitor General and Mr Howard have both spoken to some of your Honour's virtues, which are so relevant on this occasion, and I will not traverse ground already covered.

But indeed, there is so much to be said in favour of your Honour's appointment that I feel the three of us at the bar table today need to effectively share the time available to even begin to cover it. I will, however, personally attest to the utter devastation which a well-timed and not overdone stroke of the beard can bring to an opponent's case in the hands of a master such as your Honour, and I suspect that this particular skill may well be transferable to your Honour's new role.

There is one of your Honour's particular attributes which I would like to highlight, and that is the way that your Honour engaged with your erstwhile colleagues at the bar. I mention this, because your Honour's approach was a model of professional conduct, which should be held up as the standard and aspired to by all. It is appropriate to mention it on this occasion in order to recognise that your Honour was someone who embodied the finest traditions of the bar and to serve as a reminder of the importance of these traditions in the effect of administration of justice.

I had the good fortune to be involved in a number of cases with your Honour, both on the opposite side of the record and for parties with shared interests. I therefore had, and indeed sought out, many discussions with your Honour, particularly during your Honour's years as silk. In either case, your Honour's approach was always the same.

I will not call it a style because it is simply the way that your Honour is.

Jovial, understated, unassuming and disarming by nature while commanding the respect of all through the force of your Honour's intellect, integrity and reputation. Whether on the same side of the case or not, your Honour was always willing to share your analysis of the issues which was always clear and uncomplicated, straight to the point, grounded in common sense and pragmatism and, where appropriate, reflecting empathy for those who have the misfortune to be caught up in the dispute.

When on the other side of the case, your Honour was the model of everything a barrister should be. A pleasure to deal with, never taking sharp or unmeritorious points, and never taking the case personally, no matter the outcome. I will give one example, if I may, to illustrate the last point. On one occasion I had the good fortune to have been successful against your Honour in a matter. Indeed - and I mention this only because it's relevant to the story - it was a resounding success which your Honour took in the good natured way I have already described.

A short time later I received a phone call from a solicitor offering me a new brief. I was told that your Honour was briefed for the other side, that your Honour had been running rings around them, winning everything to the point that my instructor's client had become quite demoralised and decided they needed a new strategy. In fact, so effective had your Honour been that when the solicitor explained the situation, she emphasised to me that her client had one condition to briefing me.

The condition was that the client needed my assurance that I had, and I quote, "done a case against Marcus Solomon and that I had whipped his backside". Fortunately, given my recent victory, I was able to explain that I could satisfy this condition. I mention this only because, when I subsequently informed your Honour of the basis on which I had been briefed against you, you thought it was the funniest thing you had heard. It has not gone unmentioned that your Honour now holds dual appointments as both a judge of this court and as an orthodox rabbi.

There is no doubt that your Honour's deeply held faith has contributed to who you are, as the significance to which the Jewish tradition places on the pursuit of justice is well-known even to those of us who stand outside it. On occasions, however, your Honour's status as a rabbi has created interesting situations for your Honour, which you

have deftly managed. I am informed of one particular occasion before taking silk when you were led at trial by an anonymous informant who - who I will identify only by his initials C.Z. I am told there were three expert witnesses to be cross-examined in the case. Your leader took two of them, being the experts in agricultural economics and bank lending practices, and, no doubt mischievously, allocated to your Honour the third, an expert in pig farming. This required your Honour to understand the finer points of high quality pork production.

I'm informed that your Honour's cross-examination was not only effective but humorous suggesting that your Honour not only mastered the subject but positively enjoyed it. It has been observed that your Honour is the first orthodox Rabbi to be appointed to an Australian Supreme Court. Like the Chief Justice, I do not know whether a similar situation has occurred anywhere outside Australia; however, I feel reasonably confident in asserting that your Honour must be the only person in the common law world who is simultaneously a superior court judge, a practising Rabbi and an expert in pig farming.

Before I leave that particular case, I'm also informed that your Honour's leader's instructions required your Honour, at around 3 o'clock each afternoon, to make as much noise as possible to awaken the trial judge from what is described by my informant as his regular slumber. Your Honour achieved this by knocking various items off the bar table: books, files and even, on one occasion, a jug of water. I'm told your Honour's actions were effective, and his Honour was awakened but not amused.

