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THE DISTRICT COURT OF
WESTERN AUSTRALIA

908 of 2020

FAREWELL HEARING CHIEF JUDGE
KENNEDY

KENNEDY CJDC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON FRIDAY, 26 MARCH 2010 AT 9.16 AM

MR MICHAEL MISCHIN MLC, speaking on behalf of the Attorney General and Government of Western Australia

MR HYLTON QUAIL, President, The Law Society of Western Australia

MR GRANT DONALDSON SC, President, The Western Australian Bar Association

MR RICHARD UTTING, President, Criminal Lawyers' Association of Western Australia

MS ELIZABETH NEEDHAM, President, Women Lawyers' Association of Western Australia

KENNEDY CJDC: This is a special sitting of the court to enable me to say farewell and to thank a number of people. You are all most warmly welcome, and I will make more specific welcomes later.

Yes, Mr Mischin?

MISCHIN, MR: Thank you, your Honour, and may it please the court. It is with great pleasure but mingled with regret that, on behalf of the Attorney General and the Government of Western Australia, I am here today to farewell you on the eve of your leave, which will culminate in your retirement in July 2010.

Following a distinguished career as a solicitor and barrister, your Honour was appointed as a District Court judge in 1985. And as the first woman to be appointed to the Bench in Western Australia at 39 years of age, if you don't mind me mentioning that, you were also one of the youngest judges appointed to this role.

Your Honour quickly developed a reputation as a jurist, and was widely known to be an effective manager who was also rigorous in your administration of fair justice. Your Honour was enthusiastically engaged in debates about the values of an independent judiciary, and you strongly support the importance of the separation of powers.

Your Honour was appointed as Chief Judge of this court in 2004; again breaking tradition by becoming the first female head of a jurisdiction in this State, and only the third woman in Australia to head a court of superior jurisdiction.

If I might say so, it's unfortunate that in this day and age we still have to allude back to one's gender as an achievement, but things have to start somewhere, and its encouraging to know that you were among the first.

(Cheering and laughing)

Oddly enough, I had a similar experience in Parliament just the other day.

KENNEDY CJDC: We've having trouble with the video-linking to 71, I'm afraid. So that could be the entertainment for the day.

MISCHIN, MR: During your period as Chief Judge, your Honour has overseen the development and implementation of a range of initiatives. These measures have improved the

quality of justice for people appearing before this Court, and they've also increased the efficiency of the Court's operations, both at Perth and at the 12 locations throughout the State at which the Court conducts circuits.

With your Honour's drive for greater efficiency in the civil jurisdiction of the Court, you've introduced new civil court rules in 2005 which greatly improved case management, shifting it from a one-size-fits-all to a system which is tailored to the needs of court users.

Your Honour also introduced the Civil Trial Preparation Project in 2007 which streamlined civil procedure and reduced the cost of litigation. One of your Honour's greatest achievements, and one of which I believe that you are rightly proud, is the complete overhaul of the way in which the court manages its criminal list.

The introduction of case management initiatives prior to trial has seen the medium time to trial reduced from 74 weeks in 2004, at the time of your appointment as Chief Judge, to just 21 weeks in December 2009.

Also in 2009, your Honour decided to allow two of the Court's Registrars to case-manage activities prior to criminal trial, and this effectively released Judges from such rules, allowing them to focus on actually hearing a greater number of criminal trials.

Having set in place new processes to get the Court better organised, your Honour enthusiastically joined in the process of establishing a permanent home for the District Court which previously operated from the Central Law Courts complex, which it shared with the Magistrates Courts and necessarily had an overflow into the May Holman Centre, which, although essential at the time, was hardly suitable as a court building.

Your Honour was an active, constructive and important contributor to the planning of the new purpose-built District Court in which we sit today. Your Honour helped shape the sustainable environment which met all the Court's needs, while at the same time producing a host of benefits for court users.

Opened in 2008, the District Court building offers contemporary courtrooms and jury assembly facilities, a high security courtroom, a vast range of security features and leading-edge technology. The building won the Master Builders Association award for the best public use building in 2009.

To support the many efficiency initiatives implemented at the District Court and in order to better manage the ever increasing workload, your Honour has, over the years, been successful in obtaining increased resources for this Court. At the time of your appointment, the District Court had a complement of 22 Judges, one Principal Registrar and four Registrars. By 2008, an additional four Judges had been appointed to the Court, and two Registrars had been given the powers of a Commissioner to deal with criminal matters.

With your wealth of knowledge, experience, and a lot of hard work, and untiring assistance from your colleagues on the Bench, the Registrars and the dedicated administrative staff, your Honour has successfully moulded the District Court to be one of the most efficient and one of the most widely respected High Courts in Australia.

In the 2010 Report on Government Services, I noted with pleasure that the District Court continues to demonstrate its ever improving performance. In the last financial year, the Court achieved the nation's highest clearance rates for criminal and civil matters, and the second highest clearance rates for civil appeals. This is no mean achievement under your watch, your Honour.

Whilst serving the District Court for 25 years, you've continued to hold membership of the Women Lawyers' Association of Western Australia, to serve as a member of the Chief Justices' Gender Bias Taskforce, to act as a mentor in the Law Society's mentoring program for younger lawyers, and to serve on a variety of boards and committees in the community.

Your Honour, when you were sworn in as a Judge, you took the vow to do right to all people according to law without fear, favour, affection or ill-will. That's part of the legacy that you leave in retiring as Chief Judge of this Court. Your Honour has always been guided by this touchstone from the judicial oath, and you've nurtured a culture in this Court, such that all undertakings are considered against that fundamental principle.

You're known for your no nonsense approach when dispensing justice. Your Honour is nevertheless also known to be a compassionate person, engaged in the lives of your colleagues and staff members. Your Honour, I understand, always knows when a child or grandchild is born, when a milestone has been reached in someone's life, or when someone is going through a rough patch in their lives.

