THE SUPREME COURT OF WESTERN AUSTRALIA

WELCOME TO THE HONOURABLE CHIEF JUSTICE MARTIN

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 1 MAY 2006

MURRAY SPJ: Your Honours, members of the profession, ladies and gentlemen, there are far too many special guests present here today for me to acknowledge their presence individually. There are some things I should say. I am pleased that we have been able to be joined on the Bench by Justices Nicholson and Siopis of the Federal Court. I acknowledge the presence in Court of the Federal Minister for Justice, Senator the Honourable Chris Ellison. At the bar table I note the presence of the State Attorney-General, the Honourable Jim McGinty MLA, the President of the Law Society of WA, Ms Saraceni and the President of the WA Bar Association, Mr Martin QC.

I note the presence in court of the heads of jurisdiction of the other Western Australian Courts or their representatives, the Honourable Prof Malcolm AC QC and the Honourable John Toohey AC QC, many former Judges and Masters of the Court, the Solicitor General, Mr Meadows QC, the State Director of Public Prosecutions, Mr Cock QC, and senior executive officers of the Department of the Attorney-General.

Some of us were unable to be present today, and I have been particularly asked to apologise for their absence. I refer to people like Justice French, who is sitting as a member of a Full Court of the Federal Court in the Eastern States, Justice Owen, who is I understand taking evidence in what is rumoured to be a long-running civil trial in London, Justice Wheeler, who is out of the jurisdiction attending to official duties with the AIJA and Justice Johnson is sitting in Fremantle. Justice Simmonds is on circuit in Kalgoorlie.

We are delighted that we are able to share this occasion with the members of your Honour's family; your wife Margie and four of your children. Young Anna was deemed insufficiently reliable and is being held incommunicado elsewhere until morning tea. We are pleased by the presence of many of your friends, because this is an occasion not only to welcome you to the Bench but to welcome your family to what Chief Justice Malcolm always referred to as the family of the Court.

The point is, of course, that a Court such as this is a collegial institution. More seriously, it is made up of Judges who well understand

the necessity of the maintenance of their individual and collective judicial independence if the Court is to properly perform its constitutional function as the third arm of Government in the exercise of its unlimited criminal and civil jurisdictions.

I do not wish to intrude upon the ground of others who will speak this morning, but I must say something of your Honour's background which demonstrates your absolute fitness for the high office which you have assumed. You are a man of 53 who graduated as Bachelor of Laws with first-class honours at the University of Western Australia in 1973. You went on to do a Master of Laws at the University of London, which you completed in 1975, and you were admitted to practice in 1977.

You practised first in the amalgam and then at the Bar as your interest in the litigation side of the practice of the law developed. You were appointed Queen's Counsel in 1993. In your practice, your energy and capacity to carry an enormous workload are legendary. That will certainly stand you in good stead in the performance of the office of Chief Justice of Western Australia.

In addition to that, you have long been active in professional affairs. The pinnacle of that dedicated service was no doubt your presidency of the WA Bar from 1996 to 1999, and during the same period from 1996 to 2001 you were the chairman of the Western Australian Law Reform Commission.

In that role you were closely associated with that body's report on its Project No. 92, the Review of the Criminal and Civil Justice System in Western Australia. That report has, of course, been the foundation of much legislative reform. The breadth of the recommendations is astonishing. Indeed it has come to be called in some circles the report advocating the reform of everything.

Some recommendations remain to be attended to. I have no doubt, for example, that your Honour will endeavour to see that the government provides this Court with the resources to pursue further reform of the rules of civil procedure. It is a matter which the Court has been interested in

pursuing and has attempted to pursue, but in relation to which we have thus far been unsuccessful in our attempts to finalise changes to the Rules, or to have the necessary resources to put to finalising changes to the Rules to achieve their modernisation, a move which we think would increase the efficiency and cost effectiveness of our civil procedures in ways which would match the reforms accomplished in appellate procedures and on the criminal side of the Court's business, matters upon which the Judges of the Court in association with other elements of the profession have worked particularly hard in recent times.

Lest it be thought that your Honour's interest in professional affairs has been otherwise than very broad, I recall your involvement in the Council of the Law Society of Western Australia and your achievement of the presidency of the Society this year, an office of necessity relinquished when your Honour was persuaded to accept the office of Chief Justice.

You come to that office as its 13th occupant. Your 12 predecessors adorn the walls. I am tempted to wonder where your Honour's portrait will be found. As the 13th Chief Justice I was struck by the parallel between your situation and mine.

When I was appointed to the bench the number of the judges, including the Chief Justice, was increased thereby to 13. I was silly enough when welcomed by the profession to this bench to say that I supposed that for a time it would be my lot to carry the oranges and so it proved to be. I acquired considerable experience in taking minutes at Judges' meetings. I occupied chambers in the basement with a pleasant view of the courtyard immediately outside the cells of the detention centre. In those days my most frequent visitors were members of the public asking how to get to the Central Office. Your Honour may not accumulate those rich experiences but no doubt the transition to Chief Justice will involve other adjustments, not merely financial.

Your Honour does not need me to tell you about the matters concerning the operation of the Court which are currently being worked on by the Judges and Masters of the Court. I know you have a clear understanding of them and a determination to pursue the reforms that are

sought. I speak, of course, not only of simplification of the Rules of civil procedure, but of the requirement to invest substantially in electronic technological processes to increase the efficiency of the Court's operation, and I know your Honour is keen to continue to pursue and refine the processes by which access to and understanding of the justice provided by this Court is enhanced in the community.

I know that you wish to see that the efficient operation and collegial processes of the Court are enhanced and supported by providing us with accommodation which will bring us back together here on this site. Much needs to be done to improve the facilities and services which the Court is dedicated to provide to litigants and other users of the Court.

May I, just before ending these remarks, embarrass your Honour completely by saying that we have no doubt, having regard to your achievements in practice on a wide variety of matters, that you will provide to this Court the academic leadership in your judgments in the Court of Appeal and at first instance which will enhance the reputation of the Court.

To aid in all of that, we, the Judges and Masters, can only offer you our unqualified support and I may say that we stand ready to provide you with every assistance within our power. In that regard, I speak also for the Registrars of the Court and those people who work in the administration of the Court in all its aspects.

