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## TRANSCRIPT OF PROCEEDINGS

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O/N 87162

**FEDERAL COURT OF AUSTRALIA**  
**CEREMONIAL SITTING OF THE FULL COURT**  
**FOR SWEARING IN AND WELCOME OF**  
**THE HONOURABLE JUSTICE PERRAM**

**PRESIDING JUDGES**

**THE HONOURABLE MICHAEL BLACK AC, Chief Justice**

**THE HONOURABLE JUSTICE FRENCH**  
**THE HONOURABLE JUSTICE MOORE**  
**THE HONOURABLE JUSTICE LINDGREN**  
**THE HONOURABLE JUSTICE TAMBERLIN**  
**THE HONOURABLE JUSTICE EMMETT**  
**THE HONOURABLE JUSTICE GYLES AO**  
**THE HONOURABLE JUSTICE STONE**  
**THE HONOURABLE JUSTICE JACOBSON**  
**THE HONOURABLE JUSTICE EDMONDS**  
**THE HONOURABLE JUSTICE RARES**  
**THE HONOURABLE JUSTICE COWDROY OAM**  
**THE HONOURABLE JUSTICE JESSUP**  
**THE HONOURABLE JUSTICE TRACEY RFD**  
**THE HONOURABLE JUSTICE BUCHANAN**  
**THE HONOURABLE JUSTICE LOGAN RFD**  
**THE HONOURABLE JUSTICE FLICK**  
**THE HONOURABLE JUSTICE McKERRACHER**  
**THE HONOURABLE JUSTICE PERRAM**

**BAR TABLE**

**THE HONOURABLE ROBERT McCLELLAND MP,**  
**Attorney-General for the Commonwealth**

**MS ANNA KATZMANN SC, President of the New South Wales Bar Association**  
**MR STUART WESTGARTH, Councillor, New South Wales Law Society**

**COURT OFFICIALS**

**Associate to Chief Justice**  
**District Registrar**  
**Court Officers**

**INVITED GUESTS**

**Family and friends of Justice Perram**

**SYDNEY**

**9.30 AM, FRIDAY, 8 AUGUST 2008**

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PERRAM J: Chief Justice, I have the honour to announce that I have received from His Excellency the Governor-General a commission appointing me as a Justice of the Federal Court of Australia. I now present my commission.

BLACK CJ: Mr District-Registrar would you please read aloud the commission.

DISTRICT REGISTRAR:

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*I, Philip Michael Jeffery, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 72 of the Constitution and subsection 6(1) of the Federal Court of Australia Act 1976 appoint Nye Perram of Senior Counsel to be a judge of the Federal Court of Australia beginning on 8 August 2008 until he attains the age of 70 years.*

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*Signed and sealed with the Great Seal of Australia on 24 June 2008, Philip Michael Jeffery, Governor-General, by his Excellency's command, Robert McClelland, Attorney-General.*

20

BLACK CJ: Justice Perram, I now invite you to take the Affirmation of Office.

PERRAM J: I, Nye Perram, do solemnly and sincerely promise and declare that I will bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, that I will well and truly serve her in the Office of Judge of the

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Federal Court of Australia and that I will do right to all manner of people according to the law without fear or favour, affection or ill-will.

5 BLACK CJ: Thank you. I now invite you to subscribe the Form of Affirmation that you have taken. Mr District Registrar, would you please take the Commission and the subscribed affirmation and keep them in the records of the Court. Justice Perram, I now extend to you on my own behalf, of course, and on behalf of all the judges of the Court, my congratulations and a very, very warm welcome.

10 PERRAM J: Thank you very much.

BLACK CJ: Take a seat. Mr Attorney, do you move?

15 THE HON. R. McCLELLAND MP: May it please the Court, with great pleasure, I do. It is indeed a great honour to be here today at this special sitting of the Federal Court of Australia to welcome the Honourable Justice Nye Perram SC to the bench of the Court. Your Honour's appointment is one of my first as Attorney-General and this is my welcome. It is a day we will both always remember. Your appointment is in recognition of your distinguished legal ability and skill, which you have developed  
20 over your career. It is also an acknowledgement of the esteem in which the legal profession holds you.

I can assure your Honour that your Honour's appointment met with wide acclaim; as he is not here, I can indicate with one exception. The Acting Chief Justice at the  
25 time was his Honour Mr Justice Gray, when I did the courtesy of phoning him to inform him, he was remarkably reserved. He curiously inquired as to your birth date and when he worked out that he had been appointed several months younger and still held the record, he was entirely relaxed and indeed at that point became glowing in his praise of you and welcomes you, I am sure, to the bench. Your Honour is known  
30 for your great intellectual interest in the law, both as a discipline and its importance as a social institution.

