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THE SUPREME COURT OF

WESTERN AUSTRALIA

WELCOME TO THE HONOURABLE CHIEF  
JUSTICE QUINLAN

FULL BENCH

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 20 AUGUST 2018, AT 4.32 PM

**THE ASSOCIATE:** Silence in the court. All stand.

**LE MIERE J:** Please be seated. The court sits this afternoon to welcome the Honourable Peter Quinlan upon his appointment as the 14<sup>th</sup> Chief Justice of Western Australia and as a judge of this court. Before proceeding, I would like to welcome traditional owner and Whadjuk and Noongar representative Mr Barry MacGuire to conduct a welcome to country on behalf of the Whadjuk people on whose land we are sitting. On behalf of the court I would also like to acknowledge the Whadjuk people who form part of the Noongar clan of South Western Australia. We pay our respects to their elders and acknowledge their continuing stewardship of these lands. I invite Mr MacGuire to welcome us to the country.

**MacGUIRE, MR:** Good afternoon everybody. May I start by acknowledging Chief Justice Mr Quinlan and the Supreme Court for inviting me here to add in with this welcome to country as a part of us as Australians today. You see, yesterday, for thousands of years my people practised this welcome to country. It's about a balance, a balance that we share as human beings. It's law. It's customary obligations between us as nations and it's how to find a way to create a better pathway tomorrow for our children, our books of tomorrow. How do we write into them. How do we create that thing - life - life in balance in so many different ways.

And understanding that we as Australians state today, standing as many nations - many nations to create the one. How do we look at all those cultures. How do we look at bringing those cultures to the way that they've lived for thousands of years, for us as Australia to be awesome tomorrow. A welcome to country is only a start of standing together, as we gather and no matter how many times we gather in a day, and it's asking for an energy of the land that sits inside of our languages and through our songs and right here - outside our window here, there's a place where we call Gooma where people came - people came from as far away as Esperance, Albany and Geraldton and all the countries in between.

There's a Bunya pine there that represents the people of Queensland. It's over 700 years old. There was an invitation that came from Queensland for us a Noongar people to be a part of their ceremonies and gatherings. So that's a long, long run and it's a long time. But, I'm so honoured to stand here Mr Quinlan, for this day to bring that understanding for us as Australians. [Aboriginal

language spoken here] How do we share the language from the end of our tongue to create the wonders of life.

[Aboriginal language spoken here] I'm so honoured to stand here to bring my language for us here today. [Aboriginal language spoken here] And may, through that language and through the understanding of the energy that exists throughout my ancestors for us today come and create that oneness. [Aboriginal language spoken here] Welcome to the Whadjuk lands. I'm so honoured to stand here in the supreme court to share an understanding of my own people. I'm on the edge of tears because it's a big thing. It's huge and I'm so honoured and I thank you so much.

And I want to share in this old song that would have been sung there that we still sing here for us as Western Australians, may this song keep you safe, sir, and keep that law running the way that it should in balance of life for us as Aussies. That old song is Old Kings Park, sir. It's about oneness. It's about asking the spider to come and bring the web and encompass us as a people for another year until we sing that song again. Make us strong and bind us together and do what you need to do. Through my language I'm so honoured and I thank you for the (indistinct) people. And you're welcome.

**LE MIERE J:** Thank you. On behalf of the members of the court, I welcome your Honour the Chief Justice as a member of this court and I welcome your Honour's family to the community of the court. I'm pleased to welcome members of your Honour's family to share this special occasion. You wife Lucette and your children Gabriel, Harper, Audrey, Jude and Lux. We welcome his Honour's parents Michael Quinlan AO and Carol Quinlan, his sisters Gabby Peckerling and Anna Belle Lee and their husbands Max Peckerling and Michael Lee, his brothers Tim Quinlan and Anthony Quinlan and their wives Jenny Quinlan and Teenie Quinlan and his parents-in-law Pauline and Tony Gates.

I'm pleased to welcome the Honourable Kim Beazley AC, Governor of Western Australia, the Honourable Ben Wyatt MLA, Treasurer of Western Australia, the Honourable Malcolm McCusker AC, CFO, QC, former Governor of Western Australia, the Honourable Robert French AC, former Chief Justice of Australia, the Honourable Wayne Martin AC, QC, former Chief Justice of Western Australia, the Honourable Katrina Banks-Smith and the Honourable Craig Colvin Justices of the Federal Court of Australia, the Honourable Justice Stephen Thackray, Chief Judge of the Family Court of Western Australia, his Honour Judge Kevin Sleight, Chief Judge of the District Court of Western Australia, his Honour Stephen

Heath, Chief Magistrate of the Magistrates Court of Western Australia, her Honour Judge Julie Wager, President of the Children's Court of Western Australia, Ms Ros Fogliani, State Coroner for Western Australia, Ms Amanda Forrester, Director of Public Prosecutions for Western Australia, and other distinguished guests, including many past members of this and other courts.

I also welcome those who will address the court this afternoon, the Honourable John Quigley MLA, Attorney General of Western Australia, Ms Hayley Cormann, President of the Law Society of Western Australia, and Mr Matthew Howard SC, President of the Western Australian Bar Association. His Honour the Chief Justice has been joined today by many members of his family. He's the second of five children of Dr Michael Quinlan AO and Mrs Carol Quinlan who I'm very pleased are in attendance today. (indistinct) not had far to travel. In fact, the Chief Justice is one of those relatively rare Western Australians who can trace his ancestry back to the early days of this colony.

