

THE SUPREME COURT OF
WESTERN AUSTRALIA

CENTENARY OF THE COMPLETION OF CONSTRUCTION AND OPENING
OF THE SUPREME COURT BUILDING ON 8 JUNE 1903

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 9 JUNE 2003, AT 9.27 AM

MALCOLM CJ: We are sitting this morning to mark the centenary of the completion of construction and the opening of the Supreme Court building on 8 June 1903.

I welcome His Excellency the Governor and Mrs Sanderson and all of the special guests and others present in Court this morning. At the Bar table, I note the appearance of Mr Solicitor General representing the Government of the State, Mrs Elizabeth Heenan, the President of the Law Society and Mr Ian Viner QC, President of the Western Australian Bar Association. Those present in Court and special guests include Justices French, Nicholson, Lee and Carr of the Federal Court. The Principal Registrar and Registrars of this Court, the Chief Judge Hammond of the District Court, Chief Judge Michael Holden of the Family Court, her Honour Judge Kate O'Brien, President of the Children's Court, his Honour Judge Starkey, President of the Western Australian Judicial Commission, Mr Peter Panegyres, Crown Solicitor, Ms Fiona Low representing the DPP. I particularly welcome our very special guests, the Hon Sir Ronald Wilson and Lady Wilson, my predecessor the Hon Sir Francis Burt AC KMCQ QC, the Hon John Wickham QC and Mrs Wickham and the Hon ARA Wallace as well as a large number of retired Judges and Masters of this Court.

At the dinner to mark the centenary on Saturday, 7 June 2003, for those of you who were fortunate enough to attend that magnificent occasion, I did give an account of the history of Court accommodation following the settlement in Western Australia in 1829 until the opening of the building on 8 June 1903. As all can see, the Supreme Court building was constructed on a grand scale and is an excellent example of the federation academic classical architectural style used in major public buildings in the 1900s.

It was designed by the chief architect of the Public Works Department John Grainger. It has an imposing facade with central portico of eight coupled columns marking the entrance. The interior has a grand foyer and staircase with a domed stained-glass ceiling which has been recently restored. Other areas within the Court have also been recently restored, including number 2 Court and each of the four original sets of Judges' Chambers.

Court number 1 in which we are sitting today was the subject of a major restoration project in 1989. There was a ceremonial sitting to mark the completion of the work on 22 August 1989, coinciding with the visit by the then Lord Chancellor of England Lord Mackay. The building was originally designed to accommodate the Chief Justice and three Judges of the Supreme Court. The Court is now constituted by the Chief Justice, 16 Judges and two Masters who are members of the Court. In addition there are eight Registrars.

Despite the addition of a new building to house the Supreme Court library and to accommodate four sets of Judges' Chambers and two additional law courts in 1987, the Court ran out of space in 1989 and since 1990 a number of Judges and Registrars have been accommodated in temporary accommodation at 111 St Georges Terrace, Perth, and accommodation has been at a premium within the old building.

While a proposal to erect additional accommodation on the present site was approved by the Government of the day in April 1992, there was a change of Government before the expansion project could be commenced. While a number of proposals were considered by the Court Government during its term of office and a proposal to establish a Court complex in the Central Business District was considered, the problem of the accommodation of the Supreme Court was not solved.

The Supreme Court building has been identified as of exceptional cultural heritage significance in the City of Perth and the State, both for its representation of the role of the law in the administration of justice as well as a leading example of the public architecture of the period. The Court and the Stirling Gardens to the north and the Supreme Court Gardens to the south have been classified by the National Trust of Australia and entered on the Heritage Council of Western Australia's Register of Heritage Places and the Register of the National Estate.

The grand official opening took place on 8 June 1903 at a ceremony in the entrance hall and main foyer. Members of Parliament assembled at the west end of the entrance hall and the officers of the court with the architect and contractors gathered at the east end. The Chief Justice Sir Edward Stone and Justices Parker and McMillan were dressed in ceremonial scarlet robes similar to those worn by the Judges today, except that they wore full bottom wigs.

Unfortunately Justice Burnside was absent, suffering from typhoid fever. Mr Commissioner Augustus Roe took his place. The Premier and the Attorney-General Walter James KC wore a formal Levee costume with a full bottom wig and the Sheriff, Octavius Burt, was said by the newspaper to be "conspicuous because of his dangling sword."