This suggests that your Honour really had acquired quite a bag of tricks by the time your Honour finished at the bar. I will make one final observation, if I may, about your Honour's faith. To all who know you, your Honour embodies the wisdom of your tradition through your speech and through your actions. Indeed, I can recall only one occasion on which your Honour gave me anything which remotely resembled a religious instruction, and it wasn't so much an instruction as an observation on one of the finer points of your dietary requirements, namely, that scotch whisky is the only inherently kosher form of alcoholic drink.

As it turned out, through happy coincidence, it's also one of your Honour's pleasures. I trust it is a pleasure in which your Honour will still find the time to indulge

from time to time in your new position. On behalf of the Western Australian Bar, mazel tov. Your Honour's appointment to this court is welcomed and to be celebrated, and we wish your Honour every success as you begin this new chapter in your legal career. May it please the court.

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

SOLOMON J: Chief Justice, current and past members of this court - and, in that class, can I acknowledge the Honourable Wayne Martin AC QC, the former Chief Justice of this court who is also the person responsible for my only loss to Mr Cuerden SC - members of other courts, distinguished guests at the bar table and elsewhere, thank you all very much for your attendance this afternoon. May I also begin by acknowledging and paying my respects to the traditional owners of the lands on which we meet, the Whadjuk people who form part of the great Noongar clan of south Western Australia.

I pause there to remind, at least, myself that those words should not be said formulaically or casually. No people knows better than the Jewish people that words matter. Respectful and sensitive speech is but one, but an important part of acknowledging wrongs suffered. For our Australian society, such acknowledgements are not sufficient, but they are a necessary element in resetting, for the better, the manner in which we relate to the First Australians, the original owners of this land which they hold sacred as part of an ancient tradition.

May I then, through you, Mr solicitor and Minister MacTiernan, extend my gratitude to the government for the honour it has bestowed on me and the trust and confidence it has reposed in me. It is both a humbling honour and a heavy burden which I undertake to discharge to the best of my ability. May I then acknowledge the overwhelming avalanche of good wishes that I have received from far and near. They too have been humbling but greatly appreciated, every single one of them. I have, regrettably, not managed to respond to all of them, but I have greatly appreciated them all.

Within the court itself, the warmth and generosity of the welcome has been palpable. I have also been struck by the collegiality and general happiness of the work environment of the court, no doubt a reflection of the quality of the people who have led and shaped its culture.

For those who have not experienced these ceremonies, and perhaps even for some who have, you might be feeling somewhat bewildered.

So far as I know, it does not have its parallel in other professions that might be considered at least as important: people who preserve lives in hospitals, protect us from harm and natural disaster, or teach and nurture the next generation. Even within the legal profession, there are many hundreds who, every day, in their offices or in the Magistrates Court, the Family Court and other forums, struggle to bring some resolution to shattered lives.

Nevertheless, ceremonies of this nature enjoy a long history and tradition. Associate Professor Heather Roberts of the ANU is the leading and pioneer scholar on judicial welcome ceremonies. In her 2017 article published in the Australian Public Law journal she writes:

In a system of judicial appointments made behind closed doors, and with limited insight into selection criteria, the ceremonies provide a rare opportunity for the public airing of the attributes of judicial appointees. As such, swearing-in ceremonies operate alongside the open hearing of cases and the production of reasons for decision as an institutional feature of courts designed to reinforce transparency and public confidence in the judiciary.

I sincerely thank the Chief Justice and each of the speakers at the bar table for their very generous words and good wishes. But as the rationale for this event appears to be transparency and public confidence, you might be left more puzzled that the public airing of the attributes of the new judge are so obviously embellished and exaggerated. I have no good answer to that paradox, but I do suggest that recognising the importance to society of the appointment of judges is a matter of considerable antiquity. Indeed, in my own religious biblical tradition, in the very passage read in all Synagogues in the world just last sabbath and the passage to which the Chief Justice referred, the traditional commentators observe the juxtaposition of the commands to appoint judges and pursue justice and the capacity of a community to live upon the land: "You shall appoint judges", and then, "Justice, justice shall you pursue that you may live and occupy the land."

That juxtaposition suggests that the appointment of judicial officers is a prerequisite to the sustaining of society.

Moreover, those familiar with the biblical narrative will know that the system of the administration of justice, including the appointment of sufficient judges to permit access to justice, preceded the giving of the law to Moses on Mount Sinai.

