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THE SUPREME COURT OF

WESTERN AUSTRALIA

WELCOME TO THE HONOURABLE JUSTICE HOWARD

FULL BENCH

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 27 JULY 2023, AT 4.16 PM

QUINLAN CJ: The court sits this afternoon to welcome the Honourable Justice Matthew Howard as a judge of the court. Justice Howard was sworn in and commenced his service on the court last Monday, 17 July, this year. We acknowledge the traditional custodians of the lands on which the court sits this afternoon, the Whadjuk people of the Noongar nation, and pay our respects to their elders past, present and emerging. We particularly welcome members of his Honour Justice Howard's family who are here, his Honour's wife, Debra Zanella, his Honour's son, Blake, and daughter, Maureen, and granddaughters Audrey, Sofia, Juliet and Georgia.

His Honour's mother, Elaine Robbins, and sister, Melinda Logan, could not be here in person, but are joining us through the live stream. We also welcome many other distinguished guests here this afternoon, including the former Governor of Western Australia, the Honourable Malcolm McCusker AC CVO KC; the Honourable Justices Katrina Banks-Smith, Craig Colvin, Darren Jackson and Michael Feutrill of the Federal Court of Australia; Judge Hylton Quail, President of the Children's Court of Western Australia; Senior Judge of the District Court, Judge Andrew Stavrianou, and many other of our judicial brothers and sisters from the District Court.

Chief Magistrate Steven Heath; Joshua Thomson SC, Solicitor-General; Director of Public Prosecutions, Mr Robert Owen; and Assistant Director of Commonwealth Public Prosecutions, Martyn Plummer; Joanne Stampalia, Executive Director, Court Services; Mr Michael Celenza, Director of Higher Courts; Ms Raquel Flores, Acting Executive Manager of the Supreme Court; together with many past members of this and other courts; Justice Howard's friends and invited guests. Can I particularly welcome Mr Peter Dunning KC, the President, and Professor Greg Tolhurst, Chief Executive Officer, of the Australian Bar Association.

Thank you for making the journey to be with us here today. It is a tangible sign and mark of Justice Howard's service to the Australian Bar and Australian legal profession and the high regard with which he is held, and rightly held, at a national level. Finally, I welcome those who will address the court this afternoon, the Honourable John Quigley MLA, Attorney-General of Western Australia; Ms Paula Wilkinson, Senior Vice President of the Law Society of Western Australia; and Mr Brahma Dharmananda SC, President of the WA Bar Association.

Justice Howard brings great wealth of experience and expertise to the work of the court, with well over 30 years of practice in the law, predominantly as a barrister in private practice, and as Senior Counsel since 2009. His Honour practised widely across civil and criminal law, including in the High Court of Australia, where his Honour appeared in a number of important appeals in criminal law and administrative law, particularly migration. Alas, we will not be able to offer your Honour much in the way of a migration list, but there is much to do in the other areas in which your Honour has excelled: criminal law, commercial law, corporations, and public law generally.

In addition to a busy practice, Justice Howard has contributed enormously to the affairs of the legal profession, to public administration, and to the public good in a wide variety of roles, including as President of the WA Bar Association and then President of the Australian Bar Association, as a member and Chair of the Legal Practice Board, and as Acting Parliamentary Inspector of the Corruption and Crime Commission. His Honour has also served as Chair of the Mental Health Law Centre and Chair of Law Access, roles which are just the tip of the iceberg of his Honour's long-held commitment to the provision of pro bono legal services in our community.

Justice Howard is also well-known for his commitment to mentorship and teaching. His Honour has held teaching positions, particularly at the University of Western Australia, throughout his legal career, and has had a particular commitment over many years to advocacy training with the Australian Bar Association's essential trial advocacy course, of which his Honour was most recently the course director, in the week prior to his appointment to the court.

His Honour will now, of course, have the pleasure of being a consumer of the advocacy skills he has sought to instil in newly minted barristers. As I have said, his Honour's commitment to teaching others and guiding their careers stretches way back, and indeed prior to his Honour's admission as a lawyer in 1989. One particular former student recalls that, in 1988, as a first-year Bachelor of Commerce student at the University of Western Australia, a young Matthew Howard was his tutor in the first-year commerce unit then known as Legal Framework of Business.