If I might indulge from the benefit of this position, I can always say that, with my experience as counsel, that no matter how unreasonable for the time being a decision may have appeared, and no matter how much one might grizzle privately and to one's colleagues, one always knew that when one met you in the street or at a social event, you would always be smiling, always be welcoming and friendly; and that beneath the robes and the wigs there was always a dedicated, compassionate and charming person, and someone that was dedicated to her career, dedicated to the administration of justice, and a thoroughly delightful lady.

Your Honour, you've served the State with considerable distinction as both a Judge and the leader of this extremely busy jurisdiction which carries the bulk of the criminal indictable workload in this State. You're known for your legal knowledge, your wisdom, and your ability to exercise commonsense.

Your Honour, the administration of justice in this State and the character of the District Court will be the poorer for your departure. However, you leave behind a very solid legacy, and one that others can be proud of and try to aspire to.

Please accept on behalf of the State and the Government and the people of Western Australia our best wishes for your well-earned retirement. I understand you're going to embark on some overseas travel and continue your journey towards mastering the Italian language, which might give some hint as to where you may be going.

But I'd like to present on behalf of the State of Western Australia and its people our profound thanks for your service to the State, and wish you a long and happy retirement when you may be able to re-engage the aspects of your private life that you have perforce had to put on hold while you have dedicated yourself to the service of this community. May it please the court.

KENNEDY CJDC: Thank you, Mr Mischin.

Yes, Mr Quail?

QUAIL, MR: May it please the court. Today's ceremony is one that we long saw coming; however, none within the legal profession hoped would actually arrive.

Along with Chief Judge Hammond and Judge Healy, your Honour has represented to us what the District Court is. Your presence in the Court over the past 25 years has been inspiring to all, and women lawyers in particular.

We've heard of some of your Honour's achievements. You were the first student from St Kieran's to attend university; you were one of only four women in a faculty of 80 at the University of Western Australia in 1963.

In 1966 when you graduated, you were awarded the H.C.F. Keall Memorial Prize for the top final year law student, and the Herbert Wheatley Memorial Prize in commercial law, although I don't know how much use that has been to your Honour subsequently.

In 1967, Elvis and Priscilla were married; Harold Holt drowned; Sergeant Pepper was released; I was born; and your Honour - an important year to me - your Honour was the only woman in your year and, in fact, for a number of years, to gain articles.

After articles, you worked at Godfrey Virtue before starting your own firm where you practised mainly in family, commercial and criminal law, and going to the Bar in 1975. In this, you were for once not first, but rather runner-up to Valerie French who joined the Bar ahead of you.

Your Honour was though, as we've heard, the first woman Judge in Western Australia, appointed in March 1985. Not long after your appointment, you gave an interview to The West Australian newspaper in which you attacked community demands for longer prison sentences. Regrettably, 25 years later, those demands do not seem to have abated.

It's no secret that your Honour's experience at being the only woman on the Court in the early days was at times difficult and isolating. Ten years after your appointment, you had been joined by only one other woman on the Court.

You were interviewed for Brief, the Law Society magazine, in May of 1994, and I remember reading it at the time and I remember discussing it in a coffee shop. What you said sent shockwaves through the profession. I have no doubt that your words were noticed and acted on by government.

I think it's appropriate that I read some of what you said now. The article took the form of an interview. You were asked this:

"What needs to change for more women to be appointed to the Bench?"

Your Honour answered:

"Attitudes mainly. I'm tired of hearing men talk about merit, and about how women should not be appointed unless they have merit. On the face of it, this is a fairly standard, reasonable argument, but what they mean by 'merit' is lots of Anglo-Saxon male values. It's a real value judgment in a profession dominated by Anglo-Saxon male values.

There are a number of women in the profession today who could be appointed to any Bench in Western Australia. The reason they have not been appointed is the subjective qualification which they cannot possibly hope to achieve by the very fact of their gender.

The fact is that there are a number of male Judges who have been appointed who have been outstanding barristers and outstanding academically, and there are number of male Judges who have not been outstanding barristers or outstanding academically, but they are regarded as sound people with merit and they are appointed accordingly. Once on the Bench, they are nurtured, and sure enough, they become sound Judges, and in fact some of them become better Judges than the Judges who come from outstanding advocacy and academic backgrounds.

I would like some of that support and encouragement applied to women. Men do in fact nurture each other, but generally they do not support women in the same way. Since they hold most of the senior positions, that is a distinct disadvantage to women."

And over the page - this was the most controversial bit:

"Do you consider your appointment to the judiciary a token gesture?"

Your Honour answered:

"Yes. Some thought they'd appointed a man in drag. After about three years, they discovered it was a woman. That was a bit upsetting, but now they've had a Bex and a nice lie-down and they seem to feel better. Seriously though, I don't think governments should congratulate themselves on the basis that

we've appointed one woman in our term so that will do.

That certainly seems to be the prevailing attitude. If you get one from each party, then you've done a good job. What they should be doing, of course, is considering women every time they have to make an appointment. And instead of asking, 'Why women?', ask, 'Why not?'"

It is a testament to your Honour's character and determination that you led the way for women in the law in this State, struggling against entrenched attitudes which took a long time to change. You never wavered in your beliefs and commitment; you never became a male Judge. The theory of your speech for International Women's Day this year was similar to what you said to Brief 16 years ago; albeit mellowed by age and humour.

You talked about whether the law makes women hard. As we know, for some it does. But after a quarter of a century on the Bench, the law never made your Honour hard.

Now, there are 10 women Judges out of 27. Perhaps equality is not far away, although we should not rest on our laurels. As a lawyer, Judge and founding member of the Women Lawyers' Association of WA, member of the Chief Justices' Gender Bias Taskforce, member of the committee established to celebrate the Centenary of Women's Suffrage in WA, your Honour's legacy will live long.

When you were appointed Chief Judge in 2004, I said in Brief that the profession had been universal in their praise of your Honour's appointment, that you were admired for your fairness, practicality and understanding of human frailty. Your Honour was always a compassionate Judge who saw the best in everyone.

