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THE SUPREME COURT OF

WESTERN AUSTRALIA

WELCOME TO THE HONOURABLE
JUSTICE McGRATH

FULL BENCH

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 28 NOVEMBER 2016, AT 9.15 AM

MARTIN CJ: The Court sits this morning to welcome the Honourable Justice Joseph McGrath to the Court. His Honour took the oath of office and received his commission as a judge of the General Division at Government House last Friday.

I would like to particularly welcome members of his Honour's family to this morning's sitting including his Honour's children, Thomas and Genevieve, his parents-in-law John and Carolyn Pritchard, and his sister and brother-in-law, Nanette Pritchard and Chris Cook, the latter of whom have travelled from the ACT to join us here this morning.

I would also like to welcome the Honourable Malcolm McCusker AC CVO QC, former Governor of Western Australia, the Honourable Justices Tony Siopis, Michael Barker and James Edelman of the Federal Court of Australia, his Honour Chief Judge Kevin Sleight of the District Court, his Honour Judge Denis Reynolds, President of the Children's Court, Chief Magistrate Steven Heath and Ms Pauline Bagdonavicius, the Acting Director General of the Department of the Attorney General, and other distinguished guests, including many past members of this and other Courts.

I would also like to welcome those who will address the Court this morning, being Mr Peter Quinlan SC, Solicitor General, representing the Hon Michael Mischin MLC, Attorney General of Western Australia, Ms Elizabeth Needham, President of the Law Society, and Mr Matthew Howard SC, President of the WA Bar Association.

The welcome of a new judge to the Court is always a significant and indeed an historic occasion and this morning's sitting is no exception. It has the added feature that it is the first occasion upon which the Court has sat to welcome a new judge in this building. Although this courtroom does not have the heritage value of Court 1 in the building in Stirling Gardens, it does have the distinct advantage that the judges do not have to sit on top of one another. This morning is also

the first occasion upon which a judge has been welcomed to this court by a bench which includes his wife.

After leaving school Justice McGrath initially studied Arts at the University of Western Australia, graduating in 1986 with an Honours degree majoring in political science and economics - two fields of study which are unlikely to be of any assistance whatsoever in the discharge of his Honour's judicial duties. After graduating in Arts, his Honour was seduced by the bright lights and unremitting excitement of the City of Canberra and studied law at the Australian National University before graduating in that discipline in 1989.

Not content with two undergraduate degrees, his Honour went on to obtain two Masters' degrees in law. One was obtained from the University of Western Australia in 1996 and the second from the University of London in 1999, involving studies in international criminal law, humanitarian law and public international law. Those of us on the bench with the surname Martin are able to confirm that the Master's degree in law from the University of London is a very fine degree indeed.

Before obtaining those post-graduate qualifications, his Honour entered the profession as an articled clerk with the firm then known as Freehill Hollingdale & Page, before being admitted to practise in March 1991. During his time at that firm, his Honour worked in the area of commercial transactions and commercial litigation before taking up a position as Associate to Justice Malcolm Lee at the Federal Court of Australia for a period of one year in 1992.

His Honour went from that position to the office of the Commonwealth Director of Public Prosecutions in Perth, rising through the ranks from Legal Officer, to Principal Legal Officer and ultimately to the position of Senior Assistant Director where his Honour took responsibility for the general prosecutions and proceeds of crime branch of that office in Western Australia.

In March 2001 his Honour left the security of public service and joined the WA Bar Association, practising out of Francis Burt Chambers. At the Bar his Honour practised in both the civil and criminal jurisdictions, although his work lay predominantly in the area of complex criminal matters and law enforcement issues arising in and associated with the criminal justice system. In that system, his Honour walked both sides of the street, receiving regular briefs from State and federal government agencies, including the Australian Securities and Investment Commission, the Commonwealth DPP, the WA DPP, the Australian Crime Commission and other State and Commonwealth regulatory agencies, as well as appearing as defence counsel in a wide variety of matters. His Honour appeared in a wide variety of jurisdictions, both State and federal, and was briefed as counsel assisting the Royal Commission into the Finance Broking industry in 2001, and the Royal Commission into WA Police in 2003. During his time at the Bar, his Honour served also as a member of the Law Reform Commission of Western Australia in 2008 and 2009.