Following the first written assessment in that course, Justice Howard wrote this on the student's essay, "You appear to have an aptitude for the law. Have you ever

thought about transferring from commerce and going to the Law School?" The student ultimately took the advice and began first-year law the following year. It was fitting, then, that 35 years later, that young commerce student was able to return the compliment when, as Chief Justice, he could say to Matthew Howard SC, "You appear to have an aptitude for hard work and wise decision-making. Have you ever thought about coming to the Supreme Court?"

May I conclude, Justice Howard, by saying how very pleased we all are that you had thought about it, that you said yes, and that you now join us on the court, bringing all of your talents and qualities to our work. We extend our warmest welcome to you and Debra, to the community of the court, and assure you of our continued support throughout what will, no doubt, be a distinguished judicial career. Yes, Mr Attorney.

QUIGLEY, MR: May it please the court. And thank you, Chief Justice. And I would like to commence this short speech by recognising the many distinguished guests who have come here today from around the State and from interstate, as a testimony to the high regard in which your Honour is held. I also want to acknowledge the Whadjuk people of the great Noongar nation, and pay my respects to their elders past, present and emerging.

Your Honour Chief Justice has in your welcoming address named by individual name all members of your Honour's family and the many distinguished guests that have attended this afternoon, and I also acknowledge their presence and welcome them here today. Your Honour the Chief Justice has given a very comprehensive summary of your Honour's experience and background before coming to the court, and I shan't repeat all of that, for the sake of brevity this afternoon.

But I think it's important, very important, that a member of the executive appear before the court to welcome a new member of the court, for it's at all times to be remembered that the court is a third branch of government, along with the executive and the legislative, and an equal partner and a separate and independent court, to which your Honour is being welcomed this afternoon.

And the executive and the Cabinet, in considering your Honour's appointment, could not have been more impressed with your Honour's background, work ethic, and all of the contributions that your Honour has made, both in your pro bono work, in the learnings of the law as outlined by His

Honour the Chief Justice, and in your work before the court and in academia.

So it is with great humility that I appear here on behalf of the government and the people of Western Australia to extend the warmest welcome to the court, this independent, separate judiciary and branch of government, and to express the government's utter confidence in your ability, wisdom and judgment to be a member of this honourable court. And on behalf of the government, and on behalf of the people of Western Australia, I wish to congratulate you and offer you all best wishes in your future service of our community in Western Australia. May it please the court.

QUINLAN CJ: Thank you, Mr Attorney. Yes, Ms Wilkinson.

WILKINSON, MS: May it please the court. The Law Society joins in acknowledging the traditional owners of the land on which we meet, the Whadjuk people of the Noongar nation. On behalf of the Law Society, I pay my respects to their elders past and present. Your Honour, it's a great privilege to appear today representing the Law Society and the legal profession of Western Australia to welcome you to the bench of this honourable court.

I also welcome your Honour's family, and in particular the lovely granddaughters Audrey, Sofia, Juliet and Georgia, and I welcome and congratulate your mother, Elaine Robbins, and your sister, Melinda Logan, who unfortunately could not be present today, but I understand are watching online. I acknowledge your colleagues, Peter Dunning KC, President of the Australian Bar Association, and Professor Greg Tolhurst, Chief Executive Officer of the Australian Bar Association.

I acknowledge all your other friends and colleagues here today, distinguished guests and members of the judiciary. Your Honour, just a little bit of history. I've only managed to find out a very little bit of history. You are remembered, from your days at UWA Law School, as being academically rigorous and always somewhere very near the top in every competition that Law School threw up, including mooting in second and third year.

A friend of yours from those days said that you were always the smartest person in the room. But you also had a lot of fun at Law School. You had a motorbike, a cycle and a very old car that you called the Morris Millennium Falcon. You are remembered as a very enthusiastic driver. Shall we say that not everyone wanted to be a passenger.

You loved sport, and you are remembered as a keen participant and spectator.

It was suggested I should mention your love of cycling, cricket, squash, Rugby Union, soccer and hockey, and your participating in marathons. You are remembered to this day as a long-suffering supporter of North Melbourne, and this is still the case. And if you want to torture yourself on a slow day in the office, you could google "worst AFL game ever". Research indicates this could very well have been the game where the Kangaroos lost to St Kilda in Melbourne on 8 May 2023, and this is a game that you were actually at.