The Honourable Cornthwaite Rason, the Minister for Works, had the duty of offering the Governor the key to the Supreme Court building. This was a massive gold key engraved on the handle with the British and West Australian Coats-of-Arms in shields, supporting a third shield, bearing the figure of Justice holding the scales of justice and a sword. Underneath were the words "fiat justitia", to do justice.

The great mystery of the 20th century going on into the 21st century is what happened to the key. It has disappeared. Inquiries have extended even so far as to the descendants of the Governor Sir George Bedford, his family, in relation to trying to locate it but the mystery remains unsolved.

The Governor took the key, praised the handsome and commodious building and expressed the hope that there might always be found judges like the Chief Justice and his colleagues who would administer justice in that court with patience, impartiality and fearlessness which had characterised the British Bench in all parts of the world. Amid applause he then handed the key to the Chief Justice. The Chief Justice said:

The bringing together of the various Courts and law officers under one roof could not but conduce to the speedy and efficiency administration of the law. We wish that the building might contribute in the minds of all a care for justice and a feeling of security in the parity of its administration.

The first case to be heard in the new building was in fact heard before the opening. It was not an historic case. It involved a matter of arbitration between the Registrar of Friendly Societies and the Carpenters and Joiners Union heard in Chambers on 25 May 1903. It was heard by Justice Parker who I believe was sitting in the Chambers currently occupied by the Senior Puisne Judge Justice Murray.

The honour of presiding over the first case to be tried in one of the new courtrooms was Mr Commissioner Roe. He commented that the proceedings in the new court would necessarily be of a much more solemn nature than had been conducted in the old building. According the Daily News, however, that most reputable of newspapers, the general public took a more down-to-earth attitude:

The Court proceedings this morning were carried out in an atmosphere reeking with the odour of fresh paint and varnish, for the new building was occupied for the first time, and sufficient days had not elapsed for the sheen and shimmer of polished woodwork and the scent of linseed oil to pass away. It did not take the old Court loungers long to discover where criminal trials were taking place and they hustled one another up the steps leading to the gallery in order to secure a position of comfort with a nice polished brass rail to lean upon. Evidently the arrangements of the Court and their own elevated position met with their entire approval as they gave vent to appreciative comment and sniggers.

"Blimey, ain't it orl right!" whispered one identity to another. "Jes, like a bloomin' theatre" said another as he spat over the rail to test the height of the gallery from the floor. The grand view they had of prisoners in the dock and the equally fine vantage point from which they could watch the ascent from the gracelike cells beneath the floor was particularly pleasing to them.

The advantages of the new courtroom may have been lost on the first defendant to be tried there, a married woman who pleaded guilty to uttering forged cheques executed by her husband who was dying in Perth Hospital. Mr Commissioner Roe passed a merciful sentence of imprisonment of 6 months as it was described. The defendant burst into tears and had to be assisted from the dock by two female warders.

Subsequently there was a special sitting of the Court consisting of Chief Justice Stone, Justices Parker and McMillan in the presence of a large number of members of the Bar led by Walter James KC in his capacity as Attorney-General. Chief Justice Stone said that they were very fortunate to be in possession of a building worthy of the name which it bore and in keeping with the important and responsible duties they had to perform.

It is interesting to note that electricity was not immediately installed in the Court, not until the latter part of 1904. No doubt the decision-makers of that generation believed that they had solved the problem of accommodation for the Supreme Court as the building also provided for the accommodation of the Attorney-General, the Solicitor-General, the Crown Solicitor and their respective officers as well as the Companies Office and the Probate Office etcetera.

A number of Judges, including Justice Wallwork, who retired last year, and Justice Parker served their articles in the Crown Solicitor's Office which was located in the lower ground floor of the Supreme Court building until there was a move to the new Rural and Industries Bank building in Barrack Street adjacent to the Town Hall in the late 1950s.

Since the establishment of the Court in 1861 there have been 11 Chief Justices. Sir Archibald Paul Burt KT was Chief Justice for 18 years from 1861 to 1879. Sir Thomas Wrenfordsley was Chief Justice for 3 years from 1880 to 1883. His successor was Sir Alexander Campbell Onslow who held office for 8 years from 1883 to 1901. He was succeeded by Sir Edward Stone who had been appointed a Judge in 1883 and became Chief Justice from 1901 to 1905. He had been a partner with his father, George Frederick Stone, the founder of the old firm of Stone James and Co.