In February 2010, his Honour's seniority within the profession was recognised by his appointment to the office of the Director of Public Prosecutions for Western Australia, a position which he held until resigning to take up his appointment to the court. I will say more of his honour's role in that position shortly.

Prior to his appointment to that position, his Honour was extremely active in professional matters, including the provision of continuing professional education in a variety of fields, including criminal law, evidence and advocacy, membership of various committees of the Law Society of Western Australia and of the WA Bar Association, serving as a member of the Council of that Association between 2003 and his appointment as DPP, rising to the position of treasurer of the Association and ultimately vice-president of the Association.

In addition to his role in the provision of continuing professional education, Justice McGrath has been active in undergraduate legal

education, tutoring in law at the School of Business Law at Curtin University and providing guest lectures and serving as a visiting lecturer at the faculty of Law at the University of Western Australia.

His Honour's eminence as an advocate was recognised by his appointment as Senior Counsel in 2011.

As I have mentioned, his Honour has served as Director of Public Prosecutions for Western Australia for more than 6 and a half years. In that capacity, his Honour has headed an organisation with 235 full-time employees and a budget of around \$40 million per annum. Despite the very substantial burdens of administration and supervision which necessarily attend that office, his Honour has found the time and energy to appear as counsel regularly in the Court of Appeal and, happily for the Court of Appeal, more occasionally in the High Court of Australia.

It is perhaps not as well understood as it ought to be that an effective criminal justice system requires a cohesive synthesis of a number of different organisations working effectively and co-operatively, albeit with very different roles to perform within that system. Key players and agencies in the criminal justice system include police, prosecutors, both State and federal, defence lawyers, including the two main legal aid agencies, the various State courts with criminal jurisdiction, the Department of the Attorney General and the Department of Corrective Services. The Heads of State courts and representatives of the various agencies and groups to which I have referred meet regularly to discuss matters of common interest and to ensure maximum co-operation and efficiency despite our different roles and interests in the criminal justice system. Since his appointment as DPP, Justice McGrath has made an outstanding contribution to those meetings and to the general level of co-operation between the various agencies and groups to which I have referred. He has repeatedly shown a willingness to try new systems and to innovate, in the interests of the system as a whole.

In his capacity as head of a publicly funded agency, Justice McGrath is familiar with the consequences of budgetary cuts,

misleadingly described using Orwellian terms like "efficiency dividends" and the apparent expectation of government that more and more can be done with less and less. Unfortunately I must inform his Honour that his experience of these matters at the court is unlikely to be any different to his experience at the DPP. While I am, of course, pleased that his Honour's appointment has increased the judicial resources available to the court, the appointment restores us to the same level of judicial resources the court enjoyed in January 2006 when there were 600,000 fewer people living in the State, and which was prior to the conferral of additional exclusive jurisdiction on the court in a number of areas including dangerous sexual offenders, manslaughter and arson, not to mention the increased civil work as a consequence of the substantial increase in the volume of commercial activity in the State over the last 10 years or so. Despite doubling the allocation of judicial resources to criminal work over the last few years, the time it takes to bring criminal cases to trial has continued to deteriorate. Sadly, this appointment, which fills the vacancy left by the retirement of Justice Simmonds almost 5 months ago, will not reverse that continuing deterioration but will merely reduce the rate at the time taken to bring criminal matters to trial will continue to increase.

I am sure that both his Honour and my judicial colleagues are well aware of these stark realities, and apologise for introducing a gloomy note into what is fundamentally a happy occasion. However, it should not be thought that this appointment, very welcome though it is, will reverse the regrettable trends which have characterised the timeliness of the court's work in recent years.

On a happier note, the appointment of his Honour means that one of his judicial colleagues will now be free to undertake a broader variety of judicial work than has been the case since her appointment, which will enable us to spread the ever growing criminal work of the court amongst a broader spectrum of judges.