So you are remembered by your university friends as a very entertaining person, who, above all, loved a good argument. And based on my other discussions about you this week, this seems to be a generally held opinion, that you love a good argument, and one person who I spoke to wondered how this might play out in the Supreme Court tearoom. But before I leave your university days behind, I thought I might mention your Honour's honours thesis, which discussed the workings of the Commission for the Conservation of Antarctic Marine Living Resources, or CCAMLR.

When asked what this thesis was about, you apparently used to say dismissively to your friends that it was all about krill, which you said were tiny little fish that get eaten by whales, and the friend who told me is still laughing about this years later. I'm sure it was about much more than that, because the same friend also recalled that you excelled all the way through university, including in your final year.

Having obtained your degree, your Honour did not leave university behind you. As has been observed, you had a career in academia from 1987 onwards at a number of tertiary institutions, including Melbourne University, UWA Law School for many years, where you were an adjunct professor, Murdoch University Law School, and University of Wollongong, teaching business law, constitutional law, company law, equity and trusts, conflict of laws, and ethics and responsibility.

Your Honour commenced your legal career at what is now the State Solicitor's Office, later joined what is now the Australian Securities and Investment Commission, and what is now Herbert Smith Freehills. Your Honour was admitted to practice as a barrister and solicitor of the Supreme Court of Western Australia in 1989, then also in New South

Wales in 1994, and you were a member of the Victorian Bar from 1998. You joined the Independent Bar and Francis Burt Chambers in 1996 and were appointed Senior Counsel in 2009.

As can be observed from all of that, your Honour, you have had almost 30 years of experience at the Bar. Your principal areas of practice have been commercial and public law. Also, your Honour has been involved for many years serving the legal profession, the WA community and Australia through various associations and committees and through your pro bono work. Your Honour is a former President of the Australian Bar Association from November 2019 to November 2021, Vice-President of the Australian Bar Association from 2018 to 2019, and Treasurer in 2017.

At the date of your appointment, you were Chair of the Legal Practice Board and Director and Chair of Law Access, which, of course, is the pro bono arm of the Law Society of Western Australia, and I think you didn't actually retire from that position until some time in the middle of this month, around about 14 July 2023. You are the former President of the WA Bar Association, serving from November 2015 to 2018, Vice-President of the Australian Bar Association 2018 to 2019, Treasurer of the Bar Association and President of the Australian Bar Association, November 2019 to November 2021.

You were a Councillor of the Law Society of Western Australia 2019 to 2021. As a councillor myself, your Honour, I remember you zooming into council meetings during the pandemic year. When we could not meet in person, we were always a bit off-balance. There was much for the council to consider during the pandemic, and I remember how engaged you were at our meetings and how we all valued your contributions.

Your Honour, you are remembered with great affection at the Law Society, and in relation to your appointment, your Honour, well, I can't tell you how pleased we all are for you. At the Law Society, we feel we have a special relationship with you. For example, I can recall things would come up, and I can remember one or other of us saying, "I know who we can ask about that," and it was always you, your Honour, and you would always know the answer.

And I think the reason you were so helpful, your Honour, is because, by then, you had a vast historical corporate knowledge as a result of being engaged in so many different places and doing so many different things, often

all at the same time. An example of where you were very special is the time when you were a Member of the Chair of the Board of Management of the Mental Health Law Centre WA, from November 2013 to October 2017. At the time of your involvement, the Law Centre was facing an array of complicated, time-consuming challenges, including the need to secure funding.

Your colleague, Dylan McKimmie, a partner at Norton Rose Fulbright, Australia, who directly succeeded you as chair of the centre, has told me about your very successful efforts to address the challenges faced by the Law Centre during your time as director and your tireless contributions which helped to steer the centre to a pathway of stability. Through your diverse and significant contributions - and I will mention the Board of Law Access again shortly, your Honour - your Honour has consistently demonstrated an extraordinary legal mind and a deep commitment to upholding justice and fairness to the most vulnerable within our community.