Subsequently, Septimus Burt, the seventh son of the Chief Justice was admitted to the partnership which known as Stone and Burt. Stone was Crown Solicitor from 1882 to 1884 when he was appointed the second Judge of the Supreme Court. When Justice Alfred Beech Hensman was appointed in 1892 Stone became the Senior Puisne Judge.

The years 1884 to 1891 were turbulent because of the heated disputes between Chief Justice Onslow, Governor Broome and the press. Chief Justice Onslow was suspended by Governor Broome in 1888. Stone was offered the position of Acting Chief Justice but refused because of the principle which was at stake.

In May 1989, the Privy Council recommended the removal of Onslow's suspension, thus vindicating Stone's loyal support for his Chief Justice. Onslow resumed his position of Chief Justice after an absence of 2 years. When Chief Justice Onslow retired in 1900, Stone replaced him as Chief Justice and was knighted in 1902. He retired in 1906.

He was succeeded by Sir Henry Parker, who had been appointed a Judge in 1901 and was Chief Justice for 7 years from 1906 to 1913. He was one of the co-founders of the firm of Parker and Parker in 1879. He was active in politics and was an elected member of Parliament between 1878 and 1897 and had three terms as the Mayor of Perth.

He was one of the leaders of the delegation to London which resulted in responsible government in 1890. He was the last Australian barrister to be appointed Queen's Counsel by the Queen personally. My file relating to the appointment of Queen's Counsel, King's Counsel and Senior Counsel dates back to the time of Chief Justice Parker.

Sir Robert Furse McMillan KCMG was appointed a Judge of the Supreme Court in 1902 and was appointed Chief Justice in 1914, serving until his death in 1931. He was born in London, called to the bar in 1881. He married an Australian girl, Margaret Elder from Victoria, associated with the old firm of Elder Smith and Co Ltd.

In 1902 the government decided to look to the English bar for a replacement Judge. After consulting widely, including Lord Coleridge KC, later the Lord Chief Justice, McMillan was offered the post and accepted. He was then 44. With a month he was on his way to Fremantle. He served Western Australia as a Judge of great distinction, from March 1903. In 1914 he was appointed Chief Justice and acted as Lieutenant-Governor from 1921.

His influence in the law, the administration of justice and the legal profession was substantial. Sir Owen Dixon said of him that he was "a man whom you could see at once was an ornament to the judiciary, one who struck the imagination of any young judge as man of the highest refinement of character representing the best traditions of the judiciary in the English-speaking world."

He was a prolific Judge. The number of his reported judgments, 828, far exceeds that of any other Western Australian Judge in the first of the 20th century. Few of his judgments were taken on appeal and in the vast majority of cases were affirmed. On more than one occasion the Judges of the High Court expressed themselves in entire agreement or concurrence with his judgment.

He established the most cordial relations between bench and bar. He did not seek popularity, but as Sir John Northmore said of him:

No man at the time of his death held such a high place in the regard of the people of the state and no other held a higher place in the affection of those who called him friend or in respect of those who knew him as Chief Justice.

He died in office. The West Australian of Saturday, 25 April 1931 had a remarkable coverage of his funeral, occupying two full pages in the newspaper, together with pages of photographs. Under the heading Eloquent Public Tributes, the newspaper said:

The funeral of the late Sir Robert McMillan, Lieutenant-Governor and Chief Justice of Western Australia, took place yesterday and all sections of the community paid homage to the memory of a great citizen. Perhaps the most eloquent of many tributes to him was the sense of shock and personal loss with which the general public received the news of his sudden passing. Large crowds attended a service at St Georges Cathedral, lined the route taken by the funeral cortege and gathered at the graveside at Karrakatta Cemetery.

There is a photograph which shows a crowd of about 10 to 12 deep on either side of St Georges Terrace, from St Georges Cathedral right up to the Barrack Arch. Chief Justice McMillan had collapsed moments after he had eloquently moved a vote of thanks to the Governor for having opened the new St Georges College at the University of Western Australia.

Chief Justice McMillan was succeeded by Sir John Alfred Northmore KCMG, who served as a judge from 1914 to 1931 and served as Chief Justice of 15 years from then. Originally from South Australia, he joined the predecessor firm of Northmore Hale Davy and Leake. He was appointed a judge in 1914 and became Chief Justice in 1931. By the time he retired as Chief Justice in 1945, he was regarded, as the press of the day indicated, as a genial "national institution."