Finally, Chief Justice, may I speak to you at a more personal level? When I was appointed to this Court at the beginning of 1990, I came with the advice of an old and dear friend who was then a Judge of the District Court. He wrote me a note. It contained three pieces of advice: (1) keep your mouth shut; (2) always decide on the facts; (3) keep yourself regular. I have to tell your Honour that some of those pieces of advice are, in my experience, more difficult to achieve than others. So far I think I'm batting one out of three. I'm sure your Honour will do better. Mr Attorney?

THE ATTORNEY-GENERAL: Thank you. May it please the Court, your Honours, on behalf of the State Government, I am very pleased to welcome to the office of Chief Justice of Western Australia his Honour

Justice Wayne Martin. I am pleased for many reasons, not the least of which is the fact that it officially ceases what had become almost daily speculation about what the State might be looking for in a Chief Justice and who might be appointed. All West Australians should be proud of the calibre of people whose names were put forward as candidates. The law in this state is in good hands. We have many very fine practitioners, on the bench and at the Bar.

In the last few months we have witnessed a complete change in the leadership of each of the three arms of government: a new Premier, Governor and now Chief Justice. These positions are critical to the constitutional governance of the state. For that reason, the thinking that underpins the decision-making about these appointments should be articulated and understood and hopefully supported. 21 years ago the then Lord Chancellor, Lord Hailsham, stated his policy on judicial appointments. He said:

> My first and fundamental policy is to appoint solely on merit the best potential candidate ready and willing to accept the post. No considerations of party politics, sex, religion or race must enter my calculations and they do not. Personality, integrity, professional ability, experience, standing and capacity are the only criteria. My overriding consideration is always public interest in maintaining the quality of the bench and confidence in its competence and independence.

I agree with those observations and have sought to apply them subject to three qualifications. Firstly, as to party politics. Political involvement generally demonstrates an interest and commitment to government and debate about the ideas and laws by which society is government. To that extent, I see association with politics, regardless of which political party, as being a positive quality for someone being considered for judicial appointment.

Secondly, subject at all times to the overriding consideration of merit, appointments should take into account the make-up of our society, not in a representative sense but to bring broad life experiences to the

Court. Finally, as an independent judiciary is responsible for providing a service to the community, efficiency in the management of the Court's business looms large, along with the accepted judicial qualities of independence, integrity, impartiality, intellect, courage and courtesy. To me efficiency in the Court's operation necessarily implies strong support for law reform. By this I mean modernising the procedures of the Courts and the laws themselves to ensure that public understanding of and access to the Courts and justice for all is enhanced.

Wayne Martin was on these criteria the outstanding candidate for a number of reasons. We have already heard by way of the description of his academic and career record but ultimately it was his Honour's outstanding, long-term commitment to reform, his energy and exceptional experience at the most senior levels in developing the law which made the decision clear. He has held several positions of leadership within the profession over the years and has used each one of them to identify barriers to the delivery of justice and push through change and reform.

It has been observed that the new chief justice relinquishes his position as president of the Law Society and director of the Law Council of Australia and while that is true, he has now a new platform and a very powerful platform from which to change, modernise and reform our Courts and our justice system. That power is not a gift. It carries with it a daunting responsibility in the years ahead. As Abraham Lincoln observed, nearly all men can stand adversity but if you want to test a man's character, give him power.

I am extremely confident that the power of the position of chief justice of Western Australia rests exceedingly well with his Honour Justice Wayne Martin. It has been almost 18 years since Western Australia welcomed a new Chief Justice. The Court and the community is a very different place under different pressures and I paraphrase the words of the attorney-general at the time Joe Berinson when I say that the Supreme Court cannot rest on its past achievements and acceptance.

In saying this I must acknowledge that a great deal has been achieved in the past two decades due to the efforts of the former Chief

Justice with the assistance of the other members of this court but I believe even greater leaps need to be taken in the years ahead.

Before I move on I would like to specifically acknowledge the stewardship of your Honour Justice Michael Murray as Acting Chief Justice since the retirement of the former Chief Justice. I take this opportunity to express the government's appreciation of your Honour's efforts in administering the Court during this period.

The Supreme Court has built an impressive reputation for justice, integrity and independence over more than 100 years and though there is and always will be a role for time-honoured traditions, the challenge in more recent times has been to keep up with our changing world and make the court even more relevant, efficient and accessible to build on that established reputation.

The adoption of new technologies and new techniques embracing new methods of operating without compromising integrity or independence is part of the new world of a modern Supreme Court. I firmly believe his Honour Wayne Justice Martin is the right person to lead the Supreme Court into a new era in the 21st century. More than ever we are operating in a national and global environment and it stands this court in good stead that the new Chief Justice is recognised as one of the country's top legal minds.

It has been said that he has had an outstanding career in the law and I fully expect that his tenure as Chief Justice will serve to add substantially to that reputation. It is a unique position that I know the Chief Justice will use wisely and effectively to make a real different and to build a significant legacy.

It has become almost trite to talk about the pace of change in our community but the topic of how the court needs to keep up with the pace of change is still very fresh. What we have in the new Chief Justice is a very modern, forward-thinking practitioner who has put on record his commitment to working with his colleagues and the government to achieve a justice system that is more accessible, cheaper, quicker, more efficient,

more relevant and comprehensible to all West Australians. It is a quest the new Chief Justice began a long time ago, I suspect on instinct.

Over many years, particularly in his time as chair of the Law Reform Commission Wayne Martin showed himself to be a person who was interested in striking down archaic legal processes that don't serve the interests of justice. He has not shied away from challenging the profession or the courts and shaking them out of their comfort zone. This is well illustrated by his own words in the West Australian Law Reform Commission report on the review of the criminal and civil justice system and I quote, "The Law Reform Commission's task was to come up with recommendations to make the justice system work better."

In our view that meant we were to develop ideas for making the system faster, simpler and easier to understand while providing fair and just results and, importantly, to express them in language and style, Wayne Martin observed, many lawyers and legal scholars may question but members of the community would find far easier to read and understand. He said, "We have tried to eliminate Latin and archaic terminology and to avoid legalese and we hope that some day all rules, statutes and communications covering legal proceedings will be capable of being understood by the average person."

In the six or so years since the new chief justice wrote those words, the court has opened up a good deal. I am sure under his leadership it will continue to take big strides to achieving that aspiration to be understood by the average person.

Indeed, in every professional role he has adopted, his Honour has shown a personal commitment to ensuring the Court reflects the realities of the 21st Century. Anyone who has witnessed Wayne Martin at work knows he is capable of cutting through the processes to get to the heart of what is required, and that is the delivery of justice.