He's a fifth generation West Australian, and at the risk of creating controversy, comes with a somewhat colourful past, albeit four generations ago. It seems that our new Chief Justice is the great, great grandson of a convict. There's certain irony in the fact that this State's most senior judicial officer is related to a sheep stealer who was transported to Western Australia in 1853. From a convict ancestor to a chief justice, I'm sure Daniel Connor, your great, great grandfather would be very proud of you. And on the other side of your family Michael Quinlan, a much more respectable citizen of the colony and a blacksmith, arrived some 10 years later in 1863.

Chief Justice Quinlan has had an outstanding legal career and the signs were there from a young age. After completing his secondary schooling at John XXIII College his Honour went on to study at the University of Western Australia where he graduated with a Bachelor of Commerce in 1992 and then a Bachelor of Laws with First Class Honours in 1995. I promised to note that his Honour's academic achievements included the Sentencing Prize, so he has been successfully homing these particular skills for a long time - tools of the trade that will come in handy.

As with a number of our brightest and luckiest young law graduates, his Honour was taken under the wing of one of Western Australia's most respected jurors, the Honourable Kevin Parker AO QC, first as the professional assistant to the then Solicitor General Kevin Parker and

later as his Honour's associate when he was appointed to this court. After leaving the Supreme Court - I should say after leaving the Crown Solicitor's Office as - or rather the court as the associate, Chief Justice Quinlan moved to the Crown Solicitor's Office where he worked firstly as a legal officer and ultimately as Assistant Crown Counsel.

In 2001 his Honour moved to the bar working as an independent barrister until his appointment as Solicitor General for Western Australia on 1 July 2016 in which capacity he has represented the State with distinction. Among his Honour's many achievements, he was appointed Senior Counsel in 2010 and President of the WA Bar Association from 2012 to 2015. His Honour was appointed to the Board of Governors at the University of Notre Dame and a director of the Law Council of Australia. Whilst practising as a barrister, his Honour maintained a wide practice including commercial and civil litigation, coronial enquiries and commissions of enquiry. He also maintained a practice in criminal law.

As Solicitor General, the second law officer of the Crown and the principal legal adviser to the Executive government, he continued at a hectic pace, providing advice and representation for the State and other State agencies and authorities. A new chief justice seems to be settling into his latest role with relative ease. Although it has not come without its sacrifices, moving from the office of State Solicitor to that of Chief Justice has meant he has had to come down in the world, literally, from the apparently excellent river views on level 28 of this building to the more modest view accorded to the Chief Justice on level 14. We welcome that sacrifice.

For centuries judges have enjoyed a reputation for being heroically out of touch with popular culture. Not so our new Chief Justice who according to the West Australian newspaper has been known to use the lyrics of Taylor Swift to get his point across. So if I may channel Taylor Swift, Chief Justice, in the years ahead, by the hatest and a hate, under fakest and a fake, we have every confidence you're just going to shake it off. Judges not only have a different image than in bygone years, they work in a world more complex and ever changing.

To do its job the court must not only retain traditional judicial qualities but also innovate to be more accessible and more efficient. The judicial officers of the court look forward to supporting and working with the Chief Justice in continuing the important work of the

court. We have every confidence in his Honour to provide the leadership to meet the challenges facing the court in the years to come. Mr Attorney.

**QUIGLEY MLA:** May it please the court, may I start by acknowledging the traditional owners of the land upon which the court convenes this afternoon, the Whadjuk people of the Noongar nation, and I would particularly like to thank Mr Barry MacGuire for his warm and generous welcome to country this afternoon. I would also like to join with the Senior puisne judge in Mr Justice Le Miere in welcoming your family, your wife Lucette and your five children, Gabriel, Harper, Audrey, Jude and Lux. I would also like to acknowledge the presence this afternoon of your extended family, particularly your parents Mr Michael Quinlan AO and your mother Carol Quinlan, and your parents-in-law Pauline and Tony Gates.

Your extended family has been referred to in detail by his Honour Justice Le Miere. I would also like to acknowledge the presence this afternoon of the head of Executive government, the Honourable Kim Beazley AC, Governor of Western Australia. I've been asked by the Premier of Western Australia who fully intended to be here to see you welcomed this afternoon, the Honourable Mark McGowan, to offer his apologies as a sudden bereavement in his extended family meant he could not attend this afternoon and has asked me to pass his apologies to you.

I acknowledge the presence of the Treasurer Ben Wyatt MLA, the Treasurer of Western Australia, the Honourable Malcolm McCusker AC CVO QC, our former Governor, his Honour Justice Robert French AC, former Chief Justice of Australia, the Honourable Wayne Martin AC QC, former Chief Justice of Western Australia and his wife Margie, the Honourable Justices Katrina Banks-Smith and Justices Craig Colvin of the Federal Court, the Honourable Justice Stephen Thackray the Chief Judge of the Family Court, his Honour Judge Kevin Sleight the Chief Judge of the District Court, and most of the judges of the District Court to whom I know your Honour extended a personal invitation to, to the Chief Magistrate of the Magistrates Court Mr Stephen Heath, to her Honour Judge Julie Wager President of the Children's Court, to Ms Ros Fogliani the State Coroner, to Ms Amanda Forrester the Director of Public Prosecutions and a particular warm welcome to Mr Paul Dunn QC, the Solicitor General from Queensland who has flown over from Brisbane to be at your welcoming this afternoon.

It is indeed an important occasion and it's my privilege as the Attorney General on behalf of the Western

Australian government to make some welcoming remarks. This ceremony is a particularly important occasion which we welcome you, not only as a Justice of the Supreme Court of Western Australia. You also received a commission as a Justice of the Appeal Court and of course your final commission of Chief Justice of Western Australia and, as such, the titular head of the third estate of government, the Independent Judiciary. And in that position being the spokesperson for our third estate of government, the Independent Judiciary.