That order of priorities emanated not from Moses nor even from God or another Israelite. Rather, it came from Jethro, a pagan priest whose advice the great monotheistic lawgiver Moses readily accepted. We might observe two lessons from that ancient wisdom. First, the law is of limited utility without an effective system for the administration of the law, including sufficient access to qualified judges. Secondly, no person or system enjoys a monopoly on ways to improve the administration of justice. As a society and as individuals engaged in the justice system, we should constantly strive to pursue justice, adopting whatever improvements we can from wherever they may come.

Having established that today's ceremony is about so much more than me, there are some personal remarks I wish to make, principally, acknowledgements and thanks to the many people who have supported me over many years to reach this point. In my youth, I had never thought of being a lawyer. That prospect was first suggested inferentially by my sportsmaster in year 10 at Mount Lawley Senior High School. In days when teachers were allowed to say what they really thought, he wrote in my year end report:

Marcus needs to exercise his arms and legs as much as his mouth.

My first real thanks, however, must go to my parents, Geoff and Julia Solomon, who sadly did not live to see this day. My parents were a model of wonderfully gifted people combining professional careers with community and public service. My father was, among many other talents, a scholar of Latin, but it would never have occurred to him to use the words pro bono. Serving the community was just what you naturally did with your spare time.

Above all else, my parents valued education, commitment to their community, family and faith, and good humour and music. Simply put, I was blessed with the greatest possible parents and I am truly sorry that they did not live to be here today. I shared that upbringing with my extraordinarily gifted brother, Dr David Solomon, and my ever dependable funny and loving sister, Rina Solomon. Their ongoing support and love are a source of great strength.

My next thanks go to Linda's parents who have nurtured our family with love and support since Linda and I were married over 34 years ago. We are thrilled and blessed that the matriarch and source of endless love, guidance and support for our family, Linda's mother, Jeanette Berinson, is here with us today.

Linda's father, as many know, was the late and great Joe Berinson. Joe had an enormous influence on my adult life. He was not only a loving and supportive father-in-law and mentor, he was a model of wisdom, generosity and commitment to public service, both to the broader Australian society and to the Jewish people. Had he made different choices in his life, I have no doubt that his prodigious intellect and humanity would have graced this bench. May I ask you, Mr Solicitor, to convey to the Attorney - and for your benefit as well, Minister MacTiernan - I should relate that one of my children once asked their Papa why he went into politics. His reply was typically succinct:

Everyone is entitled to make one mistake in their lives.

I have also been very fortunate to have had the benefit of many great teachers and role models, both in my religious and legal environments. They are too numerous to name. I began my legal career at Dwyer Durack which was an environment buzzing with intellectual passion and social conscience. I learned an enormous amount about many things, not just the law, from those great people; from the graduate lawyers to the partners in that wonderful firm.

A number of us then formed the Perth branch of Gadens which allowed me to develop a better understanding of the commercial legal environment and the many skilled practitioners in that firm. My really lucky break then came when I was told by Chris Zelestis QC that I was to come to the Bar and that, indeed, he had already put my name down for the last available room. I had 10 years at Francis Burt Chambers which was and remains the cornerstone of the Bar in this State and an outstanding institution serving the community in the administration of justice.

I am grateful to so many people at Francis Burt who taught me an enormous amount. Again, they are too numerous to mention, but I must make special mention of Chris Zelestis QC for his patient tutoring, mentoring and relentless pursuit of perfection - indeed, relentless pursuit of everything - and Craig Colvin SC, as his Honour

Justice Colvin then was, for his advice, support and example. I was very fortunate to have had such brilliant lawyers as teachers and role models and even more so as friends.

And then came the happiest period of my professional career thus far, Quayside Chambers. I was acutely aware that there was some disquiet of our establishment of Quayside, but I think the last almost five years has demonstrated not only the great success of Quayside Chambers but its beneficial contribution to the Bar in Western Australia and the legal landscape. Quayside has been an outstanding success not only because of the talent and excellence of its members but because of the commitment of its members to the growth and welfare of the independent Bar and its place in the administration of justice.

In my respectful view, the Bar is stronger, larger, more diverse and more mature for the existence and success of Quayside. That Francis Burt Chambers has continued to flourish alongside Quayside's success is as unsurprising as it is a testament to the strength and quality of the bar in this State. On a personal note, I know that I will miss the people and the environment at Quayside. I will miss not only the unique comradery and the brilliance of its lawyers but the late-night humour and jousting after long days, invariably, in the chambers of one Mr Brahma Dharmananda SC.