These qualities are expected in a Judge, but in your Honour they were exemplified. Some thought your Honour's preparedness to give offenders a second chance nave. In fact, your Honour is an exceptional judge of character, and those who received second and third chances deserved them, and more often than not repaid the faith your Honour showed in them.

Your Honour though is not perfect. You did catch a serious dose of that disease which heads of jurisdiction seem unable to avoid - chief judge-itis, otherwise known as obsession with lists. At least your Honour knew you had

it, that it couldn't be cured, and often joked about it. Your Honour has a delightful irreverent sense of humour.

To your credit though, as we have heard, your Honour has worked wonders with the lists in this Court over the last two years. The wait for a trial is more than halved, and the days of accused waiting a year in custody for trial are thankfully behind us.

We will all miss your Honour's presence in a court. What I will miss most is your Honour's smile. I've told the story before, but it bears repeating. When I did my first jury trial, I was, needless to say, nervous. In fact, because I'd drawn Judge O'Dea, I was very nervous.

I would much have preferred it to have been before your Honour. I was pacing on the morning in the practitioner's lounge in the old building across the road before court when your Honour stepped out of the lift. I'd appeared before you in court, but I'd never met you.

Your Honour bestowed one of your beatific smiles on me and said, "You'll be right", before getting back into the lift. Your Honour might have forgotten it, but I never have. How your Honour knew, I don't know. But it's stayed with me forever.

More importantly, protected by your Honour's smile, I went off to court and there was nothing that Judge O'Dea could do to me. In fact, I think he threw a pen at Louise O'Connor in that trial.

Your Honour, we trust that after dedicating your life to the law, that you will now take some time to put yourself first. We know you enjoy a close circle of friends, gardening, and travel. We hope you find time for Italian and Shakespeare.

On behalf of the Law Society of Western Australia, I thank you for your support over many years, for mentoring and counselling our young practitioners, and I wish you well in your well earned retirement. May it please the court.

KENNEDY CJDC: Thank you, Mr Quail.

Yes, Mr Donaldson?

DONALDSON, MR: May it please the court. It is my sad duty to appear before the court today to represent the Bar. But though a sad duty, it is also a privilege for the

Bar to be able to address the court on this historic occasion.

No doubt sitting and listening to many of the things that have and will be said this morning is excruciating for your Honour, as your Honour is of that generation that does not much admire praise. Be that as it may, I hope to add significantly to your Honour's pain.

But before I do, it is well to note that this discomfort is caused not only by the inclinations of your Honour's generation, but also by that which is a compelling aspect of your Honour's charm. Your Honour has never appreciated how important you are and have been to the profession in this State, and your Honour is seemingly oblivious to the regard in which you are held. In fact, I'm sure that your Honour never really knew until today that we liked you much at all.

I hope that I don't embarrass your Honour to observe that you were appointed to this Court a number of years before I was admitted to practice, and so I am unable to regale with recollections of your Honour's doubtless forensic brilliance as an advocate or earlier successes.

But, in any event, to spend time today reflecting upon your Honour as a practitioner would be, in a sense, a diversion because, by far, your Honour's greatest contribution to the community has been service on this Court. As of today, your Honour has served on this Court for 25 years and 11 days. That is the longest service on this Court.

Judge, then Chief Judge, then Justice Heenan served one month less than 25 years as a Judge on this Court. To put this length of service in perspective, your Honour has served for more than five years longer than Justice Murray on the Supreme Court who will, after today, be the longest serving Judge in Western Australia by a fair margin. And I note his Honour is sitting there with a hand outstretched waiting for the baton to be handed over in due course.

But 25 years is, in modern terms, an extraordinary judicial service, and it is unlikely that periods of judicial service of this length will be seen again in this country, and we are grateful that your Honour lasted the distance.

But more than simply doing the time, your Honour has served on this Court with great distinction, both as a trial Judge and, in more recent years, principally as a judicial administrator. No one who has not done it can appreciate the strain borne by criminal law practitioners and Judges

presiding over criminal trials, and the stress endured by those involved in lengthy trials of catastrophic personal injuries matters.

Yet, as a trial Judge, your Honour undertook this work week in and week out; unobtrusively, uncomplainingly and thanklessly. And in that period of judicial service, I have never heard it said that your Honour dealt with an accused person unfairly, or that a plaintiff or a defendant in your Honour's court received anything but a fair, polite and impartial hearing.

It has never been said in my hearing or to my reckoning that in all of that time your Honour dealt with a victim of crime giving evidence with anything but compassion and understanding, or with a convicted person other than with dignity, decency and respect.

If that had been all that your Honour had done, it would have been enough; but, of course, there has been much more than this. As an administrator, innovations that your Honour has introduced have been something of a marvel, and have led to massive reductions in delays in matters, particularly criminal matters, going to trial.

And though others have contributed much to these administrative changes, principal credit is due to your Honour. The length and distinction of your Honour's service as a Judge ought not conceal a further fundamentally important contribution that your Honour has made to the legal profession in this State, and to the community more generally.

Your Honour was, as we've heard, by a matter of days, the second woman to join the independent Bar in this State, and the first woman appointed to be a Judge in Western Australia. And it is right and proper and important that these achievements be recognised and honoured.

It is important because, even though women in the legal profession in this State continue to suffer ongoing discrimination in many forms, things have doubtless improved since 1975 when your Honour went to the Bar, and since 1985 when your Honour joined the Bench.

All of us should appreciate that your Honour's appointment to this Court was, in 1985, an extraordinary attainment because your Honour had to overcome blatant discrimination; from the patronising aside to intentional humiliation, from differential treatment by some colleagues and some Judges,

to being confronted with assertions that women were too soft or temperamentally unsuited to serve as Judges.