Your Honour was born in 1969. You attended Sydney Boys High, completing your  
35 Higher School Certificate in 1986. During that year, I am told, you undertook three unit Ancient Greek and came second-last in your exams. However, I understand there were only three candidates and hence that setback did not prejudice your appointment today. Your talent as a speaker was recognised by your contemporaries even then, so it is not surprise a career in law was to follow.

40 Your Honour gained a Bachelor of Arts in 1989 and a Bachelor of Laws, with honours, in 1991 from the University of Sydney. Your passion for learning did not end there. You later went on to complete a Bachelor of Civil Laws, with distinction, at the University of Oxford, specialising in European and Comparative Law.

45 Your Honour was admitted to practice by the Supreme Court of New South Wales in 1992 and worked as a solicitor with the firm Mallesons Stephen Jaques, however, after just one year of filling in time sheets, your Honour decided to be called to the

Bar; you were then in your mid-20s. In 2006, your Honour took silk as a Senior Counsel at the age of just 37 years, a deserved recognition of your aptitude and legal finesse.

5 Your Honour has specialised in Constitutional law, administrative law, commercial law and equity and I understand your Honour is no slouch in the areas of corporate regulation, white-collar crime, trade practices, telecommunications and industrial laws. In fact, it has been said of me that you are pretty well adept at virtually anything that comes across your desk.

10 You are known for your flair and fearlessness as an advocate, but also your respect for the dignity of the Court. Your diligence and commitment to your work have also extended into the realm of pro bono legal work and the importance of access to justice for the socially and economically disadvantaged.

15 Your Honour is respected for a long-standing commitment to the principles of justice throughout your career. In that respect alone, you have been an outstanding role model for your profession. You are a member of the Board of the New South Wales Law and Justice Foundation and in 2005, you were a Director of the Public Interest Law Clearing House, an independent not-for-profit legal referral service. Your Honour has also been actively involved in the New South Wales Bar Council.

25 In your spare time, you also contributed to the Oxford Companion To The High Court of Australia on the topic of a Right of Appearance, Superior Courts and Full Courts. With your appointment, your Honour now finds yourself on such a superior court and as mentioned, you have been appointed to the Federal Court Bench as one of the Court's youngest ever judges. In that respect, you are in good company as the incoming Chief Justice of the High Court, Justice French, was first appointed to the Federal Court of Australia at the same age as your Honour and perhaps my successors might bookmark this date.

30 While the cases in which you have been engaged have often had a commercial flavour, in 2007 you and another member of the Bar Council went to Fiji to represent the deposed Prime Minister against the Government of Prime Minister Bainimarama. Doing so in an atmosphere of quite some uncertainty at the time showed considerable personal courage. The Bar Council's then president observed your actions supported the international rule of law and did great credit to the New South Wales Bar. May I also add, the entire Australian legal profession.

40 Your Honour has appeared in *New South Wales v Commonwealth*, the Workplace Relation challenge, on behalf of Unions New South Wales. You have also represented the Australian Securities and Investment Commission and Telstra. You were involved in the High Court case of *Australian Competition and Consumer Commission v CG Berbatis Holdings*, however it was the case of *Re Wakim Ex Parte McNally* that was one of your Honour's most memorable and enduring cases. During that case, you were in the position of having two leaders, his Honour Mr Justice Rares and Mr David Jackson, formerly of this Court. As you represented

more than one party, you also managed to both win and lose at the same time. At a personal level, I wish your victory and losses had been the other way around, but that is a challenge for another day.

5 Your Honour's appointment is, in fact, one of the first under the Government's new, more transparent appointments process. These appointments were made on merit from an extensive field of serving judicial officers, barristers, solicitors and academics and I appreciated your words of encouragement about that process. I would like to also thank the Court and in particular the Chief Justice and members of  
10 the Advisory Panel for their role. As a matter of fact, it is their hard work that has brought me accolades for making such an excellent appointment.

In conclusion, on behalf of the Government and the people of Australia. I extend to you my congratulations on your appointment and welcome you to the bench of the  
15 Federal Court of Australia. May it please the Court.

BLACK CJ: Thank you, Mr Attorney. Ms Katzmann, do you move?

MS A. KATZMANN SC: May it please the Court. People often ask me why I  
20 volunteered to be President of the New South Wales Bar. There is only one right answer to that question. As I look around me and see the people pouring out of each door and standing up behind me, it is so I could secure such a good seat at such a popular swearing in.

25 According to the book of Daniel, King Belshazzar, son of Nebuchadnezzar, once held a banquet for a thousand of his nobles. Suddenly the fingers of a human hand appeared and wrote on the palace wall. The King summoned the wise men of Babylon. "Whoever reads this writing and tells me what it means will be clothed in purple and be made the third-highest ruler in the kingdom." Daniel, a man with a  
30 keen mind and the ability to solve different problems, was summoned to decipher the writing on the wall.