I'm indebted to the Senior Puisne Judge Mr Justice Le Miere for speaking so eloquently of your biographical details and in detail and of the many strengths in your life in the law thus far and I shall not repeat all those biographical details. Thank you, your Honour. I do note that you were marked out very early as his Honour noted for a stellar legal career and like your predecessor as Chief Justice you also won the (indistinct) prize for the best law student in your final year and first-class honours.

As his Honour pointed out you then went on to work for what became the State Solicitor's Office, and were mentored in the Crown Counsel's office by the Solicitor General, Mr Kevin Parker AC RFD QC before Mr Parker's appointment to a Justice of this Honourable Court, and now as I understand it, you become the fourth of Mr Kevin Parker QC's personal assistant who has been elevated to this bench. After you left - as his Honour stated, after you left the State Solicitor's Office you went to Sir Francis Burt Chambers for some 16 years and you were appointed as the senior counsel of this Honourable Court in 2010. Your practice at the bar was as successful as it was varied.

You appeared on some occasions for the largest corporations in Australia and on the other hand, for the family of the late deceased Ms Dhu in a very fraught coroner's inquest into her death in custody. You also, during that span of your career at the bar also selected for your forensic skills by the Corruption Crime Commission to be counsel assisting on at least five occasions including the very high profile enquiry into the wrongful conviction and imprisonment of Andrew Mallard, a well known case. Your Honour also assisted the Marnie enquiry into the most comprehensive review of the State's prison system.

In 2016 the former Liberal National government chose you to be just the eighth person to occupy the pivotal role of Western Australia's Solicitor General. This of course is an independent statutory office whose holder represents the State of Western Australia in the High Court, the

Federal Court, the Supreme Court, whilst at the same time offering legal advice to executive government. And although I've had the pleasure of having your Honour's acquaintance for the last 20 years, it was particularly over the last 18 months since I've occupied the Office of Attorney-General. This of course is an independent statutory office whose holder represents the State of Western Australia in the High Court, the Federal Court, the Supreme Court, whilst at the same time offering legal advice to executive government.

And although I've had the pleasure of having your Honour's acquaintance for the last 20 years, it was particularly over the last 18 months since I've occupied the Office of Attorney-General that I've had such a close working relationship with you. The government, in selecting a new Chief Justice for Western Australia - the 14<sup>th</sup> Chief Justice, had to be mindful of the many roles that a chief justice these days was called upon to fulfil. Not only a judge sitting in general division in trial work, but also joining the President of the Court of Appeal his Honour Mr Justice Bus in the Court of Appeal as said in Appeal Division, and also to receive the commission to be the Chief Justice of Western Australia.

And it's to those - some of those qualities that I just wished to briefly turn. You were known throughout the legal profession as someone who possessed a brilliant legal mind and who interprets and implies the principles of law with an ample dose of common sense. And in the two years that you've been Western Australia's Solicitor General, you very quickly garnered a very high reputation amongst the very small community of the Commonwealth of Australia's Solicitors General. I know personally - I know amongst that community, you were held in very, very high esteem.

I also know and understand that through your deep understanding of the law and advocacy skills you were held in very high regard by the High Court itself. Indeed, in a recent case where you accepted instructions from the Western Australian government to appear as an intervener in an application for special leave to appeal on a point of law brought by the Northern Territory on a native title matter that namely the Timber Creek case. At the application of the calling of the case for special leave their Honours made it known that they would first like to hear from not the - from the applicant, but they would like to hear from the Solicitor General from Western Australia counsel for the intervener, and I think that that was highly indicative of the esteem with which the High Court held your legal learning and scholarship.



Further the Chief Justice of Western Australia these days is required to have communication skills which go beyond just legal writings and I've had the pleasure over these last 18 months of being the recipient of many of your legal writings as you gave opinions to government, sometimes I felt it a pity that you were writing for an audience of one. But that's not quite right because some of those legal opinions did get put around my office and within the highest levels of government. I know that my Chief of Staff who herself a Walkley Award winner Colleen Eagan and an editor of a daily newspaper was always so pleased to read your legal writing so that your communication of quite dense legal subjects were being communicated to lay people in a very easily and understandable way and that's true of the comments that I receive from people very high in government in the Department of Premier and Cabinet and the Cabinet itself.

Your two predecessors in this position of Chief Justice, namely the late David Malcolm QC AO and the Honourable Wayne Martin QC AO, each opened up this court by communicating with the general public explaining the workings of the law and of this court. And so it was imperative that the government chose for a Chief Justice someone that could continue in this vein and explain to the public in readily understandable and digestible fashion the complex matters that come before the court and the complex issues. And I believe from what I've read and seen, that you excel in that regard. Indeed, his Honour Justice Le Miere did refer to briefly some mention that has been made of your referencing modern culture or what has been said in the paper as pop culture to get your points across.

I can say that in all the legal writings I've read, there has been no reference to pop culture, at least that I can discern or at least I'm so old - I'm so old I don't understand the word pop or culture. However, I have had the pleasure of attending legal lectures where your Honour has referenced pop culture. The last of these, I think, is worth reflecting on for a moment and it was at a Pittington Society conference in Bali held only a couple of months ago where your Honour was given the graveyard shift. It was the last lecture of a conference spread over three days. It was a lecture on ethics and as I said, it was one hour ethics lecture just before the party started, and might I add, a one hour lecture given after an epic party the night before.