While some regarded him as irascible on the bench, it was acknowledged that his judgments were seldom disturbed on appeal. His most notable quality was regarded as an ability to eliminate the inessential. He was very much involved with the University of Western Australia, both as a pro-Chancellor and a Senator.

Sir John Dwyer KCMG was born in Victoria. His father was a butcher from Ireland. He was called to the Victorian

bar in 1902, admitted in Western Australia in 1904 and practised in Fremantle. After a period with Haynes Robinson at Albany, he returned to Perth in 1911. He enlisted in the army in 1916 and served in France. Upon his return he joined Moss in the firm of Moss Dwyer and Thomas. He was one of the three members of the Barristers Board who comprised the committee to establish a law school at the University of Western Australia. He was one of the founding lecturers.

In 1929 he was appointed a Judge of the Supreme Court and in 1946 he was appointed Chief Justice to succeed Chief Justice Northmore. He was highly regarded as a classical lawyer and was said to have had one of the most incisive minds the State had known. He applied legal principles rigorously and impartially. As a Judge, he was intolerant of obfuscating witnesses and ill-prepared barristers or the use of tactics with which he disagreed. There were some members of the profession who abandoned advocacy as a career as a result of his attacks upon them.

In 1951, he was appointed Honorary Lieutenant Governor for life. This was the last of such appointments. In private life he was regarded as extremely charming with a keen sense of humour. He was Chairman of the Public Library, Museum and Art Gallery and a Knight Commander of the Order of St John.

The Honourable Sir Albert Wolfe KCMG was appointed a Judge of the Supreme Court in 1938 - the year I was born. He was appointed Chief Justice in 1959 and served until his retirement in 1969. In 1926, he was appointed Crown Prosecutor, and later Crown Solicitor and Parliamentary Draftsman in 1929. He was appointed King's Counsel in 1936 on an occasion marked by some controversy. He made a very substantial, if sometimes controversial, contribution to the work of the Supreme Court and its jurisprudence. The Matrimonial Causes Act of 1941 is his statutory monument.

He was a very practical man. He enjoyed carpentry and a spare room on the basement level, now occupied by Barker J, had been adapted for use as a carpentry workshop. I was admitted to practice by a Full Court over which he presided. As perhaps many of you have heard before, I maintain that I am the only practitioner whose admission was preceded by a directions hearing to determine whether the required advertisements had been published at the appropriate intervals.

I subsequently appeared before him on a number of occasions. Carpentry was not the only topic upon which he claimed expertise, as I learned in a case about drilling wells on which he professed to be his own expert witness. As far as my researches go, he is the only Australian Judge who had the experience of being the Presiding Judge in the Court of Criminal Appeal sitting on appeal against a conviction at trial where he was the Trial Judge. He was the last of the Western Australian Chief Justices to hold a formal procession and a ceremony to open the Supreme Court circuit in country towns.

Sir Lawrence Jackson KCMG was a Judge of the Court for 20 years, from 1949 to 1969, and was appointed Chief Justice in 1969 until his retirement in 1977, a total period of service of 28 years of which eight were served as

Chief Justice. Originally admitted to practice in New South Wales in 1937, he came to Western Australia to join his uncle's firm, then known as Jackson Leake and Co. At the age of 36, he was appointed of the Arbitration Court and a Judge of the Supreme Court in 1949. At that time the Supreme Court was constituted by the Chief Justice and three other Judges, as it had been in 1904.

Chief Justice Jackson was appointed to that office in 1969, the year when his successor, the Honourable Sir Francis Burt, was appointed a Judge of the Court in 1977. Under the stewardship of Chief Justice Jackson, there was a tangible transformation of the atmosphere of the Court for all who had business there. It was always a pleasure to appear before him. He set an example in terms of fairness, firmness, courtesy and compassion which many of us have attempted to follow.

All of these fine qualities were exhibited in a way which both enhanced the authority of his office as Chief Justice, while generating loyalty and affection on the part of his colleagues, the legal profession and the public. Sir Lawrence expected the highest ethical standards of those who appeared before him. There were substantial changes in the Court system generally during his period of office. In 1970, the District Court with five Judges was created, and the Family Court with four Judges was subsequently established.