Your Honour's dedication to the pursuit of justice and outstanding contributions to the legal profession has earned you the respect and admiration of your peers, and I have a direct quote from your friend Dylan McKimmie, who said that:

Your Honour, while at the Bar, had the notable quality of engendering real loyalty from your instructing solicitors. For many of us, your Honour was our first, second and third choice of silk on whatever brief was being sent across the Terrace Chambers. On occasion, when I would have a matter against a solicitor who I knew was also a member of your Honour's fan club, there would be a race between us to see who could brief your Honour first. I recently lost one of those races, but my opponent and I were fortunately able to put that behind us as we conducted the matter.

That your Honour was able to generate that loyalty, at least from this solicitor, is perhaps surprising when one remembers that you described the first brief I sent you as "courageous". It is, however, a testament to your Honour's ability as a silk that we not only won a trial before Justice Kenneth Martin, but also three-nil on appeal, against the formidable talents of Craig Colvin SC, as his Honour then was.

Your Honour's personal attributes and qualities are also spoken of very highly by your close friend Kelly Hick, who described your Honour as a great family man who can often

be found next to sport fields on a Saturday morning, watching your grandchildren play sport, and I understand your Honour is not averse to texting the highlights of your granddaughters' sporting efforts to some of your instructing solicitors.

Ms Hicks said that your Honour was someone with wonderful insights and a profound social justice conscience who cares deeply about others. Your Honour's warmth and sense of humour must also not be left out of that view. Your Honour is known to be a great animal lover. One friend said that you have two dogs, but I've been told that your holiday home in Augusta is as much a sanctuary for your family as it is for an array of dogs, suggesting more than two, and also cats. Ms Hicks said that the legal profession could probably expect a few insightful judgments to be written from Augusta.

With your Honour's care and compassion for others and your strong commitment to taking pro bono referrals through your career, there is also a sense of inevitability that your Honour would become a Director and later Chair of the Law Society's pro bono arm, Law Access Limited, which provides access to justice to vulnerable members of our community. Alana Dowley, Chief Executive Officer of Law Access, is very grateful for your guidance and leadership while you were the chair and says that:

His Honour became a Director on the Board of Law Access in January 2019 and Chair in January 2021. I have worked closely with him since my appointment as CEO in March 2022. His Honour was always available, approachable and genuinely concerned with the business of Law Access. He shared his knowledge, opinions, connections and energy freely and proactively, approaching issues that we managed together with a mind to being both thorough and practical. It has been a pleasure and an honour to have his guiding hand in our work.

Your Honour's dedication to pro bono work underscores the crucial role that lawyers can play in advancing the cause of justice beyond the courtroom.

In conclusion, I have been told that your Honour loves all things Italian: the country, people, food, wine, biking around it, the language. I've been informed that your Honour has prepared a highly prized set of notes recording your many discoveries over the years while walking around Rome. My Law Society friends have insisted I have to say something to your Honour in Italian. So,

your Honour, congratulazioni per il tuo nuovo ruolo, as practised by me last night with the assistance of Duolingo.

So I can only now say, your Honour, on behalf of the legal profession of Western Australia and the Law Society, we warmly congratulate your Honour on your appointment and wish your Honour all the best in this new role, as you continue to serve the community and the administration of justice, and I'm sure all your colleagues behind me will look forward to appearing before you for many years to come. 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 land on which we meet. On behalf of the WA Bar, it is my honour and privilege to join in this welcome for the Honourable Justice Matthew Howard. Your Honour is amply qualified to take office as a judge of this honourable court. Your Honour brings not only a wealth of legal experience, but also an extraordinary and demonstrated acumen to serve the community and the legal profession.

Over the last three decades or so, your Honour provided your voluntary service to the profession and the community in multiple leadership roles. I've known your Honour since Law School days. Your Honour is a graduate of the University of Western Australia, including with a honours degree in jurisprudence. It appears your Honour never quite disengaged from that university or university life.

You remain an Honorary Fellow and teach Conflict of Laws at UWA. On my count, your Honour has taught at four different universities, including, as has been mentioned, Murdoch, Melbourne and at the University of Wollongong. There is no limit to your Honour's willingness to travel far and wide to spread the word about law. Your Honour is praised for your incredible and unparalleled support of your juniors at the Bar, as a mentor and as a provider of junior briefs to numerous juniors.