But it would be incomplete to simply record as a source of inspiration that your Honour overcame all of this because your Honour has done much more than simply silently endure. Your Honour has encouraged women practitioners to resist this rubbish, and there are many women practitioners who have been not only inspired and encouraged but practically assisted by your Honour.

But, your Honour, in this respect, you have done even more than this. Your Honour has appreciated that there are well-meaning members of the profession who needed to be educated about these matters, and your Honour has explained to us, because we needed to hear and because some of us wanted to hear, the fact of this discrimination, and in plain terms what it is that we can try to do to overcome this tradition of discrimination.

But there are now at the Bar - or there is now at the Bar a widespread recognition of the particular difficulties encountered by women practitioners, and some practical things being done to alleviate some of them is due in a very substantial way to your Honour; and for that, your Honour, all of us are grateful indeed.

It is a poorly-remembered fact that your Honour was, in your early days as a Judge, the subject of strident attack by the so-called forces of law and order and their surrogates. Your Honour was subjected to intense professional and personal criticism for being supposedly too acutely concerned with the rights of accused persons.

There were few who came publicly to your Honour's aid and offered support. The Bar did not; it should have done. And the Bar is most grateful that your Honour has in recent years allowed us to try to atone for those failings, and as a testament to your Honour, the Court can be assured that the Bar will not allow attacks such as those to which your Honour was subjected to occur again without consequence.

I hope that I don't embarrass your Honour perhaps again by sharing with those present your Honour's recent gracious agreement to allow the Bar to commission a portrait of your Honour to be held with others as part of the collection currently hanging at Francis Burt Chambers. Your Honour's portrait will, in time, join those of Sir Lawrence Jackson, Sir Francis Burt, David Malcolm CJ,

Sir Ronald Wilson, and John Toohey, John Wickham, and Geoffrey Kennedy JJ.

There is no fixed criterion by which a decision is made as to who will be the subject of a portrait in the collection.

It is done on the basis that the fitness of the subject is simply overwhelmingly obvious. To the profession in this State, for all that your Honour has done for us, your Honour's portrait will sit comfortably among, and bring great lustre to, that illustrious group.

Your Honour will be greatly missed by the Bar, and I don't really know what we will do without you. Whatever it is that your Honour has planned for the long future ahead, please go to it with the assurance of the Bar's gratitude, admiration and best wishes, and our hope that we will continue to see your Honour amongst us in the future. May it please the court.

KENNEDY CJDC: Thank you, Mr Donaldson.

Yes, Mr Utting?

UTTING, MR: Thank you, your Honour. And it's a pleasure to be here, although I must say I'm feeling a bit like Colonel Custer here, with your Honour, of course, being Chief Sitting Bull.

And it's good to see the media in their appropriate position, your Honour. And I look at the jury and I think the foreman looks a bit dodgy.

What I have to say is perceptions, because I can remember your Honour at the Bar, I then being a gormless youth, and people say not much has changed apart from the youth side of things.

Your Honour took it upon yourself from time to time to give me lectures for my betterment. There was a situation I vividly remember where I had written something, or been quoted about saying, "An eye for an eye, a tooth for a tooth, and this is a very silly way to sentence people", and so on.

Your Honour flounced - bounced into my office and said, "Richard, Richard. You're so old-fashioned. That's Old Testament stuff. Go and read the New Testament. Go and read it and you'll find out what the truth is." Then I was reduced to saying, "Yes, no, sorry."

But I went next door to Henry Wallwork's chambers, knowing that Henry would always have a Bible handy, and I said, "Henry, lend us your Bible." And he said, "Why?", looking at me as if I was going to have some Black Mass with it. "Why do you want the Bible?" I said, "Toni said I've got to read the New Testament." "Oh", he said, "Yes. If Toni says you've got to do that, you've got to do that."

So I did; and there it was, New Testament, Matthew, Jesus addressing the disciples, saying, "You've heard it said, 'An eye for an eye, a tooth for a tooth', but I tell you, 'Turn the other cheek.'" It's all about forgiveness.

I was very puzzled about this, I have to say. Here was I talking about an eye for an eye, a tooth for a tooth being appropriate. I thought, "Jesus, agreed with me".

I've got to say, I always thought Jesus would be a criminal lawyer, because he enjoyed a drink and he was under a lot of strife with the authorities. So it taught me an important lesson. Even when your Honour was wrong, you were right.

Now, your Honour was appointed to the Bench and about that time it was said of the Victorian County Court that it dispensed justice tempered with sadism. It has to be said, that same criticism could be applied to the District Court when your Honour was appointed. Criminal law was a tough gig in those days. The accused was treated almost with contempt, "Stand up, Smith. Smith, it's my melancholy duty to sentence you to six years' imprisonment with hard labour. Take him away".

Overnight bail unheard of. The poor old accused was carted off to the East Perth lockup where he could have been beaten up by a bunch of psychopaths. A bit like appearing in front of a Court of Appeal, I suppose. We had police verbals, and a lot of time was taken up in trying to persuade Judges that verbals were inadmissible for whatever reason. "Look at the bloodstains on his notes", sort of stuff. No, no, very hard to do.

When your Honour was appointed, it made a significant difference. Before your Honour was appointed - I'm not saying all Judges back then were bad. There were some good ones; in a minority, alas. But your Honour treated everybody with courtesy and respect. And that sounds trite now, but back then it was most unusual. Most unusual.

You used to dread doing trials, even though some Judges were so bad, juries hated them too. You'd come out of

there a nervous wreck. You'd get an acquittal, but you'd have a breakdown and have to go off and drink some more.

And your Honour treated juries with respect. Again, that sounds trite. But some of the Judges back then wanted to tell juries what to do. They treated them with contempt, "Juries don't have the brains to make these sorts of decisions." And in fact, one of your brethren back then, when a jury came back with a not guilty verdict, threw his pen on the desk and said, "You didn't listen to a word I said". That's what it used to be like. But slowly, things started changing.