The Honourable Sir Francis Burt AC KCMG was appointed a Judge of the Supreme Court in 1969 and was appointed Chief Justice in 1977, serving in that capacity until 25 May 1988. He will shortly celebrate his 85th birthday. He served as a Judge for some 19 years, of which 11 were as Chief Justice. After war service, Sir Francis established a large practice in the common law and industrial fields and was a visiting lecturer at the Law School at the University of Western Australia. He was appointed Queen's Counsel in 1959.

In March 1961, he founded and dominated the Independent Bar in Western Australia. The breadth of his knowledge and experience in the law was remarkable. The Western Australian Law Reports of the 1960s are compelling testimony to his dominance at the Bar in that decade. In 1967, he was appointed Counsel Assisting the second Royal Commission which inquired into the sinking of the HMAS Voyager after a collision with the HMAS Melbourne.

His work on the inquiry propelled him into national prominence and contributed very successfully to the success of the inquiry. Shortly afterwards, he was appointed by the State Government as a Royal Commissioner to inquire into the affairs of Rural Exporters Ltd. His report was completed not long after his appointment as a Judge of the Supreme Court on 19 February 1969.

Sir Francis had, and still has, a remarkable capacity to assess and analyse the issues involved in a controversy in such a way that the answer to the problem becomes very clear. The level of factual analysis, economy and a clarity of expression, combined with scholarship in what he has written over the years is extraordinary.

He was clearly propelled by "the instinct to verify" as Sir Owen Dixon called it. It was achieved by him handwriting his judgments rather than dictating them. The combination of intellectual scholarship, analytical skills, economy of expression, learning and knowledge of the law, commonsense, humour, decency and humanity which marked his legal career all served to qualify him for the high office of Chief Justice.

He also contributed substantially to the life of the community. He was appointed Lieutenant Governor in 1977 and appointed Governor in 1990. Sir Francis carried out his vice-regal duties as Governor with great humanity, humour, compassion and a full understanding of the constitutional duties of the office until his retirement in 1993. Very few Western Australians have achieved such a level of admiration from the community as this great Australian. It was a great privilege for me to have succeeded him in this important office.

As we celebrate the centenary of this magnificent building by the Chief Justices, Judges, Masters and Registrars, the profession and the public we should be grateful to those who worked so hard to have the building constructed, for the legacy which they gave us at the beginning of the 20th century which has served the community extremely well for over 100 years and a day.

While the court has significantly outgrown its present accommodation and approximately half of the judicial officers are housed half a kilometre away, we can only look forward at the beginning of the 21st century to the day in the not too distant future when, with additional accommodation erected on this site, all of the members and other officers of the Supreme Court can be accommodated, it not under the one roof at least on the same site.

Apart from the symbolic importance of the continued use of the Supreme Court in the administration of justice, it also represents significant links to the State's history and to its future. The Court is based in the administrative heart of the City of Perth as part of the central government and civic precinct that also includes the Town Hall, the central government buildings, Government House and the Concert Hall.

We have been delighted to observe the current refurbishments taking place throughout this magnificent building. It has been a demanding task for the many workers who have been busily engaged around the building but the results have been worth the effort. In particular, the main foyer and the four original Judges' Chambers have been refurbished in a manner which the original architect envisaged but was unable to complete due to the lack of funds. This vital restoration and renovation work is a

small step towards maintaining this building as the centrepiece of the administration of justice for Western Australia for many years to come.

Yesterday, we were surprised and delighted by the fact that somewhere between 2 and a half and 3000 people queued up outside the building in a queue which, when I came, stretched from the main entrance, up to St Georges Terrace and for some distance down to almost past the City of Perth building.

Just under 2 weeks ago we marked the 15th anniversary of my appointment as Chief Justice. I then had an opportunity to thank a considerable number of people with whom I have worked over the years. This morning I won't repeat all of those but they all know that they have my gratitude.

This morning I would like to conclude by thanking my wife Kaaren who has been tremendously supportive during the last 7 years, nearly half my term of office. Her background in the justice system has given her a high degree of understanding and knowledge of what I do and why I do it. Her love and support, together with those of the beautiful daughter she has given me, are my most priceless assets. Mr Solicitor?

MEADOWS, MR: May it please the Court. It is a pleasure to be here this morning at this ceremony to mark the centenary of the Supreme Court building and to represent the Attorney-General and the Government on this special occasion. In doing so I must apologise for the absence of both the Premier and the Attorney who would be here this morning but for a Cabinet meeting.