Your Honour has been a strong supporter of promoting diversity at the Bar, and provided assistance and support to several female barristers. Your Honour is unfailingly available to talk about a legal problem, whether big or small, at all times providing support and encouragement, not high and mighty superiority of judgment. I'm reliably informed by one of your trusted juniors that you like

coffee so much, you caused a special barista-style coffee machine to be installed on Level 23, and its use is carefully policed, on your instructions, by an up-and-coming junior.

I'm also informed that you ride to work. I'm told you once accidentally locked your bike to the door of the bike cage, causing a complete breakdown that day of the sedentary and peaceful work of bike-riding. No one could get their bikes out. Your Honour has supervised many a student's dissertation. I've had the privilege of reading a thesis on a Conflict of Law topic that was supervised by your Honour. It is the best undergraduate thesis I've ever read. The author shall remain unnamed, for fear of embarrassing him, but can I say he has chambers down the corridor from me.

Your Honour had an extraordinarily broad practice, spanning constitutional law to construction law. Each brief was handled with care and tenacity. Your Honour never said no to any brief, whether paid or pro bono, or for Legal Aid. Your Honour's contribution to the legal profession and the community is unrivalled in its breadth and length. May I just refer to some highlights.

You served as President of the WA Bar for three years, in those halcyon days of no controversy between 2015 and 2018. You asked me to join Bar Council, and I served with you for a couple of years. You assured me that Bar Council work was not too onerous. I still wonder about that. Whilst President of the WA Bar, you made a wonderful contribution, including in promoting diversity and the WA Bar CPD program. You masterfully organised the French Colloquium in 2017 to honour the work of Chief Justice Robert French.

Your Honour has taught advocacy to young barristers for a decade now. At Francis Burt Chambers, your Honour is the pupil master of choice. If one was lucky to get a spot, there was a guarantee of work, care and mentorship. Your Honour served as the President of the Australian Bar Association for two years between 2019 and 2021, including during the COVID pandemic. You handled that role with aplomb and excellence.

As is made mention, the current President of the ABA, Peter Dunning KC, and the ABA CEO, Professor Greg Tolhurst, are present today to mark their respect and to honour your appointment. Most recently, your Honour served as the Chair of the Legal Practice Board for a few months. There is likely no truth in the rumour that your Honour took

appointment to avoid that taxing role. Not since the former Chief Justice's fast-track ascendancy from Law Society President to Judge has there been any similar rumour.

Your Honour took silk in 2009, having joined the Bar in 1996. Your Honour is one of the most senior practising silks in WA, who has willingly and happily taken up the challenge and privilege of judicial office. Your Honour is one of the most senior practising silks, even taking account of the evergreen Malcolm McCusker KC, and paying my respects to the late and great David Jackson KC, a once in a generation master of the art of advocacy.

David Jackson KC was once described by the mischievous but respectful Andrew Bell SC, the present Chief Justice of New South Wales, as a promising advocate. Apparently, this was because Jackson KC sometimes responded to an incisive question from the High Court with a promise to return to the issue a little later. Sometimes he did, sometimes he moved on. In contrast, your Honour always showed far greater promise, not just promising to, but responding to, each and every question from the bench with precision and politeness.

Consistently, the Bible in Samuel 1 says, "For those who honour me, I will honour." Your Honour always respected the court, and that respect was properly returned. There is no doubt that this established tradition of polite discourse will continue when your Honour presides. In *Thinking, Fast and Slow*, the Nobel Laureate Daniel Kahneman speaks of System 1, intuitive thinking, and System 2 thinking, which involves a more complex calculus.

In my experience, your Honour switches effortlessly between the two systems of thinking, approaching legal issues with intuition, empathy, and yet a calculus of precision. To paraphrase Michelle Obama's approach, when they go low, your Honour always went high. You were always a fair but tenacious opponent, never exploiting weakness. On behalf of the WA Bar, may I again congratulate your Honour and express the Bar's support and best wishes. May it please the court.

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

HOWARD J: Thank you, Chief Justice. You have already, on behalf of the court, acknowledged the Whadjuk people, on whose land the court sits today. May I add that their sovereignty of this land is a spiritual notion which has

never been ceded or extinguished and coexists with the sovereignty of the Crown. Chief Justice, thank you for your kind words and your welcome, not just today, but to the court. In a neat piece, I note that we have now spoken at each other's welcomes.