Now, let me conclude. Across every element of the justice system the reform agenda is about accessibility, affordability, speed, efficiency, doing a better job of administering and delivering justice for everyone

involved. In that context it is time for the mystique of the courtrooms and the justice system to be stripped away so that people can better understand what is going on and the way in which justice is delivered and administered, not only the participants but also the general public. I have no doubt that the new Chief Justice shares a commitment to making the Courts more accessible and increasing public understanding of the justice system, and I look forward to the reforms which will undoubtedly occur in the years ahead under his leadership.

Having said all of that, the Chief Justice may well be aware of the warning Niccolo Machiavelli issued in the 16th Century, "There is nothing more difficult to take in hand, more perilous to conduct or more uncertain in its success than to take the lead in the introduction of a new order of things."

However, the new Chief Justice of Western Australia is working with talented, experienced and committed colleagues, and I assure him and his fellow Judges that he has the support and good wishes of this Government and the wider community. I join so many of his colleagues in the legal profession, in the corporate world, and dare I say the media to whom the Chief Justice was a valued adviser in matters relating to defamation, and in the wider community in being delighted that he will achieve his 30th anniversary in the profession as Chief Justice of Western Australia. May it please the Court.

MURRAY SPJ: Thank you, Mr Attorney. Ms Saraceni?

SARACENI, MS: May it please the Court. It is with great pleasure that I rise to add the wishes of the Law Society of Western Australia and the legal profession generally in welcoming your Honour as the 13th Chief Justice. Your Honour's appointment has been the subject of speculation in the media and in the profession. You have been variously described by those speculating as a prominent barrister, one of the country's top legal minds, having an outstanding career in the law, forward-thinking

practitioner, significant contributor to the development and reform of the law. The theme common to this speculation and the reports which followed

the Attorney-General's announcement is that your appointment is universally welcomed.

It is the Society's view that your Honour will bring to the Bench, as you brought to the profession, enormous enthusiasm, energy, dedication, intellectual rigour and a preparedness to challenge paradigms that others preferred not to address.

Your Honour has had a distinguished legal career and you have contributed much to the profession and the rule of law generally. By way of example, you have served as a council member, then vice-president, then very briefly this year as President of the Law Society, and as a member of various committees of the Law Society and Law Council.

You served as counsel assisting at the HIH Royal Commission. In that very important Royal Commission both you and Justice Owen, who was presiding, brought recognition to the wealth of talent that exists in the legal profession and judiciary in Western Australia and for this the profession is indebted to both of you.

You have also contributed much to the wider community as an occasional lecturer at the UWA Law School, a public speaker addressing on a variety of legal issues, a volunteer undertaking pro bono work, particularly for asylum seekers - I understand on one occasion your representation was so effective you were invited to the asylum seeker's wedding held in Australia - and also as a member of your children's local school council. This brief summary of your contribution to date bodes well for the future.

As to what the future may hold for the legal profession and the justice system under your Honour's stewardship, I turn to the views expressed by your Honour, albeit in another capacity, as published in Business News just under two years ago, that there is a need to actively look at ways of making the legal system more accessible, relevant and intelligible to people.

Two years on and this theme of access to justice is alive and well. In an article in The West Australian on 5 April this year, your Honour is quoted as saying:

> I very much look forward to working with my judicial colleagues and the Government to ensure that the justice system of this State is more accessible, cheaper, quicker, more efficient, more relevant and more comprehensible to Western Australians.
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> Increasing accessibility to justice extends far wider than reviewing lawyers' fees. It includes reviewing the user pays approach adopted in our judicial system, legal aid funding, streamlining of judicial processes, reduction in delays in hearings, increasing efficiency, improving standards of administration of justice, modernisation of Court facilities, facilitating the public's access to the judicial processes and continuing to expand and improve the accommodation of the Supreme Court.

An insight into how your Honour may approach some of these matters can be gleaned from your editorial as President of the Law Society in the March 2006 edition of Brief, where you raise the possibility of investigating the desirability of creating a judicial commission in Western Australia. Time will tell.

The Law Society looks forward to continuing to play its part in promoting and facilitating accessibility to justice and exhorts your Honour to include it in your vision for our justice system into the 21st century.

The Society and its members individually and collectively already do much to make the legal system accessible, and it continues in its efforts to this end.

A public demonstration of this is Law Week which commences next Monday. This leads on to another theme on which your Honour has previously expressed a view; namely that the community underrates the legal profession. In that earlier business news article I referred to you were quoted as saying:

Some very good things are done by lawyers that don't get acknowledgment by the public.

The Society is keen to work with your Honour, the judicial system and the government to challenge and change this paradigm.

Your Honour's fruitful contribution to the life of the legal profession, the rule of law and justice generally must be viewed as only a part, albeit a significant part, of your life.

My inquiries have unearthed that the other significant part of your life is your family generally and your dedication to your wife and five children. Added to this is your keenness on catching the surf at Cottesloe beach when there is a good swell. As is well known, sharks respect lawyers. I am not aware of sharks' attitude to a member of the judiciary but I anticipate and hope that your knack of being in the right place at the right time will come to your aid in the event you may find yourself in hot water.

Your ability to simultaneously balance all these facets of your life is a testament to the benefits of having a work-life balance which results in greater productivity, happiness and self-fulfilment. We hope that your new role will not cause any imbalance.

In conclusion, the Society and the legal profession looks forward to continuing to work with you, the judiciary and the government to ensure that the rule of law and greater accessibility to the law in the justice system is rigorously pursued. We also extend our very best wishes to you in your new appointment and the commencement of another fruitful and lengthy chapter in your life. If it please the Court.

MURRAY SPJ: Thank you, Ms Saraceni. Mr Martin?

MARTIN, MR: May it please the court. It is a great pleasure this morning to add the congratulations and good wishes of the West Australian Bar Association to your Honour on the occasion of your most welcome appointment as 13th Chief Justice of this state. To the Bar your

appointment is a particularly significant one since you are appointed directly to the State's highest judicial office from a starting point of being one of the Bar's most senior and successful silks.

This followed the precedent set in respect of the 1988 appointment of your predecessor, David Malcolm QC, who was also a leader of the Bar when appointed as the 12th Chief Justice. Your Honour is a person of boundless energy and unrestrained enthusiasm. I know, therefore, that by now you will be champing at the bit to have your say on what is your day and a day that probably sees a colloquial renaming of the Supreme Court as Wayne's World.

