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TRANSCRIPT OF PROCEEDINGS

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FEDERAL COURT OF AUSTRALIA
CEREMONIAL SITTING OF THE FULL COURT
TO WELCOME
THE HONOURABLE JUSTICE O’SULLIVAN

THE HONOURABLE JAMES LESLIE BAIN ALLSOP AO, Chief Justice
THE HONOURABLE JUSTICE O’SULLIVAN

GUESTS OF THE BENCH:

THE HONOURABLE JOHN VON DOUSSA AO QC
THE HONOURABLE CATHERINE BRANSON AC QC
THE HONOURABLE RICHARD WHITE

ADELAIDE

9.30 AM, TUESDAY, 22 MARCH 2022

ALLSOP CJ: May I welcome everyone here today and on the livestream to this ceremonial welcome to the Court for Justice O’Sullivan. May I say how wonderful it is to be in Adelaide after such a long interruption, and hopefully the last of its kind. Justice O’Sullivan and I are joined on the bench today by former colleagues: the Honourable John von Doussa AO, the Honourable Catherine Branson AC, and the Honourable Richard White. The resident judges unfortunately could not be present. Justice Besanko is hearing a small case in Sydney which he can’t leave, and Justice Charlesworth is on country in the western part of the State. May I first acknowledge the traditional custodians of the land on which we gather, the Kurna people, and pay my respects to their elders, past, present and emerging.

May I particularly welcome Justice O’Sullivan’s family: your wife, Vienna, daughter, Tess, sister, Mary-Jo Mills, and brother-in-law, Norman Mills, who are unfortunately not here personally, but watching on the stream, your sister-in-law, Michelle Church, niece, Katie Wilson, and your mother and father in-law, Valda and Mervyn Church. May I acknowledge the presence of the Chief Justice of South Australia, the Honourable Chris Kourakis, President Livesey, Justice Bleby, Justice Kari, Chief Judge Evans, Judge Dixon, Judge Davison, Judge Slattery and Judge Thomas, and the many friends of Justice O’Sullivan. And may I also acknowledge Andrea Besanko, who is here today. Justice O’Sullivan, it is wonderful to have the opportunity to formally welcome you publicly since you joined the Court in January.

I swore you in in January remotely and, since then, you’ve been working in the registry and administering the judicial power of the Commonwealth. On behalf of all the judges of the Court, I welcome you to the Court. As I said to you at your swearing-in, it’s a busy but collegiate court, with a fascinating and important range of work. And as I said to you then also, I hope you enjoy the work of the Court as much as your colleagues and my three former colleagues, who I know enjoyed this wonderful court. You have, as we all have, been deprived thus far of the collegiate exchange which we have all enjoyed over the years. That is ending, one hopes, and you will enjoy the full scope of the Court’s work, together with the collegiate company of your brother and sister judges. Ms Nelson, director of the Adelaide Australian Government Solicitor is representing the Attorney-General of the Commonwealth.

MS N. NELSON: May it please the court. I would also like to begin by acknowledging the Kurna people, the traditional custodians of the land on which I am on, and pay my respects to their elders, past, present and emerging. And I would also like to extend that respect to any Aboriginal and Torres Strait Islanders people present today. It’s a great privilege to be here today on behalf of the Australian Government and the Australian people to congratulate your Honour on your appointment as a judge of the Federal Court of Australia. The Attorney-General, the – Senator the Honourable Michaelia Cash regrets that she cannot be here to share this occasion with you today. She has, however, asked that I convey the Australian Government’s sincere thanks for your Honour’s willingness to serve on the bench of

the Federal Court, and that I pass on her best wishes for what she trusts will be a distinguished career as a judicial officer of this court.

Your Honour's appointment to this court signals another step in what has been a diverse and eminent career. That so many of your colleagues in the judiciary and the legal profession are here today is testament to the high regard in which your colleagues hold your Honour. I also acknowledge all of the current and former members of the judiciary that are present, members of the legal profession and, of course, members of your family who are present here today. A full exposition of your Honour's achievements and contribution to the law would occupy more than my allotted time permits. Therefore, today, I will focus on just a few of the qualities and experiences that have marked your career to date. This will no doubt shape the important contribution that you will make to this court in the future.

In your Honour's formative years, you enjoyed a well-travelled and culturally diverse home life and education. Your Honour's parents and five siblings lived in the United Kingdom, Cyprus, and, ultimately, Australia, where the family settled. At this point, your Honour began attending Saint Ignatius' College. During your schooling, you excelled at football and cricket, and quickly took to academia. While I am told that your Honour almost studied medicine, your older brother, Michael's pursuits of the law prompted further investigation into the merits of a legal career. Throughout your Honour's legal studies and career, you have demonstrated ambition and drive, consistently striving to expand your expertise and knowledge. Your Honour attended the University of Adelaide, graduating with a Bachelor of Laws in 1981.