Now, your Honour may not have been the architect solely of that. You certainly were a catalyst. So now, rather than having a District Court dispensing justice tempered with sadism, the sadism has gone, generally. The sadism side of things has now been taken over by the State Government. And so from my perspective, your Honour, you have made that fundamental change. You gave dignity and compassion to a Bench which had very little.

You have been stoic at criminal law dinners, standing there like the statue of Britannia, knee deep in drunken lawyers, smiling fondly at them. Then your Honour became Chief Judge, and I found a sense of déjà vu because the lectures started again. I'd come in here and say, "Look, can we have an adjournment?" "No, Mr Utting. That's so old-fashioned. That's so old-fashioned. Let's get to trial". "When?" "Oh, next week. Yes". Perfumed bull dozer, "Let's get everything listed on the list".

And I suppose I am old-fashioned, your Honour. I do think justice is more important than expediency. But then again, in a contest between God and Mammon, even I would barrack for God. To me, that is the fundamental change your Honour has made.

You have humanised the Bench. You have made it possible after a trial, after the Judge has given the charge to the jury, to say to the client, "Listen, mate, whatever the verdict is, you've had a fair go."

And that is the fundamental change that your Honour has been part of; as I say, if not architect certainly catalyst of this Bench. So your Honour has done good. We wish you well.

KENNEDY CJDC: Thank you, Mr Utting.

Yes, Ms Needham?

NEEDHAM, MS: Thank you, your Honour. It is with mixed sadness and pleasure that I appear today to represent Women Lawyers at the ceremony to mark your Honour's retirement. Sadness at the loss of your Honour as such a strong role model in the profession, that women can come into the court and watch and see and learn from.

But pleasure at being able to mark your achievements and your commitment and the effect that those things have had on those generations of women who follow you. My learned friends here today have commented on many of your achievements and, for those, Women Lawyers thanks you.

They are indeed remarkable, not least because so many of those journeys have resulted in being first and, by their nature and given the time at which they occurred, would have been taken alone and relied very much on your Honour's own resilience. These achievements have led the way for many women to follow and are all the more remarkable because of your Honour's commitment to supporting those around you and with a particular focus on supporting women in the legal profession.

Not only was your Honour a founding member of Women Lawyers in 1982, an association which you helped to create to support, encourage and further the interests of women in the profession and the wider community, and in 1984 and 1985, your Honour was our President, and for the last 10 years our Patron; but your Honour's commitment has been steadfast through your career to the support of women in the profession.

Even on your retirement, you continue that commitment. Women Lawyers is delighted that your Honour will remain involved with our organisation as Patron Emeritus. The means by which your Honour has expressed that commitment is varied, but it has always been about supporting others and helping women to identify those things which, in their make up, may affect their progress in the profession.

Your emphasis has been on caring, support, and, above all, mentoring each other. At Women Lawyers' functions, such as our regular function for women articles clerks, your Honour has focused in speaking to them on the importance of that support for each other, not over-analysing themselves, and developing confidence and good self-esteem.

Your Honour has shown obviously relish in having the direct contact at such events with junior practitioners, always offering support, sound advice, and always having time to lend an ear. Your Honour has attended and spoken at

numerous public events, and events of the general legal profession, encouraging change.

It is your Honour's embracing of difference, not merely acknowledging of it, that has helped by your example to encourage others to do the same. It's been quite an effective tool.

Your Honour regularly includes in conversation, and I hope your Honour will excuse the comment, but often amusing and sometimes deprecating comments about yourself as a woman as though they were nothing out of the ordinary, and in circumstances where other women, less experienced practitioners, may feel anxious at doing so lest that be seen as a weakness. Your Honour's example allows and encourages women to be themselves and not try to be somebody else.

Your Honour has recently made comment that you recognise that you have adapted to your environment. Women Lawyers acknowledge adaptation is necessary, and it's something humans have been very successful at, or at least adapting our environment to suit us. However, the adaptation you speak of is not metamorphosis. Your Honour is often identified by women in the profession as an icon and an example of being a woman, and being a member of our profession without subjugating one over the other.

The commitment your Honour has given to supporting women in the profession has even been in the courtroom. I've been present on several occasions where an instructing solicitor or a solicitor in a criminal matter has told your Honour that they have attempted to get somebody from the Bar to appear but nobody was available. And when you've quietly asked, "Have you really tried everybody?" they've said, "Yes, most certainly". Your Honour has looked around the courtroom, seen some women from the Bar at the back of the courtroom and asked, "Have you asked them?" The point was very clear.

Your Honour has been keenly aware of not allowing the glass ceiling to close behind you. You've spoken publicly of being acutely conscious upon your appointment to the Bench to ensure that the close scrutiny of your Honour and your Honour's work could not be used to jeopardise the opportunities of other women in the profession.

It was understandably a great relief to you when, some years later, the next woman was appointed a Judge in this State. It should now not only be relief to you, but a comfort, and something of which Women Lawyers' is immensely

proud. But as you look at your Honour's own Court, the Bar and the amalgam, there are many more women - more generations of women choosing the profession and succeeding, in no small part due to your own work and your own incentive and the inspiration you create.

Whilst, as my learned senior Mr Donaldson recognised, there is no doubt the job is yet not complete, there is much still to be done, that newly created path initially made by you, often alone, is now well known and well lit. And your Honour can be content that your inspiration will ensure it is not allowed to become overgrown or closed. May it please the court.

KENNEDY CJDC: Thank you very much, Ms Needham.

Mr Mischin, Mr Quail, the President of the Law Society, Mr Grant Donaldson, the President of the Bar Association, Mr Richard Utting, President of the Criminal Lawyers' Association, Ms Elizabeth Needham, President of the Women Lawyers' Association, thank you for the generous and, in some cases, forgiving things you've said about me. It really was very kind of you, and I do appreciate it. I do think that towards the end there Mr Utting was tempted to say things that were less than forgiving, but you restrained yourself, and I thank you for that, Mr Utting.