Accordingly, I must be brief but just on the subject of names, I recall that at the time of your appointment the ABC morning program announcer incisively asked whether there had ever been a prior appointee to the State's highest judicial office with the given name of Wayne. A scurry through the history books indicates that the answer to that question is in the negative, although there have of course been innumerable famous Waynes over the years and around the world.

Indeed, there is another Wayne Martin, a professional footballer and defensive line backer with the New Orleans Saints, weighing in at six foot five and 275 pounds. There is of course Wayne Newton, the Las Vegas cabaret signer, not that you would know much about late night entertainment. Then there is footballer Wayne Carey, known as the king and every man's best mate. John Wayne single-handedly won every war the United States ever fought in, and finally Bruce Wayne of Gotham City and the bat cave. Your given name, therefore, comes with a very considerable established star quality.

I must say that your appointment is one which is tinged with some personal regret on my part, since sadly our 2006 Law Society/Bar Association double act as the Martineques can no longer continue. I have to confess that this leaves me akin to the position of Garfunkel without Simon, but I hope at least to have a couple of solo albums left. My son suggests a Milli Vanilli analogy might be better.

One of my first appearances at the Bar was against your Honour in a case before Judge Healy in the District Court too many years ago. Our mutual surnames were causing him much anxiety. His Honour mused on a potential basis for differentiation, announcing that he had been proposing to address us respectively as Mr Wayne or Mr Ken. However, he confessed that he had aborted his idea upon his realisation that Mr Wayne and Mr Ken would make his courtroom sound too much like a ladies hairdressing salon.

In the face of his nomenclature difficulties you then helpfully volunteered to the judge your suggestion that I as the more junior counsel should unilaterally from then on change my name to Martin Ondeke, following the example of a prominent Australian female marathon runner. Surprisingly, I was not attracted by the proposal. I am happy to say that this is one of the few occasions over time where I have gained the upper hand, resulting in me keeping my surname and you being forced to change your name to Chief Justice.

Quite rightly very warm tributes from numerous quarters of the legal profession and the wider community have been paid to your Honour's forensic skills and abilities as one of Australia's leading commercial silks. The nation as a whole was treated to a display of your formidable skills as an advocate in 2001 and following in your role as counsel assisting Justice Neville Owen's HIH royal commission. Indeed, as has been mentioned, it was a great credit to Western Australia that such a high profile Commonwealth royal commission of great commercial importance to the regulation of the nation was essentially steered from the top by two West Australians.

You also served, of course, as chairman of the West Australian Law Reform Commission from 1996 until your appointment as counsel assisting the HIH royal commission. In a five-year period, however, the WA Law Reform Commission changed dramatically and forever. In September 1997 it was thrown a most daunting task of urgently reviewing, with a view to its reform, the whole criminal and civil justice system of the state. This was the largest reference in the WA commission's 30-year history. It's a matter of record that the Law Reform Commission under your chairmanship

ultimately delivered a landmark report right on time, two years later, in what was beguilingly referred to as Project 92.

By June 1999 two large volumes of consultation drafts had been published for public comment and in September 1999 a completed final report of the commission issued making 447 wide-ranging reform recommendations in response to the terms of reference. It was a massive effort. The report's recommendations for the future of the state and its justice system on the whole received overwhelming acceptance, not to mention bipartisan support on both side of politics.

The learned Attorney-General has already referred to your reference in that report to your commitment to reform and your desire to put aside archaic practices and to express matters in a way that is plain and clear to the average person. That's no surprise because your Honour is a great communicator. No-one present in your chambers or even in the next building is ever left in much doubt as to where you stand on a particular issue.

I had the pleasure of working closely with your Honour in that two-year period when you drove Project 92 as Chairman of the Law Reform Commission. Your limitless energy and good-natured leadership in bringing a daunting assignment to its culmination was integral to the success of that project. The work required many after Court meetings stretching on late into the evenings. After these were wrapped up, you would then head home, invariably to work late into the night on whatever major trial you were usually engaged in at court the next day. There were also routine 7 am breakfast meetings to drive things across the finish line as the culmination of Project 92 came together in late 1999.

The workload was enormous, the schedule was punishing and the burden of responsibility, namely the future of the state's judicial system, was huge. For all that, I must say that working under the umbrella of your Honour's effervescent leadership the whole process was rewarding and thoroughly enjoyable rather than ever feeling burdensome.

As an advocate your Honour was highly sought after. You took on a prodigious amount of work at the Bar, did it well and at the highest levels. I must say I've never known a barrister to be so constantly in court without any significant recovery breaks between appearances. As an advocate your unrivalled communication skills were always to the fore. You possess a devastating turn of phrase. When you departed to take up your position as counsel assisting the HIH royal commission, I inherited a few of your matters.

One case involved a nuisance claim seeking a permanent injunction to restrain noxious bad smelling odours emanating from a sewage treatment plant in the western suburbs of Perth. On one interlocutory application you famously opened proceedings by referring to the offending plant and infrastructure of the sewage works as a poo factory. Henceforth, the case was forever affectionately so known by all participants but as an advocate you had made your key point in effortless, but also unforgettable, fashion.

Your Honour has shown true leadership from the front line in all the organisations you have worked in. I have witnessed this first hand in your leadership as Chairman of the State Law Reform Commission, as President and longstanding member of the Council of the WA Bar Association and of course most recently within the Law Society. You are a wholehearted contributor who has always put more back into the law than you have taken out of it. Your willingness to now accept the burden of an onerous public office at the very pinnacle of your career as one of Australia's leading commercial silks is just another manifestation of your character trait of putting your hand up high to help, making strong personal sacrifices and shouldering a disproportionately heavy burden for the greater benefit of the community.

Your new responsibilities will indeed be heavy but your attributes of boundless energy, extracting humour from most situations, sometimes at the expense of the unwary, integrity, high intelligence, deep legal knowledge and a fierce tenacity to achieve a just outcome equip you more than admirably for the years and challenges ahead. You are, therefore, in every sense a more than worthy successor to the legacy of excellence left by Sir Francis Burt and David Malcolm. You have the full support of the

Bar Association in your new challenging responsibilities over the years to come, not to mention its abiding respect and affection. May it please the court.

MURRAY SPJ: Chief Justice?