That observation is a convenient segue into my closing observation, which on occasions like this has invariably involved

welcoming the family of the new judge into the community of the court. Obviously it is a bit late for that, given that Justice McGrath and his family have been part of the community of the court for many years now, but it is important that I conclude by saying, on behalf of all the members of the court, the registrars and all staff of the court how pleased we are that your Honour has been appointed to assist us in providing our vital services to the people of Western Australia, thereby continuing the public service which has been such a conspicuous component of your Honour's career to date.

QUINLAN, MR: May it please the court. It is with great pleasure that I appear on behalf of the Government of Western Australia to welcome your Honour Justice McGrath as a judge of this court. The Honourable the Attorney General the Honourable Michael Mischin MLC has a meeting of Cabinet this morning and so extends his apologies. He has asked that I convey his personal congratulations on this important occasion.

I acknowledge and congratulate also the members of your family present here today, John and Carolyn Pritchard, Nanette Pritchard and Chris Cook, and, especially, to your Honour's children, Thomas and Genevieve. Thomas is, of course, an old hand at these events. This is now the third judicial welcome for his parents that Thomas has attended. Not bad for a young man of 10 years of age. Of course, your Honour has already made an enormous contribution to this court and the administration of justice in this State.

I refer, of course, to Justice Pritchard who, without your Honour Justice McGrath's apparently hidden charms, Justice Pritchard, an import from Gunnedah via Canberra, might now be sitting in the Supreme Court of the ACT or New South Wales or already on the High Court. What is perhaps less well known is that your Honour Justice McGrath is also an import to Western Australia. While your Honour was raised here, you were, in fact, born in London and first lived in Mill Hill, the London suburb that was also the London home of Sir Thomas

Stamford Raffles. This probably explains your Honour's love for and your family's regular holidays on the island city-state of Singapore.

Your Honour came to Australia at the age of four with your parents, Steven and Margaret McGrath, and your older brother, Martin.

Your Honour was very close to your parents who were immensely proud of all that you had achieved in their lifetimes and would, I am sure, be especially proud to see you now as you embark on this new phase of your career. After completing your schooling at Kewdale Primary School and Kewdale High School, as has been noted, your Honour completed a bachelor of arts at the University of Western Australia with a major in political science.

As those who know your Honour well will attest, your Honour is an enthusiastic, some might say obsessive follower of all things political and, in particular, have a voracious appetite for political biographies. In any conversation or debate your Honour is always able to illustrate your point by drawing upon a vast collection of anecdotes from the lives of Winston Churchill, Lyndon Baines Johnson, Robert Menzies, Gough Whitlam, Richard Nixon and many others.

Thankfully, the lure of electoral politics was not to be and your Honour moved to Canberra to study law at the Australian National University. Your Honour excelled at your legal studies, although it must be admitted that the move to Canberra did present some real challenges for your Honour, the greatest of which was that your Honour was separated for the first from the doting and all encompassing care of your mother, Margaret. How your Honour survived is one of life's great mysteries.

The story may well be (indistinct) but it is said that the laminated instructions as to how to use the washing machines at Burton & Garran Hall at ANU are named after your Honour. It was in Canberra studying law that you met the daughter of John and Carolyn Pritchard and, upon completion of those studies, you both moved back to Perth. After a brief spell with Freehill Hollingdale & Page and then his Honour Justice

Malcolm Lee, you discovered the challenges and rewards of the criminal law in which you have now practised and excelled for over 23 years.

In that field, your Honour has practised both as counsel for the prosecution and the accused in the full range of the criminal jurisdiction of this Court and throughout the judicial hierarchy, including offences such as murder, armed robbery, sexual offences and fraud.

Your Honour also had a particular interest in complex white collar crime, including market manipulation and insider trading. Your Honour's reputation as a Commonwealth prosecutor, defence counsel and latterly, of course, as Director of Public Prosecutions for Western Australia has consistently been that of a thoughtful advocate and adviser who combines an extensive knowledge of the law with a finely developed sense of fairness, justice and due proportion in the individual circumstances of each case – ideal attributes, it could be observed, for a Judge of this Court.