Your Honours, members of the legal profession, distinguished guests, ladies and gentlemen, as I've already said, this is a special sitting to enable me to say farewell and to thank you.

But before embarking on that exercise, may I say that I am singularly honoured today by the presence of the people that I've already named together with the Honourable Senior Puisne Judge, Justice Michael Murray; the Honourable Justice Carmel McLure, President of the Court of Appeal; and other Supreme Court Judges.

The Honourable Justice John Gilmour representing the Federal Court; the Honourable Justice Stephen Thackray, Chief Judge of the Family Court of Western Australia; the Honourable Justice John Chaney, President of the State Administrative Tribunal; His Honour Chief Magistrate Stephen Heath; the Honourable Jennifer Smith, Acting President of the Western Australian Industrial Relations Commission; Mr Robert Meadows QC, the Solicitor General of Western Australia.

Mr Tim Sharp, the State Solicitor; Ms Ros Fogliani, Deputy Director, Office of the Commonwealth Director of Public

Prosecutions; Mr Joe McGrath, State Director of Public Prosecutions; Mr Alistair Hope, State Coroner; Mr Peter Collins, Director of Legal Services, Aboriginal Legal Service of Western Australia; Mr George Turnbull, Director, Legal Aid of Western Australia.

Mr Luke Hoare, Project Officer, Office of the Attorney General representing the Honourable Christian Porter's Office and also representing Ms Cheryl Gwilliam, Director General, Department of Attorney General; Mr Ray Warnes, Executive Director; and Mr Gavan Jones, Director of Higher Courts, Court and Tribunal Services, Department of the Attorney General.

In addition, I warmly welcome retired Judges and their spouses and Judges who have shifted from our court to other jurisdictions and their spouses, and the Honourable Len Roberts-Smith, the Commissioner of the Corruption and Crime Commission. We further welcome the husbands and wives of members of this Court.

Furthermore, we are honoured and grateful that Chief Judges Blanch, Wolfe and Worthington, respectively Chief Judges of the District Court of New South Wales, Queensland and South Australia have attended. In Western Australia, as I've said to you on one previous occasion, we are well aware of the tyranny of distance, and I'm particularly grateful that you've made the effort to celebrate this occasion with me.

After 25 years, I have a number of people I want to thank and I do ask you to indulge me. Unfortunately this is not like the Academy Awards. Music will not cut me off and relieve you after two minutes.

I've added into my speech to thank security because every Friday morning they bless us at 8.30 with the most incredible racket which is over the public address system to have a pretend of the alarm system. And this morning we had all that, and at the end of it they wished me a happy retirement over the entire address system. So I thank them very much.

But, apart from that, the first group of people I want to thank are my fellow lawyers and, in particular, those lawyers who have appeared before me over the years. I'm proud to belong to the same profession as you. Lawyers today are better than I was when I was in practice; and being a lawyer, and particular a court lawyer, is a very difficult thing to do.

I have rarely left the courtroom without thinking to myself that the lawyers involved on the day showed considerable courage. It's not the case that we in the legal profession get particularly good press. I know that the thing that astounded me most when I became a Judge was that overnight I went from being a person who could swim safely with sharks to being a bleeding heart liberal who didn't understand reality.

You should not let that concern you. What you are doing is extremely important and I'm proud to be part of the same profession as you, and I thank you for all that you have done to make me proud.

It's also our job to ensure that this community knows that it has more to fear from tyranny than from disorder, and should not be frightened into accepting anything less than the freedoms fought for over 600 years. And I know that you are doing your best in that regard.

As I'm leaving, I've written recently a couple of pieces about the fact that I wish that I'd enjoyed failure more because, as you know, when you're a barrister in particular, there's quite a lot of failure. I've said that if I could go back now, I would visit a sports psychologist and deal with defeats in the way in which I see young swim stars on the television deal with defeat.

In particular, I note that their first concern is whether they've done their personal best, and I think that should be a barrister's first concern. A good client will appreciate that and I've seen that work in practice.

I don't think that the other people who were at the Bar at the same time as we were would be hurt if I said Henry Wallwork was the most popular member of the Bar. Generally, Henry acted for people who committed wilful murder. He was immensely successful before the Court of Appeal, but juries were not taken in by his clients.

On one occasion before capital punishment was abolished, Henry had three people on death row at the same time, which, while not really funny, caused a good deal of mirth around the Bar. In a small place like Perth, it was quite a feat to have three people on death row at the same time.

The standard practice was that Henry's clients would be convicted by a jury; Henry would successfully appeal. He would get a retrial; and then on the retrial, they would be convicted again. And of course, Henry knew what it was like when everyone hated you and your client and there was

nobody on your client's side but you, and he knew that that's where he belonged.

On one occasion, he had a client who was particularly disliked by the community because he had murdered a very popular man in a small country town and, in the process, I think by accident, he'd also killed the man's dog. And even people who don't like human beings much were pretty upset about the dog.

Nevertheless, Henry defended him at trial, successfully won an appeal. He had a second trial and he was duly convicted again. Henry thought, "Well, I don't suppose he'll be very happy, but I'd better go down to the cells and speak to him." And when he got down there, this man, this murderer that no one else liked, who'd just been sentenced to death, stuck out his hand, shook Henry by the hand and said, "Well, Henry, you done yer best." And I think that is what young swimmers refer to as a PB. And it seems to me that if, at the end of the day, you can think to yourself, "Well, I done me best", then you shouldn't beat yourself up.

Now, some of you may be thinking, "If she thinks all this about us, why has she been unapologetically pursuing a reduction in time to trial and making our lives difficult in the process?"

The state of the lists is a matter of concern for heads of jurisdiction. Before you become a head of jurisdiction, you're not concerned about it. Once you become a head of jurisdiction, it becomes of vital importance to you. It's as though some aura comes down upon you - it's a bit like the Holy Spirit, I think - a realisation that it's true that justice delayed is justice denied, and governments will no longer pay for the expense involved in delay.