Following your graduation, you were admitted to the Supreme Court of South Australia and the High Court of Australia in December 1981. Your Honour's successful student career allowed you to begin a career as a solicitor at Lynch & Meyer in 1981, and there, your skills were honed in all aspects of commercial litigation. Your Honour's driven work ethic ensured that you moved quickly through the ranks, culminating in becoming a partner of the firm in 1983. In 1988, your Honour headed abroad to represent the Hong Kong government as Crown Counsel, and then Senior Crown Counsel, in complex commercial litigation, international arbitration and mediation. During this time, your Honour's hard work and ambition allowed you to appear before the Privy Council for *Phillips v Attorney-General of Hong Kong*. This became an important precedent in cases on liquidated damages and penalties.

Your Honour returned to Australia in 1992 to work as a partner at Fisher Jeffries. In this role, you continued a strong practice involving major infrastructure projects, such as the Flinders Medical Centre private hospital development and the demolition of Osborne 'B' Power Station. In 1997, your Honour commenced as a barrister at Edmund Barton Chambers, before moving onto Jeffcott Chambers. Your Honour quickly built a substantial practice at the Bar in commercial construction and infrastructure, commercial litigation, arbitration and mediation. I am told that your Honour is suspected to have an undiagnosed photographic memory, due to your

thoroughness and ability to digest complex facts into simple, understandable propositions. Your Honour's superior knowledge, expertise and skills received the honourable recognition of appointment as Queen's Counsel in 2008.

Throughout your Honour's career, you have made a positive contribution to the legal profession, by generously giving your time and expertise in a number of voluntary roles. I am told your Honour has always been a strong believer in the independent Bar. This first led your Honour to serve as vice-president and, later, president, of the South Australian Bar Association in 2012. Continuing your Honour's passion for the independent Bar, you were vice-president of the Australian Bar Association in 2015, before becoming president the following year. In these roles, your Honour was instrumental in fostering the development of the junior bar and was a strong proponent of the development of equitable briefing practices in South Australia. Your Honour's time serving as president also entailed service as a director of the Law Council of Australia.

Throughout your Honour's career and voluntary service, you have been a passionate and outspoken advocate on issues relating to the incarceration of Indigenous Australians. During your Honour's time at the bar, you faced a complex stolen generation action, *South Australia v Lampard-Trevorrow*. While your Honour found this case a challenging one, your strong sense of fairness and ethics allowed you to develop an appreciation for the barriers and prejudice facing Indigenous Australians. This case, in part, led your Honour to lobby the Attorney-General to have the Australian Law Reform Commission enquire into the disproportionate effect of legislation on Indigenous incarceration.

Your Honour has kindly imparted your skills and experience through teaching advocacy to the bar readers at essential trial advocacy course as well as the advanced trial advocacy and appellate advocacy courses at the Australian Bar Association. In addition, I am told that your Honour has been a mentor to many young lawyers and has encouraged diversity by providing support and encouragement, particularly for female and Indigenous aspirants to the bar. Your Honour's colleagues, friends and family describe you as a well-balanced individual with charm and a keen sense of humour but also a deep sense of duty that keep you grounded and realistic. These are attributes that I'm sure will make your Honour's appointment to the court a successful one.

I'm also told that your Honour's dedication to hobbies and personal interests reflect your motivation and competitiveness. Your Honour is a passionate rugby union follower, having played for Burnside for 13 years and representing the state at a junior and senior level, as well as coaching junior and senior levels. I understand that you enjoy the outdoors, with bushwalking and camping. Your Honour is also a keen fly fisherman, although I'm told that your wife, Vienna, is a more successful fisherman. I am told that your Honour travels to New Zealand annually to compete with your brothers, Kevin and Michael, for bragging rights on the biggest fish caught. Your Honour has also shown dedication in becoming a skilled wine maker, producing wine in the Adelaide Hills.

Your Honour has shown commitment to the pursuit of knowledge and further education, even undertaking a Bachelor of Applied Science – Wine Science at Charles Sturt University. While your Honour’s dedication to the legal profession takes up a considerable amount of time, your Honour has been able to successfully juggle it together with your family time that you have with your wife, Vienna, your two sons, George and Hugh, and your daughter, Tess. Your Honour’s appointment to this court acknowledges your dedication to the law and your accomplishments in the legal profession. Your Honour takes on this role with the best wishes of the Australian legal profession and they trust that you will approach the role diligently as your Honour has done consistently throughout your esteemed career. On behalf of the Australian Government and the Australian people, I extend to you my sincerest congratulations and welcome you to the Federal Court of Australia.