Your Honour has also been an engaged and engaging member of the legal profession and is well liked for your good humour and your warm and friendly personality. May those personal qualities continue to serve you and us well on the Bench. As the Chief Justice has observed, your Honour's practice while a member of the WA Bar Association also extended to civil jurisdiction. In that regard, for a time, your Honour and I both acted for the peak national body in charge of ballroom dancing in Australia, a pastime now more accurately known as "dance sport".

Not only did this enable your Honour to indulge your love of cheesy music from the '60s and '70s but it also fed your love of political intrigue as your Honour was called upon to battle in the courtroom within the Machiavellian politics of ballroom dancing. One of those matters before his Honour Justice Eric Heenan, while ostensibly a boardroom tussle under the Corporations Act, was, in truth, a matter of high drama including affidavit material recounting, combatants

threatening each other hand on hip with lines such as, "You will never dance in this town again".

Your Honour is also in high demand as counsel assisting in commissions of inquiry and as counsel for other investigative and anticorruption bodies. This was another area in which your Honour could combine your varied skills in law, advocacy, policy and Government administration. One of those inquiries, the Royal Commission into the Finance Broking Industry, headed by Ian Temby QC, was particularly influential on your Honour's early career at the Bar.

In that role, your Honour worked as a member of a team of four counsel assisting, all of whom now sit as Judges in this State now that your Honour joins as a member of the Bench of this Court. His Honour Justice Tony Siopis, his Honour Justice Stephen Hall and her Honour Judge Anette Schoombee. Working with Ian Temby QC, himself a former Director of Public Prosecutions, also taught your Honour a great deal about Court craft, working collegiately and getting the best out of a team of professionals.

Again, could I suggest, ideal skills for a Judge of this Court. Working with Temby QC also added to your Honour's large repertoire of uncanny impressions of prominent legal and judicial personalities. Perhaps in the years ahead, your Honour might treat us to a jury charge in the style of Tom Percy QC, a case management conference in the manner of Temby QC or sentences pronounced in the style of his Honour Justice Geoffrey Miller. Your Honour, the Chief Justice, has observed that today's welcome has a number of added features including that this is the first judicial welcome to be held in this magnificent courtroom.

I hope your Honour Justice McGrath does not mind that I also take this opportunity to recognise another milestone which occurs today. That is, of course, the fact that yesterday marked the 20th anniversary of the appointment of the longest serving member of this Court, Master Craig Sanderson, who was appointed on 27 November 1996. It is fitting

that I should record and acknowledge such a significant period of distinguished service to the State and thank Master Sanderson on an important occasion. Your Honour, nothing is more important in a civil society than the maintenance of and adherence to the rule of law.

This is, of course, the responsibility of all branches of Government, as your Honour Justice McGrath will be well familiar in the significant responsibilities you have already discharged as Director of Public Prosecutions, ensuring that decisions, particularly those that are ultimately non-justiciable, are made according to law and without favour or ill will. Nevertheless, it is in the judicial branch of Government that the rule of law is most conspicuously maintained and where, ultimately, it must be vindicated.

In being appointed to this, the highest Court of Western Australia, your Honour's commitment to and responsibility for the maintenance of the rule of law now continues in substance but takes on a new form and a new dimension. The executive Government is grateful that your Honour has accepted this appointment and has every confidence that your Honour will serve this Court and the people of Western Australia with great distinction. I extend its best wishes to your Honour for a long and distinguished judicial career. May it please the Court.

MARTIN CJ: Thank you Mr Solicitor. Ms Needham.

NEEDHAM, MS: May it please the Court. It is my privilege to appear today representing the Law Society and wider legal profession in Western Australia as to welcome his Honour Justice McGrath to the Bench of this Honourable Court. As has already been traversed by the Honourable the Chief Justice and the Solicitor-General, your Honour has enjoyed a distinguished career to date on this side of the Bar table. This new appointment marks the next phase in your Honour's working life, opening up new possibilities for your Honour to continue to make a very substantial contribution to the administration of justice in our State, as has been your wont for much of your professional life.