I also thank my new colleagues and the court staff for their warm welcome and assistance in what has regularly been described as an onboarding. Thank you, Mr Attorney, for honouring the court by representing the executive here. It also allows me to acknowledge the awesome responsibility which has been entrusted to me by the executive on behalf of the community. I certainly did not imagine that we would be at an occasion such as this when you appeared for a party of interest in the inquiry into the City of Cockburn in 1999, and I was a rather green counsel assisting.

Crossing swords with you there was, for me, if I may say, a formative experience. Your achievements as attorney in making our courts more representative are rightly lauded. I hope, in addition, that your genuine commitment to the legal assistance sector, which you have backed by your interest in its reform and by cold hard funding, will also be recognised and will remain hard-baked into this and future governments.

Ms Wilkinson, thank you for your kind words on behalf of the Law Society of WA, and for deputising for the President, Mr Golem. As you've noted, we've served together both on the Society's Council and on the Board of Law Access. I have known Mr Golem since he was an associate to the then Justice McLure, who is, in my view, in the first rank of the finest Australian judges, and I'm delighted that she is here today.

I'm sure that you, Ms Wilkinson, and Mr Golem, would be disappointed, as would be the Society's CEO, who I'm also delighted to say is here, if I did not return to the important work of the Society through Law Access WA, and I would not wish to disappoint by not gently agitating for the Society to continue to support Law Access's work by making its funding a core and irreplaceable part of the Law Society's activities going forward.

Mr Dharmananda, thank you for your appearance and your kind words. I understand that there is to be a reading list from your collected welcomes and farewells published in the not-too-distant future. I would like to say that it would take me away from the works of Mick Herron, Mary Beard and Rory Smith, but this hardly seems an occasion for

insincerity. You lead a branch of the profession that is both dear to me and remains central to the administration of justice in our system.

I know in your present role you are greatly assisted by the Association's most excellent officers, Debbie Cole and Karen Knox, who are both here, as were I and the Chief Justice before me, when we held your role. I'm also delighted that the President of the ABA, Peter Dunning KC, the present CEO, Greg Tolhurst, and the previous CEO, Cindy Penrose, have all travelled to be here. But can I say, in response to the three of your addresses, that if I had understood that I was nearly as good as the three of you speaking here have suggested, then I don't think I would have dared to have left the Bar.

I can say that if I entertained any thoughts of my standing preceding me to the court, they were swiftly disabused when the first orders I made were said by the court to have been made by Justice H. Matthew. I have warned my family and friends that they may not recognise the person who has been described here today. Maybe the person spoken about is an aspirational me. I will return to the importance of aspirations.

I am the 98th person appointed as a judge of this court. The significance of that number is not personal to me. Rather, there have been that number before me who have committed to do their best to administer justice according to law in this state. Welcomes and farewells, while they may have a personal element to them, are a reaffirmation of this court's continuing and unbroken service to the people of Western Australia. I have simply joined that number who are and have been engaged in that collective endeavour.

The administration of justice is, in my view, boldly aspirational. We speak of people being equal before the law, but we know that many are not. The recent Reconciliation Statement of WA's Courts and Tribunals is an acknowledgement of that, and courts and tribunals are filled with people who are marginalised for one reason or another. At any given time, from here, a very short walk north on Barrack Street or east on Hay Street would show us people who certainly do not appear to be prospering, and we need to remain humble as to our system.

Indeed, our common law has been, and can remain so, an instrument of unfairness. As Justice Brennan, as he then was, said in *Mabo (No. 2)*, the common law itself took from indigenous inhabitants any right to occupy their traditional land, exposed them to deprivations of the

religious, cultural and economic sustenance which the land provides, vested the land effectively in the control of imperial authorities without any right to compensation, and made the indigenous inhabitants intruders in their own homes and mendicants for a place to live.

Similar observations could be made as to the inequality before the law of the poor or people with a mental illness or many other marginalised groups. However, such aspirations remain important and must be strived towards. Although I see this welcome more in collective and institutional terms, I trust that I will be forgiven for making some personal remarks.