Des Heenan was Chief Judge when I became a Judge. The state of the lists was the first item at every Judges' Meeting. This used to cause a good deal of jeering and eye-rolling, but Des persisted. On one occasion, one of the Judges went away and sent two of his brother Judges a postcard which said sarcastically, "Wire urgently the state of the lists."

When Kevin Hammond took over, things were no different. I have, of course, since apologised to Kevin for jeering at him about his concerns about the state of the lists. I do recall saying to him if anyone was sitting next to him at a function and they couldn't think of anything else to say, if they ask him about the state of the lists, he could

happily burble on all night like a baby with a buttered rusk.

I turned into Des and Kevin with all the fervour of convert. I tried to build on what I was taught by them, and I have no doubt my successor will build on what I have done. So there's no relief in sight.

While I'm talking about the state of the lists, I want to thank the Chief Judges from the other States. I was astounded when I first encountered this group of people at the ease with which they accepted me. That had not happened to me before during my entire career. They were all more experienced than I was and they all gave me wise advice, for which I thank them.

Justice Reg Blanch, who has the best listing statistics in the country, gave me considerable help, and I spent a week in his court. And if anyone wants to pick on someone, if the practitioners want to pick on someone, the chap third from the end, it's actually all his fault.

Further, on one occasion, he sent his magical list clerk, Rob Fornito to Western Australia for a week, at no charge to the Court or the people of Western Australia, to advise us.

It was my ambition today to say that the time from committal to trial in this Court was 19 weeks, which would have made me a week better than Justice Blanch. Unfortunately, I can't say that. The best I could do is 21 weeks, and they are at 20 weeks; so Justice Blanch is still the master. However, I console myself with the thought that, like Ginger Rogers and Fred Astaire, I did whatever he did, only backward, and in high heels.

You should not think that Judges do not draw to my attention concerns about my determination to do something about the state of the lists. To understand this following exchange between myself and Judge Healy, I'm afraid you have to understand something from the Bible, which won't do you any harm.

The story about being a good steward of your talents for the greater good was burnt into the brain of every Catholic of my generation. This is the story of the man who, going on a long journey, called his servants and entrusted his property to them. To one he gave five talents of money, to another two talents, and to another one talent, each according to his ability. Then he went on his journey.

The man who had received the five talents went at once and put his money to work to gain five more. So also the one with two talents gained two more. But the man who had received the one talent went off, dug a hole in the garden and hid his master's money.

After a long time, the master of those servants returned and settled accounts with them. The man who had received five talents was able to give those talents back, plus another five. And the master was very pleased and said, "Well done, good and faithful servant. You have been faithful with a few things. I will put you in charge of money. Come and share your master's happiness". The man with two talents did the same. And again, the master was pleased with him.

Then the man who had received one talent came and said, "Master, I knew you were a hard man, so I was afraid and I went out and hid your talent in the garden. See, here is what belongs to you." And the master replied, "You wicked, lazy servant. You could at least have put the money on deposit with the bankers so that when I returned, I would have received it back with interest."

He then directed that the talent be taken from him and given to the one with 10 talents, and then directed, "Throw that worthless servant outside into the darkness where there will be weeping and gnashing of teeth." So I'd like you to keep in mind what happened to that servant.

Now, on one occasion, Paul Healy came to me and he said, "Why are you doing this?" And I said, "Paul, I have to be a good steward." And he said, "Why don't you bury your talent in the back garden?" So you see, the real purpose of this story is that you really can't criticise me, because it turns out I was on a mission from God.

While I'm on Paul Healy, as you know, Paul died over 12 months ago now, and I do miss him terribly. We were appointed on the same day, and I really thought that I would retire before Paul. In our previous building, the Central Law Courts, Paul Healy and Peter Williams and I were the only ones on the 13th floor. No two people worked harder to achieve what I wanted to achieve, whatever they may have thought, than Paul Healy and Peter Williams. And Peter, of course, also became ill, although thankfully he's better now.

I sometimes think that Peter looks at me reproachfully as though it were my fault. But Peter, I don't think it was.

It was all that healthy food and exercise. I've never known a man for healthy food and exercise like Peter.

The next people I want to thank are Michael Gething, the Principal Registrar, and Rob Christie, who was the Executive Manager of the Court and has now been stolen by the Supreme Court. I was very fortunate to have these two men working with me. They are both immensely talented and hardworking, and I thank them for the role they played.

I particularly want to thank Rob Christie who, during the period of time that I was Chief Judge, was my friend, my mentor, my advisor, my wailing wall in particular, and the interpreter between me and the Department. I doubt that I would have stayed as long as I did without Rob.

I then want to thank the Women Lawyers'. The women in the law felt that they were getting nowhere, and that is why the Women Lawyers' were set up in 1982/83, with Vivienne Payne as the first President, and I became the second President. And it's very important to women that women like each other and provide a power base for each other. And the success of the Women Lawyers', and I think it has been a success, brings me to a photographer.

I want to acknowledge a press photographer at this time. When I was President of the Women Lawyers', a photographer from what was then The Western Mail, Barry Baker, approached me and said he'd like to do a pictorial series on women lawyers, and I agreed. We had a very large splash in The Western Mail. At the time, that paper had a wide circulation, and I believe that it helped the advancement of Women Lawyers' in Western Australia.

It certainly helped me, as I've reminded Barry on a number of occasions, because shortly after that, I was appointed to the Court. And over the years, I've seen Barry and I've thanked him for the part he played in my advancement, and I've taken an interest in his career and the prizes that he has won over the years. And he's now retired and he's here today, I'm pleased to see. But I also used him to try and encourage other young photographers to take nice pictures of me.

And The Sunday Times sent a young man to take some pictures of me last week and I told him about Barry Baker, and I said, "Now, the pictures must be as good as the pictures Barry Baker took. Do you know Barry Baker?", and he said, "That's my dad, and he's a legend." And the fact that I'm now 25 years older is no excuse for Lincoln Baker not

making the photo of me look exactly the same as I did 25 years ago.