Now, at this stage of a legal conference people tend to float off, especially when you're in Bali with so many temptations of swimming pools, bars and fine food. But I

want to make it known to all those here that when it came to your Honour's talk, all 200 attendees came to that hall because they wanted to hear what your Honour had to say and your Honour had a very important message that day about trust - about the trust that is reposed in practitioners by the court and the duty of trust that the practitioners have to the court and the duty of trust that the practitioners have to their client, and your Honour's reference, which wasn't actually pop culture but Descartes Inferno, reminding those present that the seventh level of that fiery pit of hell was held for those who breached trust.

Your Honour then went on to explain to the gathering that - is that my time (indistinct) I've had a number of judges make me sit down in various ways but that's (indistinct) But your Honour also was seeking to make the point that we are not in a mercantile trade but practising a profession and in that regard you referenced the Coen brothers' movie Caesar and the producer that was upgrading George Clooney who was playing the part of the person who played Caesar, reminding him that he had to get on and not go out and chase the dollar but get on and practise his profession as an actor.

The thing that was really memorable about this, impressive about this for me was not the clever way that you referenced cultural hooks that left a lasting impression with all those present, but that 200 practitioners would want to come to the last lecture on a hot and steamy day in Bali to hear what you had to say. They knew that what you had to say would be important and they wanted to hear it, and that's a wonderful quality that we've got in a Chief Justice in Western Australia, because you will have important things to say on behalf of this court, on behalf of the administration of justice.

Finally, one of the - the last area that I would like to refer to which was imperative in Chief Justice was - well, desirable, was a commitment for law reform, and we were very pleased that you were the Solicitor General when we came to office.

And just to mention briefly some of those things in the law reform space: we liaised with you on the rearrangement of the jurisdiction of this court - the criminal jurisdiction of this court to the District Court, and the District Court to the Magistrate's Court; we liaised with you and you helped and you were responsible for the furthering of a project and an ambition of your

predecessor that was for Western Australia to enter the National Legal Profession - you have been responsible for negotiating the intergovernmental agreement to have that happen. We're not complete yet but we're almost there.

But finally, I think that one of the most fulfilling, satisfying things that I ever worked with you on was the amendments to the Civil Liability Act, because the government came to you and said that we wanted to lift the statute of limitations and open up a pathway to justice. Your Honour then showed us how to legislate around the - what they call the Ellis defence, where it's hard to name a particular church leader or non-government organisation leader as a plaintiff. Your Honour came up with a solution to that.

Your Honour also came up with a solution as to how plaintiffs could get their money from organisations that held them in trust. Your Honour advised us to do a corporations displacement provision. This was innovative in Australia. And I just conclude on this by saying that the first case was held in Western Australia last week, and before it was called, the plaintiff who revealed that he was not long of this world - he was 74 and had been fighting for justice for 60 years - just wanted justice.

His instructing solicitor from Melbourne said Western Australia had the most repressive laws in Australia but now have the fairest laws in Australia, and that led to a settlement of that case. Your Honour was the architect of the drafting instructions and all survivors of child sexual abuse and all of the community owe your Honour a debt of gratitude for what you did in helping the government achieve this important law reform.

I would now wish to conclude by just talking about you as a person, because it was important that the government chose a good human being to be the Chief Justice of Western Australia. And that which speaks loudest of the qualities of Peter the man is the attendance this afternoon of your lovely wife Lucette and five children who attend in loving support of you in your new career and this speaks volumes of you as a person. Professionally, you are known throughout the profession for your integrity, your honesty, your good cheer and a very good practitioner to deal with.

The Government of Western Australia, in choosing a new Chief Justice, was conscious it had a duty to all Western Australians to choose someone who was wise, who was just and who was a really good human being. And we believe - we

don't believe, we know that in the selection of you as the Chief Justice – the 14<sup>th</sup> Chief Justice of Western Australia, the legislative branch of government has discharged its duty to the community by appointing you as the titular head of the independent judiciary of Western Australia. I congratulate you on behalf of the government, on behalf of the community, and may it please the court.

**LE MIERE J:** Thank you. Ms Cormann.

**CORMANN, MS:** May it please the court. It is a privilege to appear today on behalf of the Law Society of Western Australia to welcome the Honourable Chief Justice Peter Quinlan to the bench. May I also welcome and congratulate the many members of your Honour's family and acknowledge and welcome the friends and colleagues, distinguished guests and members of the judiciary here today.

Your Honour's suitability for this appointment is not something which needs careful articulation by me and nor could I really do it justice today, but it is important that we reflect today on your Honour's strengths and your characteristics, on what your Honour brings to this appointment and how your Honour might shape the legal landscape and justice system in Western Australia in your role as leader of our judiciary.

As we have already heard, your Honour has a distinguished legal career. During your time in practice, your Honour made a significant contribution to the legal profession and gained extensive knowledge and experience in many fields of the law, including across commercial, civil, criminal, administrative and constitutional law. Like many in our profession, I have firsthand experience of your Honour's enormous intellectual capabilities together with your confidence, approachability and above all your honesty and your integrity.

Underpinning your Honour's approach to every problem, every question and conundrum is the deepest and strongest moral thread and extraordinary ability to disentangle and simplify a problem so as to efficiently and effectively resolve it with the application of a deep ethical fibre that is non-negotiable and nor is it superficial.

In our profession, we are the custodians of a set of doctrines, principles and values imperative to the good order of the community and of our society, and we must without question apply ourselves ethically and dutifully to the courts and to the administration of justice above all else. Your Honour's leadership of our profession in this

way is well known, firstly as an advocate at the bar table and most recently in your role as Solicitor General.