It was Thomas Shelton who is attributed with coining the well-worn cliché "they say walls have ears". As I address you this morning I rather hope that is true as it does feel a little weird standing here paying tribute to a building something at least on the surface cannot hear what you have to say. Still, this is not something that should faze any experienced advocate as those of us at the bar table will attest we do become accustomed to even our most worthy submissions falling on deaf ears.

There are at least a handful of buildings in Perth one could call real landmarks and the Supreme Court building is unquestionably one of the most recognisable and holds a unique position in this city's history. Among the reasons for that is its position close to the Swan River and in these times I suspect the way it is somewhat cloistered from the hustle and bustle of the central city by the gardens that surround it.

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Centenary

It is hard to imagine a better location for such a significant building, but just as happens today our forebears debated long and hard not only where to build this building but even whether or not to make the investment.

9/6/03

MEADOWS QC, MR

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The fact that we are here today celebrating the Supreme Court building's centenary is a clear testament to the fact that their decision finally to go ahead and to commit the money was indeed a wise one. In its time, as the Chief Justice has observed, the building solved immediate and serious accommodation issues for the judiciary and helped deal with the growing volume of work passing through the Supreme Court.

It also played an important role in building an image of prosperity in and around Perth. From the very beginning the Supreme Court building has been a major and even magnificent landmark; a palace of justice, as it was described a century ago.

Echoing modern times, there was a dispute over whether the job of designing the building should go to the public or the private sector, but ultimately it was John Grainger, the public works chief, who drew the plans for this splendid building. He did so with the same flair as he did with other landmark buildings around Perth, including Government House Ballroom and Parliament House, at least in its western aspect.

While I would not wish to question the authority of a Chief Justice on this particular issue, or indeed any other issue, I'm bound to say that I have been advised that in architectural terms this building is not only in the federation academic classical style, but it is also in a neo-Georgian style in some respects, but as a federation academic classical style building, it is intended to express authority, power, wealth and culture and certainly in that respect it is a reflection of the economic times in which it was built.

As the Chief Justice has observed, this building now holds a very special place in the architectural, cultural and social history of our state. Rightly so, it is now a heritage-listed building. I should note in passing that it was the Premier as heritage minister who was responsible for seeing that the building was listed on the WA register.

Of course, the Court building is only the house for the Court and the Supreme Court itself holds a very special and significant place in the legal history of this state. The number of matters to come before the Court have escalated over the past century, for all sorts of reasons, and along the way other Courts and Tribunals have been established to relieve the pressure that has been created and to deal better with the requirements of a changing society.

As the Chief Justice has mentioned, the District Court and the State Family Court are but two. Ahead of us we have the creation of the State Administrative Tribunal,

which I might mention is a matter for discussion at this morning's Cabinet meeting, which has kept both the Premier and the Attorney away.

Apart from the fact that the work of the court has grown in complexity over the years, the volume of the work has increased exponentially. As a result, the building has had to move with the times to keep up with the growing case load that the Court has been required to manage and it has done so. As the Chief Justice has mentioned, while the Supreme Court began operation without electricity, today it has the capacity to conduct full electronic trials, videoconferencing and digital recording.

This building has been the scene of triumphs, disappointments and tragedies over its years. However, the building has not only been the scene of such triumphs, disappointments and tragedies but, more importantly, it has been the scene of calm, learned and industrious administration of justice by the state's highest Court.

May I conclude these remarks then by saying that the Government commends the men and women who take up the challenge of serving in the Supreme Court, performing their duty, as Governor Bedford said when opening the building, with patience, impartiality and fearlessness.

The Government also commends to the people of Western Australia this magnificent building which has served our city well for over 100 years now and continues to hold a very special place in our culture and history. May it please the court.

MALCOLM CJ: Thank you, Mr Solicitor. Yes, Ms Heenan.

HEENAN, MS: May it please the Court. On behalf of the Law Society of Western Australia I am pleased and honoured to join in marking this important occasion on the centenary of the Supreme Court building. It is important because of what it says about our State, our Legal System and our Legal Profession.

100 years of the uninterrupted administration of justice in the one building through peace and war, growth, depression and prosperity is a great mark of achievement for any community. It shows stability, respect for institutions and an ingrained confidence which the community has in the Legal System. The Supreme Court and this beautiful building in which it is housed is a symbol of Justice in this State.