There, under the increasing influence of the finest wines and spirits, the issues facing the Bar and the world were furiously debated. Everything from the proper construction and legal reasonableness of the directions issued under the Emergency Management Act of 2005 to, invariably, at the insistence of Mr B Dharmananda SC, on every occasion, God. I think even the Almighty was grateful for the decision in *Herridge Parties v Electricity Networks Corporation T/As Western Power* because it shifted Brahma's passion for intellectual critique from God to the Court of Appeal. They were great occasions; I will miss them.

In my Jewish studies, I had the good fortune of many great figures and mentors again, too many to name, but the occasion cannot pass without reference to the inspirational figure of the late Rabbi Menachem Mendel Schneerson, a man who inspired a generation savaged and shattered by the Holocaust. Rabbi Schneerson did so with a global message of hope and a belief in reaching out to the goodness within

humanity through kindness and love. It was a privilege to study in the institutions which he led.

I must also make mention of my long-time mate from Melbourne school days, Chaim New. I was a boy from Perth, descendant from convicts and the earliest Jewish settlers of Australia. Chaim was a descendant of the great European Rabbinic dynasties and of Holocaust refugees. We became the closet of friends and he encouraged and cheered every moment of my progress. Chaim passed away far too young over five years ago. I am delighted that although Chaim's wife Sheiny in Melbourne could not make it here today, she and the family can watch these proceedings.

There is one further aspect of my Jewish heritage that I wish to mention, and Mr Howard made a reference to: I'm not the first Jew appointed to this court and that is a matter of some significance. There is much soul-searching today to identify and eradicate prejudice and racism in our society. That is a welcome development. But in our zeal to identify such deficiencies, we ought not forget that this state and this country has been a life-saving haven for many distressed and suffering people or people who would have suffered brutal prejudice had they not lived in this state.

In 1938 in Germany, Jews were banned from the legal profession and Jewish judges were stripped of their commissions. In that very same year, 1938, this court appointed its first Jew: Albert Asher Wolff, later Sir Albert, to its bench. That is to the everlasting credit of the West Australian community. This, as Mr Howard has noted, has a personal connection for me because Sir Albert's grandfather was Marks Shrimski, who in the 1880s was one of the first Jewish free settlers to arrive in the colony. He was my great, great grandfather, and I bear a version of his English name and I bear his Hebrew name, Mordechai.

I wish to make but a brief observation about my religious commitment to which others have referred today. I respectfully agree with the observation of Justice Jeff Lindsay of the Supreme Court of New South Wales and Professor Wayne Hudson in their very recent book, Australian Jurists and Christianity. That when it comes to the expression of religious belief by public officials exercising a secular function in Australia, humility is valued.

Indeed, as the 12th century philosopher and legal scholar Maimonides noted, humility ought generally to be

the hallmark of a judge. My own background may be informed by an ancient and enduring tradition, but all members of this court bring their own valuable perspectives and backgrounds. That all contributes to a court that reflects a healthy diversity in the human experience.

And may I conclude with some brief, very personal acknowledgments: Nicole Williams has been my long-suffering admin assistant for more than 20 years. She is simply the world's best and most loyal assistant and I owe her an enormous debt of gratitude. My six children, three now with spouses and two with children of their own, are well beyond anything else my greatest source of pride and pleasure in life, or in the untranslatable Hebrew word, nachas.

I hope any pride they feel today gives them some small insight into the much greater pride and happiness that each of them brings to my life. I am sorry that my eldest son, Shua, and his wife, Michal and their boys Eitan and Yossi and Eli's wife, Jacqui, cannot be here, but I hope that they can at least watch these proceedings.

And finally, every judge knows there is Court of Appeal. The judge must be prepared to have their comments thoroughly reviewed, scrutinised, criticised and corrected. Anyone who knows Linda will appreciate that I have been very well prepared for this aspect of the job. In truth, it is impossible to reduce to words Linda's role, not only in my life, but in the constitution of my mind and soul. Linda has not merely supported; she has both led and supported everything that I and our family do. Words simply fail me in expressing the gratitude and love that the occasion calls for; I owe her everything.

I wish to conclude with an old Jewish custom. At moments of importance in one's life and the life of a community, whatever one's belief or indeed, non-belief, we ought humbly to acknowledge and never take for granted life itself, the values and freedoms we enjoy and the good fortune we share in having been sustained to come together on such an occasion. And if the Chief Justice can use the Hebrew, then I am not going to be outdone. And so in the traditional Hebrew (response not in English). Thank you all.

QUINLAN CJ: Thank you, your Honour. The court will now adjourn.

AT 5.06 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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