ALLSOP CJ: Thank you, Ms Nelson. Mr Harris representing the South Australian Bar Association and the Australian Bar Association.

MR HARRIS: May it please the court. Might I also commence by acknowledging the traditional owners of the land on which we meet, the Kaurna people, and pay my respects to their elders, past and present. It’s an honour and a privilege to appear this morning on behalf of the South Australian Bar Association and the Australian Bar Association to congratulate your Honour, O’Sullivan J, on your appointment to this court. While not exactly a dock brief, I have, as it were, come off the interchange bench to secure a speaking part at today’s welcome ceremony. On Sunday afternoon, I was contacted by the President of the South Australian Bar Association, Mark Hoffmann QC, who informed me that he had COVID and he would be unable to speak for the bar today as he is in isolation. He has asked me to ask on his personal congratulations to your Honour and his regret that he is unable to be here himself.

When I enquired of Mr Hoffmann QC as to how he contracted COVID, he told me that his son had brought it home from school. Speaking for myself, I think it’s more likely that the source of his infection was his overenthusiastic embrace of the relaxation of restrictions on singing and dancing in public, which is an activity we know he partakes in frequently. However, we will probably never know for sure. Be that as it may, I willingly and happily accepted the late call up to speak at this event. News of your Honour’s appointment to this court has been deservedly met with universal acclamation from the bar of whom your Honour was an acknowledged leader prior to your appointment to the District Court. I served as Vice President of the South Australian Bar Association during your Honour’s two-year term as President and followed your Honour into the presidency.

I was also a member of the counsel of the Australian Bar Association when your Honour was President of the ABA. In addition, when Jeffcott Chambers relocated to its new home on the Northern side of Victoria Square in 2018, your Honour was one of the eight new members who joined us at 24 Flinders Street. I have therefore had the pleasure of sharing chambers with your Honour, as well as working closely with you over a number of years on the South Australian and Australian Bar Associations.

If anyone knows where the bodies are buried in what is an apparently unimpeachable and impressive curriculum vitae, it's me. That unimpeachable and impressive CV, as Ms Nelson has already told the court, records that your Honour graduated from the University of Adelaide Law School and that you were admitted as a practitioner in 1981.

You commenced work as a solicitor at Lynch Meyer and eventually became a partner of that firm. Your Honour developed an expertise at an early stage in building and construction law, which is universally regarded as extremely difficult and complex. However, I once heard it described by a junior of mine as "no big deal really" because it's really just Cheshire and Fifoot with bricks. This person has also regularly appeared as your Honour's junior. So it would probably be prudent of me to preserve his anonymity, given that he is likely to appear before your Honour at some stage in the future. Perhaps, I will simply leave it there and say that his initials are Nick Floreani. Floreani and I were doing a case in Darwin in 2018 when your Honour was sworn in as a judge of the District Court.

We were, therefore, unable to attend that special sitting. He is back in Darwin this week and asked me to pass on his congratulations to your Honour and his regret that he is unable to attend this welcome ceremony himself. As we've heard, in 1998, your Honour relocated to the then crown colony of Hong Kong, where you took up a position in the office of the Crown Counsel and later being appointed Senior Crown Counsel. Again, as we've heard, you practiced in Hong Kong until 1992. You were involved in very large and complex pieces of litigation in that jurisdiction, which took you to, amongst other places, the Privy Council. Now, your Honour's cover story for the move to Hong Kong was that it was in order to further your experience and hone your skills in such complex commercial litigation.

That, undoubtedly, came to pass. Those of us who are familiar with your obsession for all things rugby know that the real reason for relocating to Hong Kong was to enable you to be a regular at the Rugby Sevens, which I'm told also came to pass. Moreover, your Honour has distinguished yourself, as we've heard, as a rugby player, both here but also in Hong Kong. Although for myself, I've never been able to reconcile your Honour's empathic and considerate nature with the frank brutality of that particular sport. When your Honour returned to South Australia in 1992 you joined Fisher Jeffries as a partner and, as we've heard, practiced there until 1997, when you made the move to the Independent Bar by joining Edmund Barton Chambers.

You had a busy and successful practice in building and construction, mining and commercial litigation. You were a fellow of the Chartered Institute of Arbitrators, as well as the Australian Centre for International Commercial Arbitration. Your Honour's stature in the profession and your leadership of the bar was recognised by being appointed one of Her Majesty's counsel in 2008. Your Honour joined the bar counsel of the South Australian Bar Association in 2010. And as I've previously noted, you became President of the association in 2012 and later President of the ABA. I was on the council of the ABA as the South Australian Bar President when

you were President of the ABA. At that time, it was the practice of the ABA to hold its quarterly council meetings in different jurisdictions and as often as possible to have those meetings coincide with the annual bar dinners of the host jurisdiction.