For a while it must have appeared to your family that you were going to be a perpetual student with both an Arts Degree with Honours and your Law Degree, and they're not one but two Masters Degrees. In particular, the Master of Law with Merit in Public International and Criminal Law at the London School of Economics in 1999 has particularly served you well later in your career. It was whilst at Freehill, Hollingdale and Page that your Honour joined the Law Society in 1991, very early in your career, and has continued throughout your career to make a substantial contribution to the Society's work over the last 25 years of which I will discuss a little further in a moment.

Your interests in the intersection between international and criminal law then found a vent in practice as between 1993 and 1998 your Honour worked as the Principal Legal Officer for the Commonwealth Director of Public Prosecutions, becoming a Senior Assistant Director in the General Prosecutions Branch. In 2001, your Honour joined the Independent Bar with a practice that covered both criminal and civil law, focusing on the law enforcement and corporate criminal matters.

Your Honour is known for being down to earth, and in general parlance, keeping it real. In a profession that often sees being self-deprecating or being upfront about workloads as being a weakness, your Honour resoundingly bucks that trend. At the Bar, where it is common not to know where your next brief will come from or when, your Honour was content to say to that no matter how long you had been there, when you looked in your diary several months hence and noted there wasn't anything there or hadn't heard from instructors for some two months, you felt panic.

This gave permission to other practitioners more junior at the Bar to not feel so panicked. As the Honourable Chief Justice has outlined, your Honour was counsel assisting not one but two Royal Commissions, firstly into the finance broking industry and the second into the Western Australian Police, as well as being a former Commissioner of the Law Reform Commission of Western Australia. Your Honour has served

with distinction on the Legal Practice Board, including on its Admissions and Registrations Committee, as well as being elected by the President of the Western Australian Bar Association.

Your Honour's appointment as the Western Australia Director of Public Prosecutions in January 2010 was welcomed by the Law Society. The Society then noted that your Honour possessed all the attributes required of the role, namely, a wealth of legal experience, skill and independence, all qualities that would doubtless serve your Honour just as well from the Bench of this Honourable Court. It is common for legal practitioners to have to give unwelcome advice but in your role as DPP you have often had to speak in the media about decisions of your office or outcomes of the Court and to do so clearly and sensitively in matters in which emotions for those affected and their families is often running high.

Again, the extension of your skills in this area will be important to you and to those whose lives come before you. Over more than six years as Director of Public Prosecutions, your Honour oversaw a number of innovations at that office, not the least of which was the development of a Mental Health and Wellbeing Program for lawyers at the office. This is an important issue for the profession with evidence that approximately one in three will be affected during their professional lifetime and an issue which the Law Society has been eager to assist practitioners with wherever possible.

The recent evidence shows that as a profession, we are increasing awareness but not the prevalence of these issues so there is still much to be done in this area. A profile in the Law Society's Brief Journal in December 2012 outlined the work of the office of the DPP that the office was undertaking, including running seminars on mental health, developing a DVD to help staff monitor their own wellbeing in the workplace and providing opportunities for staff to partake in physical and social activities. These efforts are clearly much more than just raising awareness. Your Honour has always displayed an interest in assisting younger practitioners.

You were Chairman of the Western Australia Bar Association's Junior Counsel Subcommittee and has assisted the Law Society on many occasions as a seminar speaker, addressing young lawyers on topics such as From Graduate to Senior Practitioner for the Young Lawyers Basics Program and Advocacy and Introduction for Junior Practitioners. Indeed, your Honour has consistently sought to assist other members of the profession through the Law Society's continuing professional development program, serving as deputy convenor of the society's CPD General and Commercial Litigation Working Group. Your Honour has also contributed greatly to the work of the society as a member of its ethics and brief editorial committees.

Your Honour has sought to ensure the Office of the DPP carries out its functions with fairness, impartiality, and without political interference. You have ably performed that delicate balancing act by maintaining productive relationships with government, Parliament, police, the judiciary and profession. This experience will, no doubt, serve your Honour very well as you ensure the administration of justice from the Bench.