MARTIN CJ: Mr Attorney, your Honour Justice Murray, Ms Saraceni, Mr Martin, distinguished guests, family and friends. I am most grateful to all who have spoken this morning for their kind and encouraging words and to all who have given up their valuable time to attend. I harbour no illusions as to the reasons for my appointment. Although the speakers this morning have been generous to the point of mendacity in reference to my legal skills they are not the reason for my presence here this morning. I have no doubt that it is my enthusiasm for law reform which has caught the eye of government, perhaps, Mr Attorney, because you are the only person I have met that's more enthusiastic about law reform than I.

You have already altered the legal landscape of this state in many significant ways and it will not come as a surprise to anyone that I hope to work with you and my judicial colleagues in all the courts of this state to change that landscape further, particularly in the areas of the processes, procedures and administration of the Courts.

This is not of course to disparage the existing justice system of this state. It is a very good system, the envy of many countries in the world. Every conceivable process is available to ensure that no stone is left unturned in the search for a just resolution. It is the Rolls Royce of justice systems in the sense that it is the best that money, a lot of money, can buy, but there isn't much point in owning a Rolls Royce if you can't afford the fuel to drive it where you want to go. You can polish it, admire it and take pride of ownership from it but it doesn't perform its basic function sitting in the garage.

The community owns the justice system of this state but very few of its citizens can afford to engage in its processes. It might be time to consider trading our Rolls Royce for a lighter, more contemporary and more fuel efficient vehicle which we can actually afford to drive and which

will get us where we need to go just as effectively and perhaps more quickly. Improving the access of all Western Australians to the Courts of this state is at the forefront of my objectives and will guide the specific proposals which I hope to present to my judicial colleagues and, where appropriate, to government.

Allied guiding principles include economy, efficiency, expedition, relevance, simplicity, comprehensibility, transparency and accountability. Before identifying some of the specific ways in which I think these objectives might be achieved I must emphasise that no Chief Justice can implement significant change on his or her own. Changes in the processes and procedures of the court will only occur if they enjoy the support of the members of the court. Changes which involve expenditure or legislation can only occur with the support of government, so although I have left the Bar I will need all my training and skills as an advocate to achieve what I hope will be a consensus as to the various ways in which the courts might better serve all members of the community.

What follows is therefore nothing more than a series of proposals which I will present for the future consideration of my judicial colleagues and, where necessary, government. Improving access to justice will require a multi-faceted approach. The Legal Aid Commission does a very good job with the limited resources provided to it but, absent a dramatic change in the attitude of the State and Federal Governments to the funding of legal aid, will struggle to do more than fund the defence of serious criminal charges and provide assistance in areas of Federal law which are specifically funded.

Innovative methods of litigation funding must be developed. A code governing the terms upon which commercial third party funders can take an interest in the proceeds of litigation and uplift fees can be charged to encourage the legal profession to undertake appropriate cases on a no-win no-fee basis would assist worthy cases to go forward. Pro bono work by the legal profession receives little public recognition but has a significant benefit. It must be encouraged and supported.

Despite these attempts to increase legal representation, self-represented litigants are here to stay and are likely to be more common in all Courts in future. We must develop programs to assist and encourage people to present their own cases and provide them with access to the information they need to enable them to do so effectively. The Internet provides great opportunities for cost-effective information delivery in this area but, of course, not all have Internet access.

I believe that we must look at ways of improving the provision of information and assistance to litigants without lawyers, including perhaps the training of Court officers to provide such assistance. Perhaps the most effective way of improving access to justice in the longer term is by improving the processes and procedures of the Courts so that the real issues are identified and resolved earlier and with an absolute minimum of interlocutory processes.

It has been my experience that a wholly disproportionate amount of time and money is expended on the many steps that take place between the commencement of a proceeding and its resolution by trial or agreement. Those interlocutory steps and processes must be restricted to those for which the incremental benefit to the achievement of a just outcome is proportionate to the time and money spent on the process. The task of the Court must be to achieve a just resolution as soon as reasonably possible after a matter commences. Many of our current interlocutory processes are antithetical to that fundamental objective.

As Justice Murray has already mentioned, the Rules of Court governing civil cases have been under review for some time now. That review must be brought to a timely culmination by the adoption of a new set of rules which reflects contemporary approaches to litigation rather than those which evolved in England during the 19th Century.

Consideration of a new set of rules must involve our judicial colleagues at the District Court because it is highly desirable for the superior Courts of this State to operate with the same basic rules. For the same reason, it will be desirable to liaise closely with the Federal Court which is itself undertaking a general review of its rules of practice.

In my view, the rules which evolve from this collaborative process should be much simpler than those we have at present, and expressed in plain English. All forms should be reviewed, simplified and expressed in plain and contemporary language. There need be only one form of originating process which is best described in language understood by all of the community; namely, an application to the Court.

The allocation of the work of the Court to specialist divisions and the adoption of a docket system of judicial case management along the lines of that which operates successfully in the Federal Court have been under consideration for some time. These are matters which must be discussed with my judicial colleagues, but it seems to me that there is much to be said for the creation of specialist divisions in which Judges can develop processes and procedures apt to that type of case and hone their expertise in that area of law. It would also enable the Court's resources in terms of infrastructure and support staff to be allocated more efficiently because different types of cases require different types of resources. While a modified docket system has already been introduced, we need to discuss the possibilities for the further development of that approach.

The acceptance of judicial case management under a docket system would enable the new rules to be drawn so as to confer much greater flexibility and discretion upon the judicial case manager as to the interlocutory program to be adopted. It is, I think, highly desirable for the rules to encourage the early adoption of a case program specifically designed by a judicial case manager to bring that particular case to a just resolution as quickly and efficiently as possible.

Interlocutory disputes should be actively discouraged and, where permitted, quickly resolved. Judgment without trial must be easier to get. Permitting a claim or defence which has no reasonable prospect of success to go to trial imposes unnecessary expense and stress upon the parties and wastes the limited resources of the Court.

Mediation and other forms of alternative dispute resolution should be compelled by the Court early and often, and we must look at innovative ways of encouraging ADR prior to the commencement of proceedings.

While pleadings certainly have their role in an appropriate case, in my experience they can consume disproportionate amounts of time and expense, and I am sure there are many cases where the issues can be clearly identified in other more effective ways.

Disclosure of documents can also consume vast amounts of time and money. In my view, there should be no presumption that general disclosure is required in every case. The precise extent of documentary disclosure in any case should be fashioned to suit that particular case and focused on the matters truly in dispute.