Its existence is due to a combination of factors: the English laws and traditions which were introduced at settlement, the growth and independence of the Colony which emerged with a Responsible Government in 1890, the Federation of the States into the Commonwealth which had occurred only 2 years previously before the erection of the building, the support of Governments, both State and Federal, and the individuals who actually made it all happen. Like all great achievements, the efforts of individual men and women together produced the results which we justly celebrate today.

The Chief Justice has traced the history of the Court building and has given due recognition to the achievements of the architect Mr Grainger. The Solicitor-General has outlined the role of successive administrations and again emphasised today the vital role of the Judiciary in the government of this State. May I mention the role of members of the Legal Profession and the Law Society who have had a significant role in the history of the Court.

The Law Society itself as is the University of Western Australia Law School celebrating its 75th anniversary this year. Since its inception, the Law Society has had a close connection with the Supreme Court. The first annual general meeting of the Society was held in the Supreme Court library on 3 October 1927 and we have already heard the Chief Justice refer to the fact that one of the founding members of the Law Society later went on to become a Chief Justice of this Court.

The Society has benefited from the continuing support of the Judiciary, and it is a matter of pride to the Society that most members of the Court are honorary members of the Society. The close relationship between the Society and the Supreme Court is apparent from the large number of former Presidents of the Law Society who have been appointed to this Court, including their Honours Justice John Hale, Sir John Virtue, Justice Oscar Negus,

Sir Francis Burt, Sir John Lavan, Justice Robert Wallace, Justice George Wright, Justice Peter Brinsden, Justice Barry Rowland, Justice Terence Walsh, Justice Michael Murray and Justice Geoffrey Miller.

Many other judges of this Court, both past and present, have been members of the Executive or Council of the Law Society before their appointment, including in particular your Honour the Chief Justice who was Vice President of the Society at the time of your appointment in 1988. We value these links with the Judiciary and are proud that the Society itself continues its links with the Supreme Court building and its precincts.

Up until 1960 the then purely voluntarily run Society held its Committee and Council meetings in the Supreme Court building. On the appointment of its first paid administrative staff, most notably Sheila McLennan as secretary of the Law Society, the Society was then housed in the Old Courthouse next to the Supreme Court building, and it has enjoyed continuous tenancy of the Old Courthouse since the 1960s, most recently as the Francis Burt Law Education Centre.

The Supreme Court very generously provides support to that centre and the Chief Justice is Chairman of its board of trustees. Every legal practitioner is an officer of the Court. Our members as officers of the Court are proud to be associated with its long tradition and history and are grateful for their opportunities to have served the Court. They pledge their continued service, as they have all sworn to do at their admission, and they hope that they may well and truly continue to demean themselves as officers of the Supreme Court. May it please the court.

MALCOLM CJ: Thank you, Ms Heenan. Yes, Mr Viner?

VINER, MR: May it please the Court. This morning I am reminded less accurately than my learned Solicitor-General of the saying, "If only walls had ears. If only walls could speak." How true for the Supreme Court building on its centenary in which so many words have been spoken when so many people have passed through its doors for good or ill, in which so much of Western Australia's social, political and legal history has been shaped, reputations made and reputations broken.

If walls could speak I expect they would talk in a different language to that of the Western Australian Law Reports or the Western Australian Reports, where we read the official language of the law. Rather, I expect the walls would speak of personalities, the cut and thrust of forensic argument, of truculent Judges, or bumbling or brazen counsel, of the incisive submissions of the finest counsel, of the happy winner of a judgment or the forlorn and crestfallen loser, the hush when the black cap was worn for the last time, or the gasp when the birch was ordered upon some poor wretch, as those sentences used to be imposed in this building.

This building is not really a building of bricks and mortar. In truth, it is a place of people, public and professional alike, whose lives have been shaped by this building's history and who themselves, Judges, Masters, Registrars, staff, counsel, plaintiffs, defendants, accused and victims, have shaped the history of the people of Western Australia.

This is a building in which and from which for a long time most of the justice system in this state was administered. The Crown Law Department, as the Chief Justice has said, was downstairs below the steps in the south-west corner. Three courtrooms served the civil, matrimonial, probate and criminal jurisdiction of the state. All were furnished in stately red leather and jarrah bar tables and seats with shapely iron legs.

Number 1, Civil Court, which also served the High Court on its annual visits; number 2, Criminal Court; number 3 Court in the middle, alongside the stairs, the cells below and probate administration above, perhaps in their rightful places.