I have no doubt that your Honour will continue to work in the same manner that has optimised your Honour's career to date and has garnered your Honour wide respect throughout the Western Australia legal profession. On behalf of the Law Society of Western Australia and the wider legal profession, I wish your Honour the very best in this new chapter of your Honour's life and career. May it please the court.

MARTIN CJ: Thank you, Ms Needham. Mr Howard.

HOWARD, MR: May it please the court. It is my pleasure and privilege to appear this morning on behalf of the Western Australia Bar Association to welcome your Honour Justice McGrath to this bench. Your Honour was the third Director of Public Prosecutions in this State and you have followed each of your predecessors onto the Bench, including following the initial Director, the Honourable John McKechnie QC onto this court's bench.

In contradiction perhaps to your predecessors, it would not be possible to accompany a welcome address for your Honour with a slideshow of media clips and photos as the Chief Justice was able to do on the retirement of Justice McKechnie not that long ago. It is not that your Honour lacks media ability – indeed, many of us were struck by the ease with which your Honour dealt with your first media conference in early 2010 – nor is it the case that there was a lack of high profile or controversial matters through the Director's office on your watch. Rather, your Honour went about the difficult business in a manner which was all about the business at hand and eschewed the media limelight.

While there are some judges who find themselves regularly on the front page of *The West Australian*, albeit, to be fair, not often from this court, one can say with a high degree of confidence that your Honour will not be one of them. In making this comment, I have taken the liberty, if it's permissible, to exclude the Chief Justice for a moment. The Bar has every confidence that you will continue your public service in this new role in the very efficient, no-nonsense way in which you have discharged the Director's role. Before leaving that, mention should be made that your Honour was very supportive of the progression of women within that office as well as being a mentor to many.

As the Chief Justice has already remarked, your Honour left the Bar to become the Director from the position of vice-president of the association. As your Honour will recall, the position of vice-president has been identified by some as being the position of real power within the association. While I can say with some personal insight that has not been the experience of every vice-president, it is the position which Justice Allanson has been heard from time to time to advance.

Interestingly, it may be said that both of you were appointed to this Bench from that position, directly or indirectly. When making that observation, I hasten to say that such an appointment from the position of Vice-President is unlikely to be repeated in the near future. As the Chief Justice has remarked extracurricularly, any attempt to appoint Davies

SC would in all likelihood have to overcome the hurdle of proceedings brought by the banks to enjoin his appointment.

Your Honour's preference for keeping a low profile and working on the business at hand means that there's something of a dearth of the stories which are normally the stock in trade of such welcome addresses. Indeed, even Justice Pritchard, who has followed your Honour's career closely and from a position of some proximity, told me she was unable to supply even one story of interest. Unsurprisingly to any who have appeared before her Honour, this information was delivered with a completely straight face. Others who were approached spoke approvingly of your Honour's professionalism, efficiency and decency, all of which augers well for this role, but makes the job of a third speaker on a day such as today perhaps a little more difficult than usual.

In keeping with your Honour's enjoyment of not being in the limelight, I will content myself by relaying one story which your Honour has told with evident pleasure on more than one occasion. At a time when your family was a single-judge family, your son was at tennis classes when he was asked what his mum and dad did. One may pass over for the moment the question of the relevance of such information to a child's groundstroke. In reply, he said that his mummy was a judge and his daddy was a lawyer. The teacher apparently thought it a good idea to correct him by saying, "Surely, daddy is a judge and mummy is a lawyer." No such difficulties, if they were difficulties, will, of course, arise in the future.

As the Solicitor-General has noted, your Honour is a great mimic. Your impersonations are often demanded by an audience and are remarkable for capturing not just the voice and intonation, but the mannerisms of the mimicked. One of your most famous and most sought after impersonations is that of the Honourable Geoffrey Miller QC, formerly a judge of the Court of Appeal and a doyen of the criminal profession in this State over many years.