Now, your Honour's integrity and underlying ethical compass will more broadly impact the State and our community through this appointment. This compass is, of course, coupled with an enviable capability to disentangle and to simplify the law. Your Honour is known to have a way of looking at things, and at the law in particular, as fundamentally simple.

Through your appointment, your Honour does now have an enormous opportunity to facilitate better access to justice, of course, not directly through funding or resources but rather through your leadership and your sensibilities, both in your judgments that will be delivered but also by your capacity to educate key stakeholders as well as the community.

As I mentioned before, throughout your Honour's time in our profession, your Honour was in the experience of so many approachable and accessible. This was notwithstanding an enormous professional and personal load at most if not at all times. Your Honour accordingly has coached and mentored an enormous number of our colleagues, seeing people not through the prism of gender, background or other circumstances, but rather through the realism of humanity and in a completely non-judgmental way.

The work of our profession and judiciary can be stressful, complicated, overbearing and relentless, and historically, our profession has struggled to recognise how to improve the characteristics of our work which can be fundamentally incompatible with being human, with having faults and making mistakes. But improve we must and we have and we will continue to do so.

Your Honour's leadership in mentoring those in our profession in need, as well as in educating our profession and in approaching problems in an entirely ethical fashion are key to assisting us to get better. As was articulated by the late, the Honourable David Malcolm AC at a law week address in 2004, the role of Chief Justice is twofold. It is one of leadership. Your Honour is now the spokesperson and representative of the judiciary. And furthermore, your Honour now has the ultimate authority for determining the distribution of judicial workload within the court.

Your Honour can best do this by consultation with the judiciary and court administrators, taking into account the individual circumstances, interests and abilities of each

of the judges. In this vein, your Honour is described by senior colleagues as an engaging and inclusive person. And now as the head of our judiciary, you will extend this to your peers and bring together a team that continues to work effectively and judiciously.

But your Honour, of course, is not only the administrator of this Honourable court, you are also a judge within it, and a daily challenge as Chief Justice will be to strike a balance between time spent in court and in judgment writing and time spent on the administration of judicial resources and other tasks. But, your Honour, you are extremely well placed to achieve this and to achieve it well.

I finish with another reference to the remarks of the late Honourable David Malcolm AC. He said:

For society to maintain its respect for the law, the law must bear relevance to the society to which it is applied. There are many occasions upon which a judge is required to decide what is just, what is fair and what is reasonable. In cases of that kind, a judge necessarily seeks to apply basic values representative of community values. In doing so, he or she cannot merely reflect transient shifts in public opinion. The judge must objectively determine what is just, fair and reasonable so that while reflecting the basic values of the community, the judge does not allow himself or herself to be influenced by temporary shifts in public opinion or by prejudice, emotion nor sentiment. The guiding principle is adherence to the rule of law.

In my view, these remarks are as relevant and significant today as they were nearly 15 years ago when they were made. And when we consider them today, we are confident that your Honour, as you take on this role, can and will without question fulfil these fundamental and overriding requirements of objectivity, of underlying ethics and integrity representative of our community values, but that overall is absent of influence, prejudice or judgment.

In closing, on behalf of the Law Society and the wider legal profession of Western Australia, I am delighted to welcome your Honour to this role. This is the beginning of a new phase in our justice system, and we offer to your Honour our support and best wishes for the challenging and rewarding journey ahead of you as Chief Justice of Western Australia. May it please the court.

**LE MIERE J:** Mr Howard.

**HOWARD, MR:** May it please the court, it is my particular privilege to appear on behalf of the Western Australian Bar association at such a significant event in the life of the court and in the administration of justice in Western Australia. The President of the Australian Bar Association, Noel Hutley SC, has also requested I convey the National Bar's congratulations and good wishes to your Honour on your appointment.

That your Honour's appointment should be recognised nationally is, of course, entirely appropriate, as your Honour has become not only the Chief Justice of this State, but a significant figure in the integrated national court system which is created and enshrined by Chapter 3 of the Commonwealth Constitution.

There are three matters I would like to particularly draw attention to as factors which have inevitably led to your Honour's appointment and this afternoon's occasion. The first is your Honour's conspicuous abilities. It is no exaggeration to say that from the earliest of times, your Honour has appeared destined for great things and indeed the highest of offices. Time does not permit even the small sampling of the significant cases that your Honour has been involved in in one way or another since your first entry into the profession.

As we have heard, your Honour cut your teeth on the most significant matters in the State and nationally through working with the Honourable Kevin Parker, then Solicitor General for this State. The significance and profile of your Honour's work at the bar was unrivalled, and your Honour was the obvious choice to be the second law officer when that position fell vacant. You were a very significant loss to the Bar at that time.

To pick only one case as an example of your Honour's national eminence is somewhat arbitrary. However, time constraints do not admit of a more full sampling. As Solicitor General, you represented the State in the landmark decision in Rizzick. Your Honour's clear, careful and cogent submissions on the hitherto difficult topic of the application of State laws in Federal jurisdiction were upheld unanimously by the High Court. Your Honour took an idea articulated by way of obiter by French CJ and gave it a form and substance which had not been done before.

Your Honour's submissions as adopted will, in due course, require a rewrite of large tracts of authoritative texts on Federal jurisdiction and have provided new points of departure in the further working out of the implications

of our Federal compact. Secondly, a central part of your character is demonstrated by the way you have built and maintained warm, enduring and deep relationships with people from every endeavour you have undertaken.