Western Australia was a Cinderella state then, until the 1960s nickel boom. We were Sandgropers over here and VFL footballers were supposed to have legs as thick as jetty pylons to cope with the Melbourne mud. The legal profession was small, most knew each other. Many were returned servicemen, whose colleagues had died in war.

The firms were clustered around Howard Street or the bars of the Palace and the United Service Hotel, the latter about where the Reserve Bank building now stands. The whole of the profession could hold the annual High Court dinner in the Palace Hotel banquet room. It was a time when you rubbed shoulders with the Judges in the Supreme Court library as you prepared for trial and they researched a judgment; when Chambers really was Judge's chambers, sitting on the other side of his Honour's desk. There were no women Judges in those times, when barristers indeed could wear their wigs.

How times have changed. Sir Albert Wolfe modernised this courtroom and fashioned new courts downstairs at the rear, or is it the front of the building. Crown Law moved up market into the glass and steel of the gleaming new city and Sir Albert was the first guest into the Parmelia Hotel, built with the new wealth of the nickel and the iron ore booms, but the walls of this building remained.

If walls could speak they would remind you of your first trial in one of these courtrooms, number 1 Court in fact, right here, but with the old bar table; articulated to the great Burt QC, with whom you had done your articles before Chief Justice Dwyer, Paddy, renowned for having driven many and aspiring counsel from his court in despair; a nuisance action to stop the neighbour's dogs from barking at dawn and dusk, a Grundig tape-recorder on the bar table, the star witness, recorded by an obedient articulated clerk, dawn after cold dawn; the plaintiff in the witness box. Burt pushes the switch; barely time for a bark. "Turn it off. Turn it off. I've heard enough" rasps Paddy. Poor defence counsel hasn't been able to cross-examine the tape; judgment for the plaintiff, injunction and damages, my first win. A barrister is born.

By then I had a wife and two children to feed but then the harsh reality of the courtroom soon sets in. I'm on my own, not in courtroom number 1 but courtroom number 3, no Burt QC to lead me, only the great Hatfield QC to oppose me. But I'm on a winner, an easy motor vehicle accident case. John Virtue Senior Puisne Judge on the bench, wide awake after lunch; some would unkindly say for a change.

Car crash on a bend, fine drawings to show the defendant is on the wrong side of the road; judgment, extempore for the defendant. "Don't worry, laddie," says Hatfield as he packs up his papers, "it's all good experience." I guess it was as here I am today within these walls which could tell many tales about many counsel, each tale in its own way shaping the lives of someone, shaping my personal and professional life.

That is what this building does to all of us who work within its walls for it is, in truth, a building of and for the people. In that respect times have not changed, however, there is one very important way in which times have changes since Paddy Dwyer stopped the dogs from barking. For 42 of the 100 years of the life of this building there has been an Independent Bar of Barristers practising in these courtrooms.

There was only one member of that Bar in 1961 who with great encouragement from Sir Albert Wolff, by then the Chief Justice, announced those purposeful words now spoken in this courtroom by all who decide to practise at the Bar that henceforth he would practise solely as a barrister; Burt QC who was so soon followed by Terry Walsh, Wickham, Clarkson, Sharpe - the faithful article clerk in that fateful case - Viner and Wallwork. Now there are 150 members of that Bar including 41 silks. There are seven sets of Chambers - Francis Burt, Wickham, Sir Lawrence Jackson, John Toohey, Albert Wolff, Howard and Counsels' Chambers.

The Bar is stronger than ever. It has an increasing number of young lawyers choosing the Bar as their career path and thankfully an encouraging number of women barristers. The Bar has produced in those 42 years barristers of considerable forensic skill and national reputation; two Chief Justices of this Court, a Justice of the High Court, Judges of this Court, the Supreme Court of Papua and New Guinea, the District Court, Federal and Family Courts and to the Magistracy, the first Aboriginal Land Commissioner in the Northern Territory, and two Commonwealth Attorneys-General - a formidable success list.

By any standard the Bar in this state has made a significant contribution to the legal profession, the administration of justice and in leadership and service to the people of this state. On behalf of the members of the Western Australian Bar Association I congratulate this building on reaching its centenary. May it please the Court.

9/2/1s

Centenary

MALCOLM CJ: Thank you, Mr Viner. That would seem to be an entirely appropriate moment for us all to adjourn.

AT 11.17 AM THE MATTER WAS ADJOURNED ACCORDINGLY

9/6/03

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