Adoption of these measures should assist in reducing the time between the commencement of a case and the time at which it is settled by agreement or is ready for trial. The Court is currently in the happy position in which the time between a case being ready for trial and the provision of trial dates is acceptable. There have, however, been problems in the past in relation to the time between trial and delivery of judgment. Those problems cannot be allowed to recur.

In the short term, I would like to ensure that all judgments are delivered no later than six months after trial unless the trial is of extraordinary length and complexity, and in the medium term would like to reduce that benchmark maximum to four months with a median time of two to three months.

Greater powers should be expressly conferred upon trial judges to direct the course of the trial themselves rather than simply observe what the parties do. Those powers should include the power to limit the number of expert witnesses to be called, to direct the order in which witnesses will be called and to limit the time to be taken in cross-examination and in oral addresses. The chess-clock approach in which each side is given a specified time to present its case and cross-examine has been very successful in commercial arbitration and should be at least considered.

In the criminal jurisdiction the Rules of Practice have recently been reviewed and revised. However, it seems to me that many of the benefits of judicial case management using a docket system could be gained from the

adoption of such approach in the criminal area. There are still criminal cases in which the parties are taking too long to get ready for trial and the Court must do what it can to urge them along.

I believe there is also scope for reduction of the time spent in criminal trials, possibly by the introduction of a more detailed system of criminal pleading or other system to encourage admissions and thus reduce the time currently spent proving facts which are not really in issue.

I would like to digress for a moment to say a little about the relationship between the Courts and the Aboriginal members of our community. I have had a particular interest in this area for a long time and while Chairman of the Law Reform Commission suggested the current reference on Aboriginal Customary Law which has led to the ground-breaking work recently undertaken by that Commission.

Regrettably the treatment of Aboriginal people by the law of this state does not have a happy history. Shortly after the turn of the last century legislation was introduced which was modelled substantially upon the abhorrent laws of South Africa. Aspects of that legislative regime, which remained in force for about half of the last century, met the definition of genocide as that term is used in international treaties by depriving Aboriginal parents of the legal right to the custody of their children merely because of their Aboriginality.

While it is possible that that legislation may have been well intentioned, it was fundamentally misguided and its legacy is with us today. It behoves the courts of this state to do everything which can possibly be done to ensure the sensitive and effective treatment of Aboriginal people exposed to the justice system.

This is of course no new idea, as this state has produced a number of jurists who have done outstanding work in this area, not the least among them, the late Sir Ronald Wilson, John Toohey who I am very pleased to see here this morning and my predecessor David Malcolm. I will do whatever I can to follow their outstanding example and to that end hope to

meet soon and regularly with representatives of the Aboriginal communities of this state.

This leads me conveniently to the topic of the needs of regional Western Australia. Western Australia is very metrocentric. Even though the standard of living which we enjoy in Perth derives largely from the great work of those who live in less hospitable parts of the state, we must ensure that justice is delivered effectively to all citizens of this state wherever they might reside. There is much to be done to achieve this objective.

As just one example, the current lack of custodial facilities for juveniles or women outside the metropolitan area is a source of great hardship and injustice. Of course that hardship falls disproportionately upon Aboriginal women and youth whose punishment is magnified and whose rehabilitation is impeded by removal from the country which is so important to them, in many cases long before guilt is established.

Returning to my general them of accessibility, relevance and comprehensibility, I will myself eschew Latin terminology wherever possible and will encourage my colleagues to do likewise. Sometimes this is impossible to achieve. For example, the quaintly styled prerogative remedies are only known by their Latin titles, a difficulty which could be overcome, Mr Attorney, if the government would act upon the recommendations of the Law Reform Commission relating to the modernisation of the law pertaining to the judicial review of administrative actions and the creation of a right to a statement of reasons for all administrative decisions.

There are a number of practices of the courts of this state which, in my view, could benefit from contemporary reappraisal. Some might think that observation incompatible with my present attire, given that my head gear derives from a fashion abandoned several hundred years ago by the European nobles who invented it to conceal their loss of hair.

Although, Mr Attorney, it's perhaps not inappropriate that we sit in red on May Day, I would myself have preferred to sit in a plain black robe with my pate exposed to public gaze. I will be asking my colleagues to

review the use of wigs and ceremonial gowns in the near future. While there are, of course, differing views, reasonably and often firmly held, on this subject, for my own part I remain to be persuaded that this attire confers any greater respect or authority upon the holders of judicial office. Authority comes from the office itself and respect derives from actions not appearances.

The Federal and High Courts have long since given up the more colourful trappings of office and I hope to persuade my colleagues to follow their example. The adoption of symbols which suggest a preoccupation with European tradition seems to me to at least risk sending the wrong visual message from what should be a vibrant, contemporary Australian institution.

If our Courts are to be worthy of that description, in my view contemporary systems of management and governance must be adopted. Those systems must include systems for the accountability of judicial officers, while of course preserving judicial independence. All but the High Court must account to the Court above in the appellate structure for the decision in any particular case but at present there are few, if any, processes whereby judicial officers can be held accountable for the manner in which or the efficiency with which the judicial function is performed.

It seems to me to be inconsistent with contemporary standards and expectations for officers of a branch of government to be unaccountable to the public which we serve. I therefore favour and have said in the past that I would encourage government to create a judicial commission along the lines of the New South Wales model. Such a commission could perform a number of important functions, including the development of benchmarks for judicial performance and efficiency, the collection and publication of data on judicial performance and the collection and assimilation within the judiciary of helpful data, such as data relating to the sentences imposed in criminal cases or damages awarded in personal injury cases. It could assume a role in continuing judicial education and in the investigation and determination of complaints against judicial officers.

If such a commission were created, consideration could also be given to conferring functions upon it which might improve the transparency of the processes which lead to judicial appointment.

On the subject of appointments, I would like to briefly mention the appointment of senior counsel and in particular observe that the process of appointment should not only be but also be seen to be a collegiate process. To that end I would like to discuss with my judicial colleagues and in due course the legal profession the adoption of a protocol which would broaden the responsibility for appointment to a larger group, perhaps a committee with representatives from various courts.