So that will be in The Sunday Times and you can judge him from them. But it also taught me once you've been photographed by the father and then by the son, it really is time to go.

While I'm on the media, most Judges have complaints about the media, and we have good reason to complain. The overall press about Judges is that we are people who do not care about victims; and if we are not criminals ourselves, we are people who support, encourage and promote criminals.

This is extremely hurtful and, naturally enough, we don't believe it's true. However, there have always been exceptions and people who have sought to get the truth out to the community. And representing those exceptions today, I have invited here Alison Fan from Channel Seven, and Joanna Menagh from ABC, and I thank them very much. I have also invited Roy Gibson, a great stalwart of criminal court reporting, who has moved on to greener pastures but is here today.

People often ask me why Judges don't mount a media campaign about various matters. Unlike other organisations, our public relations department consists of one person, Val Buchanan, and I thank Val for her honest, forthright advice, delivered politely and with great good humour, over a number of years.

I now want to move on to the staff of the Court. I can't name people individually, and we've had functions in the last couple of weeks and I have thanked people - thanked them for their hard work and for their attitude and their friendliness, and I repeat that.

We have been very fortunate with the staff of the Court, that they have such a wonderful attitude; and without them of course, anything we've achieved simply would not have been achieved.

And I'd like to thank the Judges of this Court. While people may not realise this, at some stage, every Judge on this Court has gone the extra mile to ensure justice to litigants and put themselves out to a considerable degree, and these aren't matters that are advertised. You don't read about them in the paper. You don't even hear about them in the street.

But it does happen, and there have been numerous examples that I have been privileged to witness during my career, and in particular in the last six or so years. We have been blessed with a great mix of people, so much so that it has been a pleasure to come to work each day.

Then I want to shift on to my own staff: the four ushers, the late Neil Chapple who was just wonderful to me and was with me for 10 years; Vic Carbone; Trish Mazzola, the most generous of souls who went on to become Associate to Judge McCann and has now retired; and my last usher, Denise Pavlinovich, who is immensely talented and artistic and has always helped me a great deal and been a very loyal member of staff. Emma Crocker, who is my Research Assistant, is a most willing worker and has done a good job, not only for me, but assisting the Judges with the Benchbook.

I actually had trouble with Associates in the first couple of years here, so much so that in the ushers' room, they used to talk about whether there was something wrong with me, but I'm sure that there wasn't, and - well, I wouldn't, would I? But then Janene Howard came and I couldn't believe my luck. Peace and good organisation descended upon my office, and I thank her for her hard work, her loyalty and her forbearance in remaining with me for 19 years until she became Senior Associate.

When she became senior associate, I was really very worried, but I didn't want to stand in her way, and I think I was rewarded for that because I ended up with Annette Lee. It was during the period just after Annette started that we really put into practice the listings that are similar to those in New South Wales, and there was an enormous amount of work, particularly at the very beginning.

I didn't know then if any one Associate would be able to manage the work, but Annette managed it without any difficulty. Annette has a wonderful sense of humour. She has been lovely to me. More importantly, she is quite brilliant, she has a fabulous memory. She is studying law, as is her daughter. And if they ever go into practice, God help all of you.

Then Ms Liz Pettigrew. Ms Liz Pettigrew is very well known in the law. She originally was the assistant to Alan Barblett, who was head of the Family Court in Perth and then deputy head of the Family Court for the whole country. And when she applied to work for Kevin Hammond, I didn't know her, but I said to Kevin, "Alan Barblett is

brilliant at picking staff. She has to be good". And Kevin did take her on and confirmed that she was.

And then when he was going, I woke up in the middle of one night and thought, "He's going to take Liz", and so I came dashing in. But he assured me he wouldn't take Liz, because I don't think I could have coped without Liz. Liz is the perfect secretary and office administrator. No job is too difficult and no job is too humble. And we have the best filing system in the state. I'm convinced of that. And Liz knows everything and can find everything.

She will do anything. And on occasions, I suspect the judges' kitchen has been cleaned by Liz. And people say that no one is indispensable, but Liz will be indispensable. If she ever leaves this place, there will be great difficulties.

I would like now to turn to my friends. Firstly, to the team: that is, the Halls, the Lyons, the Barlows, the Nisbets and the Michelides. We have been friends since law school. This is a group of people who have the greatest capacity for enjoying themselves of any group you could ever encounter. And I'm grateful to them that they have let me join in or tag along at the end.

In some ways, I think Malcolm Hall has kept the group together. And this will surprise most people in the profession, who refer to Malcolm, not only behind his back but to his face, as Mr Grumpy.

I thank Robyn and Ray Godley who've kept me sane by carting me off to Europe every couple of years. To Wendy and Lorenzo, who make me laugh and try to get me to learn Italian, without much success. My family, who are represented here today by two of my cousins, Gemma and Marie. Marie has been particularly generous in letting me share her four beautiful children.

She and her late husband, Gerard, did a brilliant job with those kids. They are a pleasure and a delight. And now they all have children of their own, who are also a pleasure and a delight. And I'm privileged to be in their lives. Two of Marie's children, my Godchildren, Alan and Katherine, and their spouses, Alison and Matthew, are here today.

Finally, to Gwyneth and Ian Darragh and Wally and Sue Ozich, my friends during the bad times as well as the good. You will never comprehend how profoundly grateful I am to you.

At this point I was going to say a friend in need is a friend indeed; but recently, John Wisbey had a trial of a young man in the cannabis business, and his business card read, "A friend with weed is a friend indeed". So I'll never be able to use that again.

Finally, back to the profession. If you think I should be a bit sorry for making your life difficult in the last six and a half years, I'm prepared to be a wee bit sorry about it around the edges. But in any event, you all know my first name. And I hope that when we meet again, we'll meet as friends. Thank you. And the court will adjourn.

AT 10.24 AM THE MATTER WAS ADJOURNED ACCORDINGLY