More seriously, the Bar has every expectation that your Honour will emulate him substantively in the service you perform for the State, the considerable experience you bring to that service and the efficiency and skill with which you will perform it. The Bar warmly welcomes your Honour's appointment. You are in every way, with respect, an eminently suitable appointment. We look forward to appearing before your Honour and wish you well in your new role. May it please the court.

MARTIN CJ: Thank you, Mr Howard. Justice McGrath.

McGRATH J: Yes. I wish to commence by expressing my gratitude to counsel who have addressed the court this morning. I've attended many judicial welcomes over decades and I've thoroughly enjoyed them. It's somewhat more difficult to sit here and be the recipient of these wonderful observations made by counsel. One thing that has always struck me over the years at these welcomes is that the respective judge has a unique opportunity that is granted to no other man or woman and that is an opportunity, in fact, to attend their own funeral and hear wonderful eulogies. That is because counsel, like speakers at funerals, are generous and foibles are discretely forgotten.

Mr Solicitor, if you had decided to avail yourself of the right to private practice in your current statutory office, I would immediately retain you to deliver any untimely eulogy that I may require. You have been truly generous. I have long enjoyed your friendship and wise counsel. I'm particularly indebted for your counsel in support during my appointment process. Ms Needham, thank you for your generous address. I too have known you for decades and have worked with you. You referred to my contribution to the Law Society and the Bar Association. I've been a member of the Law Society for entire of my legal career.

Whilst I've always been most pleased to contribute to the law society, I've greatly benefited from my membership of the society. I would urge all practitioners, and in particular young practitioners, to

contribute to their profession through the Law Society or other associations. A practitioner will more readily understand that they are part of a profession and not just a mere business if they embrace the opportunities to be involved with their colleagues in the wider professional context.

Mr Howard, thanks for your generous words. I've known and enjoyed your friendship since 1990. Your tale of me in my time at the Bar were warmly delivered and I'm very happy that the long stories were well-hidden. The Bar Association, of which you are the President, plays an extraordinary pivotal role in the justice system, and in particular in the criminal justice system. I was honoured to have been an active member of your association for a great part of my career and I very much look forward to now being an honorary member, as a judicial member.

I also wish to express my gratitude to all who have attended this morning. I very much appreciate that. I am also grateful to my colleagues in the legal profession who have expressed their support in respect of my appointment to this court. Over the last few weeks I've received both encouragement from, and confidence expressed by, the profession. I understand the responsibility that is imposed upon me by becoming a judge of this honourable court, and I do feel truly privileged to have been appointed and to be given this opportunity to continue to serve the community. And, Chief Justice, I look forward now to working with you and the judges in the future.

On this occasion, understandably, I have cause to pause to consider the course of my legal career and, of course, my life to date. Upon such reflection, invariably, I feel a strong sense of debt to so many. I'm a product of the Commonwealth State Education system. I'm a true beneficiary of the substantially free education that Australia provides to children. I've been privileged to be taught by so many talented people in that system of both secondary and tertiary level.

In my professional career I've been honoured to work with and learn so much from so many. As you've heard, I commenced my legal career with a major law firm. For that start, I remain grateful. I learnt much in a law firm that was characterised by exacting standards. One decision that I made, though, in 1991, when I went to work for Justice Lee, was that I would never again fill out a six-minute interval time sheet. It's a remarkable ambition to have in modern law, and I can say today I succeeded – 1991 was the last time I did that.

I decided that I wished to read law, spend time on issues, sit in law libraries, appear in court, and often, and remarkably I achieved that. I worked as an associate, as you've heard, to Justice Lee of the Federal Court. I have fond memories of observing an outstanding lawyer with impeccable manners and judicial temperament. I was fortunate to have been offered an interview with the Commonwealth Director of Public Prosecutions in 1992. I recall that Justice Hall sat on the selection panel. That I was given employment was an early indication of Justice Hall's excellent judgment.

Over the years, I've benefited from working with Justice Hall at two royal commissions and at bar chambers, and I know he is fondly looking forward to me being his new neighbour on his floor. Upon my arrival at the Commonwealth DPP I was met by two senior lawyers, Mr Jeff Scholz and the late Mr Harold Seymour. I'm grateful to both for their guidance and support. I also learnt a great deal about modern public administration from the deputy director, Mr Ian Birmingham, who was a fine Canberra Mandarin: unfailingly polite with a balanced temperament, but a steely determination – an excellent apprenticeship for the future that lay before me as a statutory officeholder commencing in 2010.