Also on the subject of appointment I suspect there are many, hopefully not including my wife, who would think it much better if I had been a woman. I sympathise entirely with that view. When I was President of the Bar I initiated a project which sought to identify specific ways in which the careers of women at the Bar might be promoted and through that means more women recruited to the Bar. Together with a number of senior colleagues at the Bar, we have taken steps to actively recruit female practitioners to the Bar wherever possible. Those efforts have not been as successful as I had hoped. Despite the fact that women have comprised the majority of law graduates for more than 20 years now, women are still seriously under represented at the Bar, at partnership level in the major firms and in some practice areas such as commercial litigation.

Of course appointments to the ranks of senior counsel and to judicial office must be made solely on the basis of merit but within that criterion there is still scope for the positive recognition and advancement of women practitioners and I propose to follow the path set by my predecessor in this regard. I will also be meeting soon and regularly with the Women Lawyers Association to discuss steps that might be taken to address the problems to which I have referred.

Although I have spoken today primarily of steps that might be taken in relation to the processes and procedures of the Supreme Court, I would not like to convey the impression that my responsibilities are limited to that court. While I would not, of course, presume to interfere with the

administration of any other court, I take my office to entail a general responsibility for all the courts of this state and will do whatever I can to protect their independence should it ever be under attack and whatever I can to assist in their dealings with government, the media or the public.

The relationship of the Supreme Court with all the other courts of the state is obviously very important. I will try and meet soon and regularly with all other heads of jurisdiction to discuss matters of common interest and identify and resolve any jurisdictional anomalies so as to produce as near as possible a seamless transition between the jurisdictions of the various courts.

I would like now to turn to the relationship between the courts and the community. I take one of the responsibilities of my office to include the taking of whatever steps I can to demystify the law and its processes. I therefore propose to follow in the footsteps of my predecessor and to take every opportunity to speak publicly about the law and its processes, hopefully in terms which all can understand.

It is I think one of my responsibilities to respond to public attacks upon the judicial system and, if those attacks are unfounded, to publicly defend the judicial officer concerned.

There will, however, be limits upon my capacity to do this in individual cases because issues of this kind often arise before appellate processes have been exhausted with the consequence that any public comment by me which might reflect upon the merits of the particular case might be seen to subvert those processes.

It seems to me that in the past many of those attacks have derived from a lack of information concerning the pertinent facts. The public's access to information is generally limited to the printed and electronic media and the Courts are therefore dependent upon decisions made by the media as to just how much information they will provide.

However, the Internet has revolutionised the way in which information is disseminated within our community. The World Wide Web

provides the Courts with a ready and relatively inexpensive means of communicating directly with the public without depending upon the media as an intermediary.

For example, it should be possible to publish on the Internet the remarks made by a Judge at the time of passing sentence and which explain the reasons for that sentence very soon after sentence has been imposed. Persons with an interest in that sentence could thereby access information which is complete and accurate rather than being limited to the spin which might be put upon it by a media outlet or interest group anxious to promote a story.

The relationship between the media and the Courts is a vital aspect of any liberal democracy. Edward R. Morrow, the CBS anchorman whose famous parting note of "Good night and good luck" was the title of an excellent recent film, observed, "What distinguishes a truly free society from all others is an independent judiciary and a free press."

This observation reflects the obligations which each of the judiciary and the press owe to the community and to each other in a free society. The importance of justice being done in public has been recognised by the Courts for centuries, but because very few of the public can attend Court, the public is dependent upon the media, and increasingly the Internet, for information about what happens in the world.

It therefore seems to me that if the Courts are serious about doing justice in public, we must do whatever we can to provide the broadest dissemination of information about what happens in our Courts subject, of course, to the protection of the integrity of the process.

There has been recent debate about the public broadcast of part or all of the trial process. This is no new issue. Public broadcast is commonplace in the US and has been tried to a greater or lesser extent in many other jurisdictions, including Canada, Scotland, England, even in the House of Lords, and New Zealand.

The Federal Court has permitted portion of its proceedings to be broadcast, as has this Court, including a criminal trial conducted before Justice Wheeler, and the delivery of judgment in the Button case.

These experiences have shown that there is in fact limited media interest in broadcasting anything but the most sensational cases which by their very nature lend themselves to sensational treatment. The Courts have been properly hesitant in giving the media open slather as to the manner in which cases might be presented to the public.

Again, it seems to me that the Internet may well provide an acceptable solution to some of these problems. The technology is now available for the Court to take responsibility for the Internet broadcast of its proceedings. I have seen this technology deployed in the Royal Commission into the collapse of the HIH group and have little doubt that it could be deployed effectively to provide an unobtrusive presentation of courtroom events in appropriate cases.

Of course, the threats which broadcasting might pose to the integrity of the process in, for example, a criminal trial are many and obvious and would need to be carefully thought through before any steps are taken in this regard. However, those problems don't seem to me to be necessarily insurmountable.

Before turning to more personal matters, I would like to say something of the relationship between the Courts and Government. It will be apparent from what I have already said that it is my opinion that the Courts should be actively engaged with Government in the process of law reform. It would also be apparent that it is my view that there is a need to review the systems pertaining to the administration and governance of the Courts by reference to contemporary management practices and techniques.

If, as I believe, the Courts are to be held accountable for their performance, they must also be responsible for it in the sense that they are given administrative autonomy independent of Government, and Government cannot expect the Courts to function efficiently and to achieve the various objectives I have identified unless Government provides

appropriate resources. For example, acquisition of the information technology to which I have referred will cost money but will pay for itself many times over by increasing efficiency.

For more than 10 years Governments of both political persuasions have failed to fulfil their obligation to provide the accommodation necessary for the Supreme Court to properly discharge its functions. The time has come for that obligation to be fulfilled. This Court cannot achieve the unity of approach and the efficiencies which are necessary to deliver the program I would like to institute while we operate from two quite separate locations, one of which is a conventional office building quite unsuited to functioning as a courthouse, and the other of which is so old that our staff are required to work in quite Dickensian conditions. Mr Attorney, I hope you and I can soon discuss as a priority what must be done to resolve an unsatisfactory situation which has gone on for far too long.

And so have I gone on for far too long. However, in my own defence I thought it appropriate to take this opportunity to publicly announce the objectives which will guide my actions in offices and against which I will assess my own performance from time to time. I would encourage my colleagues, the profession, the government and the public to do the same. I cannot properly call for greater accountability without myself being accountable.