It is not simply a question of popularity, but rather a reflection of your Honour's genuine interest in people, their families, careers and lives. That building and maintaining of relationships is core to who your Honour is and indicative of the great generosity with which your Honour approaches your fellow human. You are known for your concern for how people are treated within the profession and for the mental and emotional health of practitioners.

It has also manifested itself in your Honour's willingness to serve the community, whether by service on boards or teaching or in any one of a myriad of other ways. As we have heard, your Honour was president of the Bar for three years and served on the ABA Council during that time. Your Honour has been a wonderful teacher, mentor and friend to many in the profession.

Thirdly, your Honour is quintessentially a person of faith and of family. Both are integral to you and your place in the world. They are foundational to you in the truest sense - they are your rock. It cannot be doubted that they will hold your Honour in good stead as you embark on this solemn undertaking.

The pace of change in our society and in the administration of justice might lead one to think that at a time like this, the court is at something of a crossroads. Such a description might be a little melodramatic. But it cannot be doubted that our society, and necessarily the justice system which serves it, is under strain and will look for the sort of calm, deliberate, long-term thinking which your Honour has been appointed to provide.

Your Honour has already in some public statements recognised that many of the challenges which the system faces are beyond the scope of the court's power. Nonetheless, I am sure that like your predecessor you will bring a relentless and anxious energy to bear on such problems. If I may digress in one small example, your Honour has already shown, albeit in a past life, an innovative approach to sentencing.

I was not aware until the Attorney's remarks this afternoon that your Honour had secured the sentencing prize at university, but it may make more sense of the next



story. One of the Quinlan offspring, who shall remain nameless so as to protect the guilty, had, it was reported, committed some indiscretions at home alone while you and Lucette were travelling overseas. The offence came to your attention via social media. On your return, your Honour coupled the traditional sentencing of a grounding with a non-traditional order of requiring the offender to shadow you while you were teaching the Bar's essential trial advocacy course.

I have already referred to your Honour as a man of faith. From your Honour's faith tradition, there is this description provided in Micah which might be this job's description, at least in part:

To act justly, love mercy and to walk humbly.

Reaching into another faith tradition, I was taken by these words which also seemed apposite to a man of faith undertaking a role such as this. From the Mishnah, the men of the Great Assembly would always say these three things:

Be cautious in judgment, establish many pupils and make a safety fence around the law.

The Bar both here and nationally warmly welcome your Honour. We look forward to working with and appearing before you for many years to come. May it please the court.

**LE MIERE J:** Chief Justice.

**QUINLAN CJ:** Le Miere J, thank you for your words of welcome today and for all of your assistance to me over the past two weeks. To those at the bar table and those who spoke, Mr Attorney, Ms Cormann, Mr Howard, thank you for your kind words. I have had the great pleasure of working with each of you closely throughout my legal career and I thank you for all your support. You are all hereby charged with that common law offence first identified by Justice Patrick Keane of outrageous flattery in a public place.

To the many distinguished guests, colleagues, family and friends, can I thank you all for your attendance today. I am overwhelmed by your presence. I would have acknowledged you all by name, but I now suspect that would take too long and I am already likely to breach my preference for brevity, so I will confine particular acknowledgments to three.

First, may I particularly acknowledge the presence in court of the Governor of Western Australia Kim Beazley AC, and the Treasurer the Honourable Ben Wyatt MLA, and thank the Premier the Honourable Mark McGowen MLA who had to be called away on urgent personal business for his apologies. As the leaders of the executive arm of government and also as representative of the legislative branch, you do the court a great honour by your presence today. The mutual respect of the separate arms of government in Australia is one of the great strengths of our democracy and one for which we should all be grateful. Your attendance today is a concrete illustration of that mutual respect for which I extend the court's thanks.

Secondly, I thank the many members and former members of other courts here today, both State and Federal. Your presence is a testament to the great bonds of respect and affection that exist within our integrated national court system. I am delighted that so many of you could be here today.

And thirdly, may I especially thank you, Mr McGuire, for your welcome to all of us to this place within the country of the Whadjuk people of the Noongar clan. Can I personally pay my respects to your elders past and present and indeed to all of those of the First Nations throughout Western Australia. I have had the great privilege in my career to spend time with many of those people, from the Bardi, Nyulnyul and Yaoro to the north, to the Bandjima, Inawongga and Nyayaparli in the Pilbara and the Martu people in the great desert to our east. The relationship between our justice system and the First Peoples of Australia still has a long way to go, but your presence today and your gracious welcome remind us how far we have come and give us resolve for the future.

Thank you to all of the judges of the court for your warm welcome. Apart from having appeared before your Honours, I have had the great benefit throughout my time in practice of working with or alongside each and every member of this bench. While they will have no reason to remember it - for example, Buss J to my left was the first Queens Counsel I ever appeared against, and Le Miere J to my right was the first Queens Counsel to have me as a junior when I joined the independent Bar.

I am therefore able to say with confidence that in joining this court, I have learnt important lessons from every judge of the court. I am sure and relieved that I will be able to continue to do so. In that membership of the court, I include, of course, my predecessor, the

Honourable Wayne Martin AC QC who I am pleased to see is here today with Margie. Wayne Martin was one of my referees when I joined the Bar 18 years ago. He has always been the model of a sharp intellect, strong work ethic and no nonsense commitment to justice.