The dinners would take place on a Friday night and the council of the ABA would meet bright and early on the Saturday for a full day's work. Most likely as a result of the impact of the time zone changes which one crosses when one moves from Australian Central Standard Time to anywhere in Australia, I often had a great deal of difficulty getting out of bed on a Saturday morning. Your Honour graciously accepted jetlag as the reason for my habitual late arrival at council meetings, for which I will always be grateful. Your Honour was succeeded as President of the ABA by Will Alstergren QC, who is now the Chief Justice of the Family Court.

The ABA required you and Alstergren QC to undergo media training, which involved a gruelling day of being filmed and critiqued on your performance when put under pressure by journalists asking you curly questions. I'm informed that when the final reviews were made of your Honour's performance, the journalist conducting the review was heard to say that in 40 years of journalism he had never seen anybody more believable on camera than your Honour. He went on to say that your Honour could pretty much say anything you like, and most people would believe it and accept it.

As your Honour embarks upon what will undoubtedly be a successful and productive career as a justice of this court, might I respectfully offer this word of caution in relation to the high praise which you received from the journalist who reviewed your performance during the media training. Journalists don't have a Full Court. Jeffcott Chambers was established in 1982, when we renovated and occupied the old Supreme Court Hotel next door to the Supreme Court in Gouger Street. I'm especially pleased that the Honourable John von Doussa AO QC, a former justice of this court, is on the bench today, as he was the first head of Jeffcott Chambers in 1982. When our building was required as part of the refurbishment of the court precinct, Jeffcott Chambers found a new home in 2018 on the northern side of Victoria Square.

The building was renovated to our specifications, which included the construction of a bar in the basement for our own personal use, known as Pomeroy's. Given that the corporate lessee of the building was our company, Rumpole Proprietary Limited, the choice of the name for the subterranean bar was rather obvious. At last count, Pomeroy's boasts 22 varieties of gin, amongst other liquid pleasures guaranteed to give you jet lag. Your Honour's decision to join Jeffcott Chambers was welcomed by me on a number of levels. Firstly, as I've already noted, your Honour was a leader of the Bar, with a reputation for hard work, legal scholarship, and fair dealing. Secondly, your Honour is one of those rare boot beasts about whom no one has a bad word to say. I've seldom met a nicer person than your Honour, and your companionship and friendship in chambers is something which we all miss.

Thirdly, and perhaps rather selfishly, as Kellermeister of the aforementioned Pomeroy's, I saw the potential for virtually limitless supplies of pinot noir and chardonnay made with your Honour's own hands from your carefully curated vineyard in the Adelaide Hills, naturally at heavily discounted prices. Not content with living in silver and splendour in the Adelaide Hills, surrounded by grape vines, as we've heard, some years ago, your Honour actually obtained a Bachelor of Applied Science in winemaking, and now specialises in the production of pinot noir and chardonnay in your spare time. Regrettably, my plans for the cost-effective victualing of Pomeroy's were dashed when the South Australian Attorney-General appointed your Honour to the District Court, only a few months after we relocated Jeffcott Chambers and opened Pomeroy's.

A serving judge selling discounted wine to barristers who might one day appear before him may have troubled the fair-minded bystander, and so Pomeroy's has had to look elsewhere for supply. Your Honour's legal career has been characterised by hard work, fair dealing and exemplary service to the profession and the community. Those qualities will stand your Honour in good stead for the next phase of your career. On behalf of the Australian Bar Association, and the South Australian Bar Association in particular, I offer you congratulations and best wishes for the future as a justice of this court. May it please the court.

ALLSOP CJ: Thank you, Mr Harris. Mr Liveris, president of the Law Council of Australia, will address us remotely. Mr Liveris.

MR T. LIVERIS: May it please the court. I first acknowledge the traditional owners of the country on which we all meet, and recognise their continuing connection to land, waters, and community. I pay my respects to elders, past, present and emerging, and extend that respect to Aboriginal and Torres Strait Islander peoples here today. I also thank the court for permitting my appearance to be made via audiovisual link. It is an honour to represent the Law Council of Australia this morning to welcome your Honour's appointment to this honourable court. In speaking with colleagues in South Australia and across the country, your Honour's appointment has been widely welcomed. Your Honour is so widely and well-known as intelligent, thorough, approachable and generous. Like so many South Australians, your Honour is a good friend of the Northern Territory, and over the years, the support you have given to the Northern Territory Bar Association and the Asia-Pacific has been greatly appreciated.