I also wish to acknowledge, again, the independent bar. It's an extraordinary important part of my career. I was able to practice law as an independent counsel in a very collegiate association. Many of my friends are present here today. I greatly appreciate your friendship, support and good cheer over many years. There are too many persons to

cite individually, but if I had to name two senior counsel that gave me great guidance and support, it would be the Honourable Mr Len Roberts-Smith QC and the Honourable Mr Malcolm McCusker QC.

This morning, counsel referred to my achievements as the Director of the Office of the Director of Public Prosecutions. Ultimately, the question of achievement is for others to determine. To the extent that my seven years as director has been successful, it has been so because of the talented people who each day contribute to that office. To the lawyers and officers who are the ODPP, I say thank you. Your contribution to the state is enormous, but largely unrecognised. You deliver an extraordinary service to the community.

Within that office there are so many who deserve to be mentioned by me this morning. Time, though, only permits me to mention some by name. My personal staff over the years, Margaret Fairey, Yanina Boschini, Marie Vanderzanden and Rachel Raggart, thank you for so much. To the consultant state prosecutors and practice managers, I extend my thanks for the burden that you carry. I see a few of you at the bar table today. I will miss you. I see Ms Barbagallo, Ms Burrows and Ms Forrester. The ODPP is largely run on the shoulders of senior women. It's just like my household. And for that I'm very grateful.

Two officers of the ODPP I wish to acknowledge is also Mr Jeff Plunkett and Mr Matt Bugg. I very much wished, when I arrived as director, to continue the modernisation of the ODPP to reflect its status as a mid-size Government department. I knew what I wished to do, having an understanding of public administration, but only Jeff Plunkett had the experience and talent to implement. For over six years, I would speak to Jeff Plunkett on a number of occasions daily about every aspect of the ODPP. Jeff Plunkett, thank you for what we achieved. For Matt Bugg, his role was to manage the legal practice. Try being the manager of over 115 highly motivated educated lawyers. Matthew is a gifted strategic thinker, who has the intellect and drive to implement necessary change, being change that I identified that he would implement. Matthew, I'm very grateful.

Within the ODPP I endeavoured to foster a collegiate culture. I welcomed dissent on intellectual points, including legal questions and legal policy. That is part of a proper function in Crown law office, and it should be encouraged, but intellectual dissent must be conducted with civility and civility is not a weakness, rather it's a strength and, in particular, within a Crown law office. I very hope that this is one of my true legacies within that office. I left with a heavy heart, but I look forward to the future.

I wish now to turn to my family, who have given me so much. My early life was one of books and sport. My parents, Margaret and Stephen, gave me a wonderful childhood, full of love, and instilled in me an expectation I could, and would, achieve anything that I wished. My brother, Martin, my cousins, Rod and Tricia, who are unable to be here today, I thank you for your love and support. I thank my father- and mother-in-law, John and Carol, and for their love and support. Thank you also for love and support to my sister-in-laws, Annie and Ninette, and her husband, Chris, who fortunately can be here today.

I will turn to my best friend – and it's not you, Mr Quinlan – to my best friend, confidante and the finest of counsel – and not you again Mr Quinlan – to my best friend, confidante and the finest of counsel, my wife, Janine. Nothing is possible without Janine. Janine is my rock. She does everything in our lives, except Tuesday mornings, when I take the wheelie bin out. So thank you to Justice Pritchard. Finally, to our children, my son, Tom, and daughter, Genevieve – the other two loves of my life. I'm so proud to be your father, and pleased that you are here today.

Chief Justice, I look forward to working with you in your court.

MARTIN CJ: Thank you very much, Justice McGrath. That completes this morning's ceremonial sitting. Court will now adjourn.

AT 9.59 AM THE MATTER WAS ADJOURNED ACCORDINGLY

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