I have never wanted for food or clean water or a place to sleep. I was born to a strong, clever, resilient and caring mother. She believed in education and doing the right thing. Those two did, from time to time, uncomfortably collide at parent-teacher nights, but I digress. Each of those matters mark me as a person with very real advantages over most of the world's population and a significant proportion of Australian society. I did nothing to earn those advantages.

I was educated for free at government schools and had the advantage of some very committed and inspiring teachers. To my very great good fortune, I was able to study law, and apart from launching a career, the Law Society gave me, amongst other things, my two friends of longest standing, who I'm delighted to say are both here today. I fully accept that my experiences of and in the legal profession are not universal, and for others, by reasons which include skin colour, gender or orientation, they have had very different experiences from mine.

My experience as a student and a young lawyer was that people almost universally were more generous and nurturing than I deserved. Bob Anderson was one of the first of many people to be kind and generous to me, when he was a leading silk and I was still a student. As a judge of this court, he was efficient, economical, quick, and almost always correct. His is an example I would do well to emulate. In my early days, I was supported and given responsibility and opportunities which allowed me to learn from my mistakes, of which there was never a shortage.

There were two exceptions to that. Although separated by years and a continent, they were senior practitioners who ought to have known to behave better. In the interests of fairness, I should disclose that both of them told me, in simple words, that I was not suited to the practice of

law and I should leave. I suspect they did not have this position in mind.

When I went to the Bar, I was unknown and without a pipeline of briefs, or, indeed, a brief. I had no school or family connections. Apart from a business structure of some four or five hundred years standing, the Bar provided me with support and opportunities. I have also formed lifelong friendships which have made the dark days lighter and the good days brighter. You know who you are.

After what might be described generously as a patchy start in terms of work, I was fortunate to be flicked an appearance which led to the first of very many briefs from Kevin Stewart, who became hugely important to my practice in the early to medium term, and who became a staunch friend. I am forever grateful. I also had the great fortune to work in a number of cases with Chris Zelestis KC, and I was led for years by Dermot Ryan SC in the Bell litigation.

Given the mention of that case, I have to say, especially to my friend Michael Corboy, who is here, that the estoppel case for the banks was in good shape when I left it after the first instance trial. I retain a very strong sense of the many things I learnt from each of Chris and Dermot, but I fear to list them, mostly because I think that they may well reflect on a number of things I clearly should have, but did not, learn in the process.

The profession generally, and the Bar in particular, is a much more open and welcoming place than when I started. It needed and needs to be. We must aspire to equality in the law and before the law. No client, to my knowledge, and certainly not in my experience, walks into a barrister's room because something fabulous has happened to them. There is a burden, but also a privilege, in advising and representing people who are in difficulty or in dispute.

It has been a particular privilege on occasions to speak for people who might otherwise not have had a voice in our system. Pro bono work and the legal assistance sector are very important to our society, but they are also important for the profession's health and legitimacy. I confess to experiencing grief at leaving the Bar and advocacy. I understand I will for some time. I have loved appearing in court, even on bad days, and even in the Court of Appeal.

I want to publicly acknowledge and thank Fran Corica, with whom I have worked at the Bar for literally almost forever. Fran not only made the whole show go on, but let me work in her reflected glow of efficiency and even-tempered good humour. I do not have the words to capture my gratitude. I trust that people understand that I cannot speak at length about my family and friends for fear of, as a dear friend of mine might say, going the blub, so please allow the part to tell the whole.

I have had my mother's and sister's unstinting love and support throughout. There is nothing more than that. It is a real blessing to me that our son, daughter-in-law and four beautiful granddaughters are here today. I am not sure what the bargain is between parents and children. However, Blake has indicated on more than one occasion that he has more than delivered on his side.

I have spoken a little today about aspiration. I could not, on any reasonable basis, and certainly not on any deserved basis, have aspired to a life partner of the sort I have. The same gods that would have laughed at such presumptuous aspiration have, nonetheless, and probably against their better judgment, allowed me my amazing wife, Deb. I am forever grateful. I look forward to playing my small role in this court. Thank you.

QUINLAN CJ: Thank you, Justice Howard. That concludes today's ceremonial sitting. The court will now adjourn.

AT 4.59 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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