When your Honour was ABA president in 2016, I fondly remember the support you gave the bar association in a civil law conference in Timor-Leste and the session that you co-presented on the future of the independent bar; as we've heard, a particular passion of yours. But yours and the ABA's support for a fledgling conference in a developing, close neighbour nation was very important and greatly appreciated. Not just to the bar association, but to the Timor East profession and community. As a member of the Northern Territory Bar Association and visiting member of William Foster Chambers, like so many of your colleagues, yours has always been a welcome face in the Northern Territory. As ABA president, your Honour was a tireless

advocate in support of informed and practical measures to reduce Australia's Indigenous incarceration rates, which your Honour then described as, quote:

One of the most challenging human rights issues facing our country today.

Indeed, under your Honour's leadership, the ABA was involved in the development of the terms of reference that enabled the Australian Law Reform Commission to consider the complex nature of the underlying causes in Indigenous imprisonment and the criminal justice policies that may be contributing to its disproportionate growth, as well as giving the commission scope to review recommendations from previous reports and evaluate the effectiveness of existing justice re-investment programs both in Australia, as well as overseas. Your Honour has of course generously supported the growth and development of the Bar. In January 2018, I was fortunate that your Honour brought your calm, thorough and approachable characteristics to your work as a coach at the ABAs Advanced Trial Advocacy Intensive in Sydney.

This equally challenging and rewarding environment tests many nerves, but your Honour was a relative oasis of calm, bringing to coaching duties the patient and reasoned approach that has been the hallmark of your work as a barrister, and also as a District Court judge. I have touched on your Honour's close connections with and support for the Asia-Pacific, having long championed stronger engagement with the region. I am reliably informed that, these days, your Honour's visits there are more often in pursuit of rugby union game, a passion that I am told manifests itself in a certain frenetic energy and enthusiasm when the occasional test match comes to town. Your Honour's enthusiasm for rugby is matched by your passion for the vineyard property that you established with your family.

As Mr Harris explained, I know that your colleagues in South Australia very much hope that your appointment to this court doesn't interfere with your Honour's work there and, in particular, does not disrupt the steady supply of pates and pinot noir that they have grown accustomed to receiving. I have checked the cellar stocks of the Law Council Secretary in Canberra and am embarrassed to admit there is currently none of your Honour's renowned Monomeith Pinot Noir, but a situation I will be seeking to urgently rectify. Your Honour, on behalf of the legal profession, we congratulate you. The people of Australia will be privileged to be served by you in those role. May it please the court.

ALLSOP CJ: Thank you, Mr Liveris. Mr Stewart-Rattray, president of the Law Society of South Australia.

MR J. STEWART-RATTRAY: May it please the court. I acknowledge the traditional owners of the land upon which we meet today, and I recognise their continuing affinity with the land. It gives me great pleasure, on behalf of the South Australian legal profession and the law society, to offer my warmest congratulations to your Honour upon your appointment as a judge of this honourable court, which you commenced in January this year. The demands and expectations of judicial

office of course come as no surprise to your Honour, having, until your appointment to this honourable court, sat as a judge on the District Court of South Australia since August 2018. For the six years before that, your Honour was a member of the Legal Practitioners Disciplinary Tribunal. I was grateful not to have had the pleasure of your audience on that tribunal.

A career in law was definitely not the obvious choice for your Honour's younger self, having toyed instead with the idea of a career in medicine. Fortunately, your Honour ultimately followed in the footsteps of your brother, Michael, who at the time was a lawyer in Western Australia, later a silk, and a District Court judge. Being admitted to the profession on 21 December 1981, your Honour had started what has thus far become an exemplary four decade long career in the law. In 1988, your Honour took up employment with the Hong Kong Government. I am told when your Honour received your government issued identification card, it bore the auspicious date of 8 August '88. So superstition would say that your luck in the office of the Crown Counsel was thereby solidified.

In 1990, as Senior Crown counsel in Hong Kong, arising from the many contracts let by the Hong Kong government, your Honour became well attuned to major complex commercial litigation. As we've also heard, your Honour had a well-rounded colonial experience during your time in Hong Kong, playing rugby union at the highest levels, going sailing, and appreciating the local wine offerings. It may have been there where you acquired ambitions to later become a winemaker. In 1992, your Honour returned home and, as we've heard, became a partner at Fisher Jefferies where you again practiced in difficult commercial litigation.