Many people in the profession, no doubt thinking they were being encouraging, have said to me I have large shoes to fill. That is undoubtedly true. Certainly, it's a large office to fill. Thank you, Wayne, for your many years of service to the court and to the people of this State. Thank you also to the wonderful welcome from the personal staff I have gratefully inherited, Chris Curtis, Stan Carvel, Mateo Vincullio, Emily Archer, Angela Milne and Val Buchanan - indeed, to all the staff of the court. Thank you all for looking after me so well thus far and in particular for putting together today's ceremonial sitting.

I do not propose to outline a reform agenda this afternoon. Rather, what I hope to bring is a commitment to and a sense of urgency for our first and overriding responsibility - that this and other courts in this State be able to deliver justice according to law. It is that responsibility upon which public confidence in the court rests, and it is upon that confidence in turn that the rule of law ultimately depends.

As to that confidence, a former American Chief Justice Warren Burger said in the year that I was born:

A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people, and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law, in the larger sense, cannot fulfil its primary function to protect them and their families in their homes, at their work, and on the public streets.

Preserving that sense of confidence is a heavy responsibility. It must be preserved and it must be increased. It is a responsibility which rests not only upon a Chief Justice but upon every judge of every court and on every member of the legal profession. Nor is it optional. I have a great love for the legal profession. It has given me so much and its work is important and

fulfilling. It contributes enormously to the stability of our society. But we can do more, or at least we can do it better.

If we as a profession, courts and practitioners alike as officers of an independent branch of government, do not find better ways to increase access to justice for the whole community, our independence will come under threat to the detriment of all. If that occurs, we will in the parlance of our times be totally hosed. I do not pretend to have the answers as to how we can do better, but there must be answers and it is incumbent upon us to find them.

In that regard, those of you who know me well will know that I have something for a fondness for the rule of St Benedict. That rule begins with the Latin word "obsculta". The Honourable Eric Heenan QC is unable to be here today and sent his apologies. But if he were here, no doubt he would tell us that "obsculta" translates as "listen" with an exclamation mark. It is, I hope, a command that I will follow in the years to come - to listen to others, particularly my fellow judges, as to how we can best discharge our duties.

As the Honourable Wayne Martin said from this chair exactly a month ago, beneficial changes can only come about through consensus. Just as importantly as demonstrated by the motto "obsculta", the task in finding consensus is not to win approval for one's own ideas, but to be able to discern what is best from the ideas of all, including oneself.

Listening is equally important in a broader sense, as our community becomes more and more diverse, in its ethnic and linguistic diversity, our different cultures, different faiths and beliefs, different gender roles and identities and diverse mores and preferences. No person can, of course, embody that diversity and no one should pretend to do so. It is essential, then, in maintaining public confidence that they, so far as possible, reflect that diversity in their membership and in their modes of thought.

While there is a significant way to go in achieving a satisfactory level of gender and other diversity in our courts, I am pleased to say from my previous role as Solicitor General that it is a matter at the forefront of the executive government's mind with whom responsibility for judicial appointments ultimately rests.

For those of us already here, however, it is incumbent that we bring to our task not only our inescapable backgrounds, cultures and life experiences, but a capacity to genuinely listen to the perspectives and life experiences of others. For now, can I turn to acknowledge and thank those whose contribution to my own life brings me to this day.

My mother and father, Michael and Carol Quinlan, who not only met mine and my siblings' every material and spiritual need, but gave us the great gift of their own example of commitment, love, service and perseverance. From dad, I was able to know what a commitment to a professional vocation was before I even knew what those words meant, and to see a humble sense of service able to endure over decades. From mum, I was given an example of devotion to others and a faithfulness and perseverance in the face of what has often been great struggle that has been an inspiration.

My brothers and sisters who are all here today were my first and longest circle of friends. To whatever extent I can claim any true gentleness, I owe it to my older brother Tim. My younger brother Anthony, or Boof as he is known within the family, is the master of industriousness and grand schemes. Apparently, he was very relieved at my appointment because it enabled him to take a break from being the high achiever and the favourite within the family. Never fear, Boof, you will have resumed the mantle by this time next week.

My sister Annabelle, the life of every party, ensures that every family gathering finishes with dancing into the wee small hours. I am sorry, Belles, we may have a curfew tonight. And my younger sister Gabby who carries the torch as the family chronicler and the keeper of the extended family folklore. Thank you all, together with Jen, Teeny, Mick and Max for being here to share today.

Thank you also to my in-laws, Tony and Pauline Gates and my sister-in-law Tonia McNealy and her husband Matthew for all your love and support for almost 30 years. I think Pauline and Tonia in particular are still baffled that I have made it here given their alarm at the parlour state of my footwear when they met me back in 1989. Fortunately for me, my shoes can't be seen from up here.

When I started in the law in 1993, I was fortunate enough to work as the professional assistant to Kevin Parker AO QC as the Honourable Kevin Parker AC QC then was. Kevin was and is a person to whom the legal profession and

the administration of justice in this state owe an enormous debt and to whom I and many others owe a great personal debt. There have now, Mr Attorney, not been four but five former professional assistants to Kevin Parker to join this court commencing with the Honourable Christine Wheeler AO QC. But four of those five sit on the bench today. Pritchard, Mitchell, Smith JJ and now myself - not a bad strike rate for a young fellow, Kevin. I am delighted that you could be here today.

I then spent my first years in practice at the then Crown Solicitor's Office and now the State Solicitor's Office was and is one of the great institutions of the law in this State. The example I had in those early years was of exceptionally talented lawyers committed to hard work, excellence and genuine public service.

The Crown Solicitor's Office was also conspicuous, in that of the great mentors and examples in the office, most of them were women - Christine Wheeler, Maryanne Yates, Lindy Jenkins, Jeanine Pritchard, Carolyn Thatcher, Jennifer Smith to name a few. It is no coincidence, as Smith J pointed out at her recent welcome ceremony, that of all the women appointed to this court in its history, three quarters of them can claim their formative years at the Crown.