I will turn now to the many people I must thank for getting me here today. I would like to start, if I may, with Justice Murray who due to a confluence of events, including long service leave, the retirement of a Governor and some unavoidable delay in my own appointment, has been required to act as Chief Justice on and off for almost a year without diminution in his other responsibilities. He has done an outstanding job in this role and has been of great assistance and support to me in the weeks since my appointment was announced.

I commenced my career at the firm Lavan and Walsh initially as a vacation clerk and then as an articled clerk. Although I was formally articled to Ray "Loophole" Lynch who took a direct and active interest in my tuition, my interest in advocacy meant that I worked with and learned a

great deal from Barry Rowland, Keith MacFarlane and Peter Blaxell with whom I am reunited this morning. I also worked there with Diana Bryant who is of course now Chief Justice of the Family Court of Australia. I don't think there are many firms in Perth or indeed anywhere in Australia that have produced two Chief Justices, let alone two holding office simultaneously.

I am indebted to all those with whom I worked at Lavan and Walsh for the early inspiration which they provided, for instilling in me the notion that the practice of law was a profession and not a business, and for showing me that it was possible to discharge serious responsibilities and still have fun. I left Lavan and Walsh to join the Administrative Review Council in Canberra where I had the great privilege of working with Sir Gerard Brennan and Justice Michael Kirby. It's hard to imagine two better influences for a young and impressionable lawyer. Sir Gerard's great humanity and compassion remain an inspiration. Justice Kirby imbued me with a passion for law reform which persists today.

I returned to Perth to practise at a firm then known as Keall Brinsden and Co. Given that I'm joined today on the bench by three other members of the firm from those days in Justices Hasluck, Barker and McLure, I think it's possible to argue that that firm has, for the moment at least, eclipsed Freehills as a training school for the Supreme Court Bench.

I was recruited to the firm by Phil Wilson who has been a great and loyal friend since we met at law school. I made many good friends at the firm, including Roger Hill and Brian Beresford who tragically passed away a bit over two years ago. I am sure that had he been with us, to my face Brian would have been decrying the parlous state to which the judicature of this state will be reduced by my appointment but would be loyally defending me behind my back. Brian was a great lawyer from whom I learnt a lot about the law and a great mate from whom I learnt about life. I am very pleased that his wife Debbie is able to be with us today.

They were heady days at Keall Brinsden in the 1980s. We were engaged in some great pieces of litigation on behalf of some great clients and we were consistently punching well above our weight. In order to

reduce the risk of injury, I relied heavily upon the Bar and was fortunate to have the opportunity to work with the then leaders of the Bar on some fascinating cases.

David Malcolm was the undisputed leader of the Bar in those days and a great tutor and mentor to me. I was very fortunate also to work with and learn a great deal from Robert Anderson, Paul Seaman, Ian Temby, Daryl Williams and Geoff Miller, to mention just a few. The nature of our practice also provided me with the opportunity to work with and learn from leading interstate counsel.

To give just one example, in a case which concerned a constitutional challenge to the validity of the two airline policy then in force, I was instructed to retain the best. The leader of the team of counsel I engaged was Murray Gleeson QC, now of course Chief Justice of Australia. Against the contingency of his unavailability, we also engaged the late Peter Hely QC, counsel of extraordinary ability and later a judge of the Federal Court. Junior counsel engaged in the case were Jim Spigelman, now of course the Chief Justice of New South Wales, and Dyson Heydon, now of course a Judge of the High Court of Australia.

One would have to be particularly dull-witted not to have learnt a great deal from that extraordinarily talented group. But the competition for their services was fierce and it was necessary to expand the team to include Richard Conti QC, now a Judge of the Federal Court. I was very fortunate to have the opportunity to work with Dick on that and a number of other major cases. He has become a great friend, mentor and general adviser on life. If I did develop any skills in advocacy or forensic strategy, Dick played a great part in their development.

More recently I had the enormous benefit of working closely with Justice Neville Owen in the course of a royal commission. All of us engaged in that exercise learnt a great deal from his Honour's dedication to duty, his fairness and humanity.

No reference to my professional development would be complete without mention of my secretaries: Fiona Hobbs who started with me when I commenced at the Bar almost 17 years ago and Lorraine Healy who

joined me approximately 11 years ago. Their loyal support and dedication has enabled me to focus on legal and professional issues, confident in the knowledge that my practice was being properly administered. I owe them both a huge debt and wish them well in their future endeavours.

Turning now to family, it's a great joy to me that due to a combination of divine providence and medical skill both of my parents are here to experience this day with me. Without the sacrifices which they made to ensure that all of their children got the best education money could buy, which included my mother returning to work at a time when that was not generally done, I am sure I would not be sitting here today.

Some sense of the notion of service to community which they imbued in all of their children is to be drawn from the fact that we qualified in teaching, medicine and the law. My early skills as an advocate were forged over the fierce debates that would rage between my parents and siblings over the dinner table, at a time when television did not interfere with that important family ritual. The support of my parents has been unfaltering, even during some of my more erratic periods and words cannot adequately express the debt which I owe them.

I have been very fortunate in life but no greater fortune has been bestowed upon me than my five children: Emily who has flown from London to be here today, Nicholas who has dragged himself away from his university studies and my three younger children, Henry, Lucy and Anna, our two-year-old who is out the back probably trashing my chambers as we speak. If today they are able to take some measure of pride in their father, it is only a tiny fraction of the pride and joy which I take in them and their achievements each and every day.

Last but always first in my thoughts is my wife Margie. There are obviously better times and places to say to one's partner in life what they mean to you than in a crowded courtroom, but those of you who know me well will be well aware of the beneficial changes she has brought to my life and will, I am sure, agree that without her love, support and encouragement over the years I wouldn't be sitting here today.

Mr Attorney, I thank you for your kind words and the government for the confidence it has shown in me by appointing me to this important office. I look forward to working closely with you to ensure that the justice system of this state is as good as it can be.

Ms Saraceni, congratulations upon your recent accession to the office of President of the Law Society and thank you for your kind remarks. I enjoyed my short time as President of the Law Society and look forward to working with you and all members of the Society in order to address the challenges that lie ahead.

Mr Martin, thank you for your kind remarks on behalf of the WA Bar Association. My times as a member of that Association were the happiest of my professional life and I sincerely hope to enlist the support of you and your colleagues in achieving the objectives to which I have referred.

To all who have attended this morning, thank you for your attendance and patience during these overly long remarks. The Court will now adjourn.

AT 10.38 AM THE MATTER WAS ADJOURNED ACCORDINGLY