The Law Society is grateful for your Honour's service to the profession via the society, including through membership of its council from 1993 to 1994, and again from '96 to '99. In the advocacy group from 1998 to 2001, and also its civil litigation committee. In 1997, in what was a natural progression of your flourishing practice and growing involvement in arbitration and mediation, your Honour signed the Bar roll and your Honour became a highly respected expert in dispute resolution, evidenced, for example, by your engagement in the South Australian Health Partnership for the Royal Adelaide Hospital litigation, and as chair of the dispute resolution board for the \$1.8 billion Adelaide desalination project. Your Honour regularly appeared in superior courts across all Australian jurisdictions in addition to first instance and appellate matters in the Federal Court of Australia.

We've heard of your Honour's distinguished service to the bar and the profession generally, both locally and nationally. The respect in which your Honour's work is held and your Honour's breadth of experience were no doubt factors in your appointment to this honourable court, whose jurisdiction is incredibly broad and covers almost all civil matters arising under Australian Federal law and some summary and indictable criminal matters. Notwithstanding your busy practice, an impressive list of professional appointments, your Honour found time to service another kind of bar. Your Honour's dedicated love for wine, particularly red, was such, as we've heard, that you forewent the position of an enthusiastic amateur and

studied a Bachelor of Applied Wine Science. Your Honour then used your property in the Adelaide hills to cultivate and grow grapes and produce your own wine, though I have it on good authority that the initial reviews were somewhat mixed.

Your Honour is widely regarded as being incredibly hard-working and highly skilled with a strong legal mind, coupled with other important ingredients for the role of judicial office, such as compassion and genuine concern for others, sound judgment, balance and patience. There is little doubt your Honour will fulfill the role of a Federal Court judge with distinction. Personally, from the bar table, you have always appeared somewhat stern, but focused. I have always felt very grateful to receive your smile and not your wrath. I'm sure those young rugby players at Burnside, who you coach so diligently, including my nephew – coincidentally, soon to be a young lawyer – may also have felt this way. A fast, skilled winger at rugby yourself, your Honour mastered the art of avoiding the aggressors and had the true rugby values of retaliate first, shake hands afterwards, and enjoy a drink with the opposition.

Your Honour, your family, friends, and colleagues have gathered here today to wish you well. On behalf of the society's members and the wider legal community, I offer my sincere congratulations and best wishes for the next stage of your legal career. May it please the court.

ALLSOP CJ: Thank you, Mr Stewart-Rattray. O'Sullivan J.

O'SULLIVAN J: Thank you, Chief Justice. I, too, pay my respects to the traditional owners of the land, the Kaurna people, and pay my respect to their elders, past, present, and emerging. Chief Justice, Ms Nelson representing the Attorney-General of the Commonwealth, the Honourable Senator Michaelia Cash, Chief Justices of the Supreme Court, President of the Court of Appeal of South Australia, fellow judges and retired judges of this court, Mr Harris QC representing the Australian Bar Association and the South Australian Bar Association, president of the Law Council of Australia, president of the Law Society of South Australia, distinguished guests, ladies and gentlemen, I thank you all for your kind words.

Chief Justice, when you first spoke to me following my appointment and when I presented my commission, you impressed upon me the collegiate nature of this court. I have indeed received a very warm welcome and received a great deal of support from my colleagues, both in this registry and interstate.

Ms Nelson, I'm honoured by the trust and confidence shown by the government in appointing me a judge of this court. I would be grateful if you will convey my thanks to the attorney and to the government for that confidence.

I was appointed to this court shortly after the retirement of the Honourable Richard White as a judge of this court. I had the privilege of junioring Mr White when we were both at the Bar and had the pleasure of appearing before him both in the Supreme Court of South Australia and in this court. His Honour was an outstanding judge. If I am able to achieve during my time on the bench what his Honour has achieved during his time as a judge of this court, I will be doing very well indeed.

As an aside, I started with this court on 20 January

this year, but thanks to COVID, this is the first time I have been in court since I started with what might be described as a live audience.

A number of people have travelled a long way to be here and I would like to acknowledge them: the Schramms, whom I've known for nearly 50 years from the Riverland; Fiona McLeod AO SC; and Jennifer Batrouney AM QC; both former presidents of the Australian Bar Association have travelled from Victoria; Dominique Hogan-Doran SC; and so, too, Tony Phelps, whom I've known since I was 16 have travelled from Sydney; My parents-in-law, Merv and Valda Church are present, both of whom have recently moved to Adelaide from Brisbane and I'm delighted that they're able to be here. There are a number of people who can't be here, but who, I understand, are watching the livestream of this sitting: our older son, George, who has just completed his studies in international business in the United States; our younger son, Hugh, who is studying in Western Australia; Flight Lieutenant Michaela Harris, currently on deployment with the ADF somewhere in the world; my older brother, Michael; my two other sisters, Mary-Jo and Joanne; my younger brother, Kevin, and their partners, who are scattered across various parts of Australia; so, too, my sister-in-law Rachel and her husband, Diego; and my brother-in-law, James Church.