Moving to the Bar in 2001 brought new experiences, mentors and lifelong friends. I remain convinced, Mr Howard, that a strong independent Bar is essential to the maintenance of the rule of law in our society and I am privileged to have been part of its story. There are too many people and too many groups for me to thank over those 16 years, so I will again mention three.

First, Craig Colvin SC as his Honour then was. When Craig left the Bar for the bench earlier this year, he was its spiritual centre and the epitome of what it was to be an independent barrister. Craig's wise counsel and ethical compass have long been and remain of invaluable help to me. Thank you, Craig, for your fine example and for your presence here today.

Secondly, the members of the Common Law Bar, Lampropoulos SC, Pratt, Offer, his Honour Judge Herron and many more. These were the practitioners who really taught me that as Sir Gerard Brennan once said, the law is administered more frequently and more directly by legal advisers than it is by judges. But justice is best served by advice which is brief, timely, direct and impartial and that our clients come to us for solutions for their

problems, not for an opportunity for us to advance ourselves or our own causes.

Finally, to my friends around the big round table beneath Allendale Square, who provided respite from the inevitable stresses of legal practice and provided an opportunity concentrate on the important issues of the day. What was Dante's crowning achievement? Which side really was responsible for the great East/West schism? Has Nicki Minaj gone too far this time?

The main stalwarts, of course, for whom no impending court deadline proved reasonable excuse for a long lunch were Hammond and Quail. I have said it before, you two were my lifeline in difficult times for which I will be forever grateful. And, of course, the contingent grew with Banks-Smith, Russell, Lendich, Papamatheos and Heenan Junior, and in more recent years, van Hattem, Cavanagh and Gavinagey. Thank you all for your friendship and counsel.

Which brings me to my last stop in practice, returning to Crown Service as Solicitor General of this great State. For that opportunity, I have the former State government to thank who entrusted the task to me a little over two years ago. Thank you to my staff, Noelene Lutrell, Kate Dromey and Jen Purera for making me sometimes look good over those two years.

It is often said that being Solicitor General is the best job in the law. It is no doubt one of the most fulfilling. I am delighted that the Solicitors General of Australia are able to be represented here today in the person of my friend from Queensland Peter Dunning QC. The collegiality and spirit of cooperation among the Solicitors General of the Commonwealth and States of Australia and Territories is indeed one of the great unsung achievements of our Federation, and I am grateful to have been a part of it.

Over the past 16 months, I have had the adventure of working with a new government and in particular in providing assistance to you, Mr Attorney. Together with the indomitable Ms Egan, your energy, enthusiasm for justice and commitment to reform has been both invigorating and infectious, and your commitment to the independence of the judicial branch of government are a credit to the Government of this State. I look forward to continuing to work with the executive government whilst always respecting the proper bounds of our respective roles throughout my term as Chief Justice.

And so finally to some more personal thanks, to the pillars of my support. Firstly, to the Benedictine community of New Nausea whose abbot the Reverend John Herbert OSB is able to be here today. John, you and the community have been an enormous support to me over many years and I am proud to call you friends and brothers. So much of the practice of the law involves posturing, displaying and showing.

If we are not careful, our constructed personas can overtake us and distract us from what really matters, and so it is a great blessing to have a place where I can, as Bob Dylan would put it, lay down my weary tune - a place with enough silence for me to hear again the still, small voice that animates me and constantly calls me back to reality. Thank you, John, for your guidance and friendship, not to mention all the whiskey.

And so to the bedrock of my life, the six people sitting over there glaring like a jury of my peers. Gabe, Harper, Audrey, Jude and Lux, you are my and mum's crowning achievement. Gabe gave me strict instructions not to say anything about him, so I won't. But if I had, I would have said what a fine young man he has become with an independence of thought that takes no authority for granted, especially my own. Harper, so attentive and caring for all around her; Audrey, with her acerbic wit and gift for friendship; Jude, so flamboyant and joyful; and Lux, ever mischievous and spunky. Thank you all for the joy and meaning that you bring to our lives.

And so to Lucette, the other half of my soul. I learned a new word a few years ago during a long case - uxorious. Where is Eric Heenan when you need him? U-x-o-r-i-o-u-s. It is an adjective which means "having or showing an excessive fondness for one's wife". Paul Yovich SC reckons there is a picture of me next to its definition in the dictionary, and for good reason.

Lucette and I met when I was in first year law school. She has been there on every step of this journey. There is not a thing I have done or could have done without the strong partnership we have built over 30 years. My gratitude to you is beyond expression, and that we set out on this next part of our journey together makes the climb easy and the burden light. To borrow from Theodore Roethke's Words for the Wind:

One with the sighing vine,  
One to be merry with,  
And pleased to meet the moon.



She likes wherever I am.  
I bear, but not alone,  
This burden of joy.  
And I dance round and round,  
To see and suffer myself  
In another being at last.

Le Miere J commenced his remarks with a reference to my convict ancestor Daniel Connor who arrived here eight years before the appointment of the first Chief Justice. Connor died in 1898, and by that time, he had become a successful business owner in the colony. His funeral was officiated by Bishop Matthew Gibney who concluded with the following words, which I ask you all to keep in mind in the coming years:

Be to his virtues ever kind, and to his faults a trifle blind.

Thank you all once again for your attendance.

**LE MIERE J:** Court will now adjourn.

AT 5.42 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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