There are, of course, a number of events in my life I would like to touch on and some people I would like to thank. It is only when one has cause to pause and reflect on what's happened in the past that one appreciates the importance of the experiences and interactions that we've had and which have influenced us so much.

Both my parents have passed away, my father in 2004 and my mother in 2017. They would have been very proud to share in this moment.

Having initially trained as a Catholic priest in Dublin, my father realised that the priesthood was not for him – a view I understand the bishop shared – and for which his children are eternally grateful. The war had just broken out, and so with the encouragement of the bishop, he left the priesthood, enlisted in the Royal Air Force and attended officer training. He was a career air force officer, ultimately attaining the rank of group captain, and was a paratrooper during the war.

He would have loved the opportunity to have attended university, but that simply wasn't possible. He had a strong sense of social justice and the uncanny ability to communicate with people at all levels. Languages were a passion for him, as was reading, and he had a phenomenal ability to learn languages. Ultimately, he spoke seven languages, all of which were self-taught, and included Aramaic, an ancient language spoken in the north-central and north-western regions of the Middle East. He used that when he served there. He was a very wise man, and always up for a challenge. He was awarded an OBE for services to the British Empire as a Royal Air Force officer, and an OAM for services to the Irish community in Australia. He described himself as Irish by birth, English by training, and Australian by choice.

If my father was wise, my mother was his reality check and fiercest supporter.

She was tireless in her support and love of my father and her children, and she had a wicked sense of humour. She was also up for a challenge and had a sense of adventure, which I suspect we have all inherited. She trained initially as a bookkeeper at the outbreak of the war, and was assigned to a pin factory. To use her words, she said, “Bugger that,” and volunteered with the Women’s Auxiliary Air Force. From Scapa Flow in the north of Scotland, she crossed the North Atlantic by convoy to the east coast of the United States, down the east coast, and then back across the South Atlantic, through the straits of Gibraltar and across the Mediterranean to Cairo. At that time, Rommel and his Afrika Korps were advancing across North America.

When I said she was up for a challenge, that gives you some idea of what she was up for. She, too, could communicate with people at all levels which is a feature that has been passed on to her children.

In later years of school, and at university, I had employment driving headers in Western Australia, working in a fish factory, on fruit blocks and on building sites. In so doing, I came across all sections of the community, which brought home to me the importance of being able to relate to people. As you have heard, I am a rugby union fan. I played for many years and coached at both junior and senior levels, which brought me into contact with young men and women from all backgrounds, and which was an eye opening and, at times, challenging experience.

When I started practice, I was greatly influenced by the late Kevin Lynch, David Meyer and Jill Cooper. The three of them instilled in me that, in law, we provide a service to the community, which is a value that has stayed with me over the course of my career, both as a practitioner and as a judge. I always considered receiving instructions, whether initially as a solicitor but particularly at the bar, as a great privilege. The fact that someone was prepared to entrust me with their legal problems was something I did not ever take lightly. So too, the appointment to this court and the responsibility in determining parties’ rights and obligations is a privilege and a great responsibility.

I didn’t come from a legal family, yet, the three boys in our family are all lawyers. As you have heard, my older brother, Michael, was a silk and a judge of the District Court of Western Australia, and my younger brother, Kevin, a solicitor of many years standing. It was in no small part due to Michael’s influence that both Kevin and I decided to do law. So too, one of my nephews studied law and another nephew, Rory, who is not only an exceptional rugby union player, having been on the Western Force play list, is also studying law.

I have always been one who wanted to experience different things. It was that desire that took me to Hong Kong in 1988, because I wanted to live and practice law somewhere else, as well as getting experience working on large infrastructure disputes. As you have heard, as luck would have it, shortly after joining the Attorney-General’s chambers in Hong Kong, I ended up being responsible for the conduct of the Hong Kong Government’s major infrastructure disputes, both in the courts and in international arbitration.

The four years I spent in Hong Kong working for the Hong Kong Government were memorable and a period of my life that I look upon with great fondness. The experience I gained was invaluable, not only professionally, but in living as a minority.

I was very fortunate in the work that I received at the bar. The matter of Trevorrow, which you've heard about, is one which is foremost in my mind, giving me, as it did, the opportunity to read files concerning Indigenous Australians going back to the 1800s. As a result, I developed an appreciation, albeit very limited, of how the Indigenous population has been treated by society over many decades.

Amongst other things, the solution to Indigenous incarceration is complex and multifaceted. Indeed, it was because of Trevorrow, in part, which led me when President of the Australian Bar Association to lobby the then Attorney-General to have the Australian Law Reform Commission enquire into the disproportionate effect of legislation on Indigenous incarceration. I was President of the South Australian Bar Association and then, in 2016, President of the Australian Bar Association. Occupying positions such as this gives one a much broader view of the role of the legal profession in society and the influence of the justice system on society. In particular, it reinforces the fact that a functioning justice system is a cornerstone of society and a major contributor to its stability.

I was fortunate to have Andrew Harris QC as my vice president and Jan Martin as the CEO whilst with the South Australian Bar Association. At the end of that two-year term, Fiona McLeod SC cornered me and asked me to be her vice president as she took on the presidency of the Australian Bar Association. I regard working with Fiona as one of the great experiences I have encountered. Her passion for social justice and her drive was something to behold and we did a lot of very good work together.

Whilst President of the Australian Bar Association, I had the good fortune of having an excellent Chief Executive Officer in the late Philip Selth OAM, who was a constant source of sage advice. Along with Philip, the Australian Bar Association had an outstanding policy officer in Cindy Penrose and a fantastic media officer in Jo Oakes. I also had the privilege of having the then Will Alstergren QC, now, of course, Chief Justice of the Family Court of Australia, as my vice president. His Honour's enthusiasm, drive and advice was invaluable.

Dealing with the bar at both national and international levels reinforced to me something which I already knew, which was that the Australian Bar, as a whole, is an exceptional band of practitioners and that the rule of law is precious and a fundamental part of society, which must be protected at all costs.

I have been very fortunate to work with a number of counsel who greatly influenced me and who supported me. Stephen Walsh QC, Andrew Harris QC, Jonathon Wells QC and Barry Beazley QC, later a judge of the District Court, took an interest in my career and encouraged, advised and supported me in their own ways.

I am delighted my former chambers' colleague, now Kari J, is present today, as well as a former junior of mine, now her Honour Judge Dickson of the Federal Circuit and Family Court of Australia.

I was very fortunate during my time at the bar to be juniored by some excellent junior

counsel and it is pleasing to see those counsel advance in their careers.

I was fortunate to be appointed to the District Court of South Australia in 2018. I learnt a great deal about society and saw a different side to it whilst on that court. I had the great fortune and benefit of working with some outstanding judges, including Chief Judge Michael Evans and their honours, Judges Paul Slattery, Geraldine Davidson and Karen Thomas, all of whom are present today.

This is a very busy court. Since I started on the court, it's fair to say it has been a blur. However, the work is fascinating and the support ever present and freely given. I am grateful for the dedication of my executive assistant, Emma Panzarino, and my associate, Irini Kourakis, who not only have to put up with a new judge, they had to learn the procedures and practices of a different court. Put simply, I leave it to the two of them to tell me where I am supposed to be and I stay away from the diary.

Whilst I mentioned my parents and siblings earlier, I want to publicly acknowledge my family. In particular, Vienna and our three children. In 2018, when I was appointed to the District Court, Vienna was very ill. Thankfully and god willing, she seems to be making a full recovery. She's a remarkable woman for a number of reasons. She has an Agricultural Science degree, was a jillaroo, ran a 40,000-acre cattle station in Queensland and was Australia's 800 metre champion. Amongst her finer qualities, she's a dab hand at welding and fencing, is a highly-competent fly fisher and a keen supporter of the Queensland Reds rugby union team. Notwithstanding the intense competition between us when fishing, she's otherwise a loving and supportive partner.

I am immensely proud of all of our children. As I mentioned, George has just finished studying in North America. He is working and also pursuing a career with major league rugby in the United States. Our daughter, Tess, is just completing a double degree at Flinders University and is less than a month away from having her first child and our first grandchild. She's hard to miss at the moment. But please, no loud noises or unexpected movements. Our youngest son, Hugh, is in his second year of a Masters of Architecture in Perth. The love and support my family have shown to me and shown to each other is beyond what I could reasonably expect. I thank them very much. I am honoured to accept the appointment to this court. It is a court in which I appeared regularly when at the bar and I look forward to contributing to the work of the court in the years to come. Thank you all for being here today. I am deeply honoured by your presence.

ALLSOP CJ: Before adjourning, with O'Sullivan Js unknown permission, I wish to take this opportunity to say something about former White J, whose modesty and self-effacement led him to prefer not to have a public farewell. May I thank you for your service to the people of Australia. You were a judge's judge of the highest quality and a colleague that any Chief Justice would treasure for your calm assistance and wise advice. Thank you. The court will now adjourn.