Three thousand years later, on a Friday evening, to be precise, the young men in the debating teams at Sydney Boys High School were asked to decipher the words of  
35 Paul Simon in The Sounds of Silence:

*And the sign said, The words of the prophets are written on the subway walls.*

Your Honour, regarded even then as a natural advocate, was one of those young men.  
40 Sadly, your Honour's argument was not recorded for posterity. However, I am informed that to this day, those lyrics continue to haunt you.

Splendid though they undoubtedly are, the robes of a Federal Court judge are not quite regal purple and whilst I will leave it to others to debate whether the Federal  
45 Court can be likened to the third-highest office in the Kingdom of Babylon, this morning's ceremonial sitting heralds the appointment to this Court of one of the Sydney Bar's best and brightest.

I know that your Honour is uncomfortable, even embarrassed, about all this fuss; that is the central paradox of your personality. You chose to be a barrister and now a judge but you shun the limelight and you do not like being the centre of attention. Some say that is your most endearing quality. However, Nye is short for Aneirin, which means both noble and modest, so it is perhaps not surprising.

Possibly the most distinctive features your Honour brings to this Court are your formidable intellect and your youth. There are many illustrations of the former. At this point, let me offer just one. It is the tale of how you passed your real property exam. After having done no work during the term and having enjoyed a night on the town, you ran a hot bath and settled down to reading the textbook from cover to cover. In just two hours you completed the task and passed the exam – no doubt with flying colours.

I was reminded only a short time ago that you were sworn in until the age of 70. I could sense a shudder, but I don't know that you will necessarily be here at this Court for all that time. You have been appointed to this Court, as the Attorney has mentioned, at the tender age of 39, the same as the soon to be appointed Chief Justice of the High Court and the resemblances do not stop there.

Like Justice French, you are also physically fit, training almost daily in the gym. You are also a late convert to skiing, after what I am told was a spectacularly unsuccessful football career at school. Like Justice French too you have a scientific bent. The son of a professor of mathematics, your Honour has a keen interest in the subject and it was one of your majors in your undergraduate degree.

Whilst the beauty of prime numbers has always eluded me, you, like the ancient Greek mathematicians, are captivated by them. Of course, eight is not a prime number but according to Chinese numerology, it is an extremely auspicious one, hence the opening of the Beijing Olympics at 8 minutes past 8 tonight.

Your Honour would be aware from your frequent research on Wikipedia that the telephone number 8888-8888 was sold for some \$US270,723 dollars in Chengdu. Apart from numerology, I ask, how else can one explain the fact that you chose to be sworn in on the 8<sup>th</sup> day of the 8<sup>th</sup> month of the 8<sup>th</sup> year of the century?

Although many of us became lawyers because we had little or no interest in the sciences, there is a natural connection between them and the law. After all, more often than not they are all concerned with proof. The combination of judge and mathematician is rare but not unheard of. Pierre de Fermat, the great 17<sup>th</sup> century French mathematician was a judge. Like your Honour, he was an amateur, though, in mathematics – once described as 'The Prince of Amateurs', so talented that he should really be counted as a professional. Simon Singh wrote of him that when not sentencing priests to be burnt at the stake, he dedicated himself to his hobby.

Your Honour's interests, on the other hand, are wider. You are a true Renaissance man. You are said to have a basic grasp of Yiddish. Indeed, I am informed that one

of your former floor mates has been instructing you over the last 15 years. In exchange, you have been teaching him some of the more esoteric English words – and a little constitutional law. You took the time, for example, to explain to him that the autochthonous expedient is not a rock band but a constitutional theory. In those  
5 circumstances, it seems appropriate - without looking like a schmuck I hope – that I ask you to overlook the schmaltz in this speech and that I should give you a bit of shtick.

Your Honour's other major, with maths, was in fact English, and you have a  
10 particular affection for Yeats, Conrad and Milton - not that there is anything wrong with that! You are also a pianist with a fondness for Bach and Beethoven. Yet that should not be surprising. It was Pythagoras who discovered the fundamental relationship between the harmony of music and the harmony of numbers.

15 But your Honour's musical tastes are eclectic. At a dinner party after the release of the film “Priscilla, Queen of the Desert,” your Honour - moved by the score – played the soundtrack at high volume and repeatedly, to the delight of your friends but to the chagrin of your neighbour, described to me as a small rotund Hungarian woman who  
20 knocked on your door to report: “I do not like the night life. I do not like the boogie.” Your Honour needed no further persuasion to turn down the music.

Your Honour is a latter day Daniel, a renowned problem solver and crafty wordsmith. You are fascinated by acrostics and steganography. [Yes, I had to look  
25 it up.] At least one clever judge once managed to detect the message secreted in the puzzle that formed part of your written submissions. Something to the effect of , “this case is without merit”, I am led to believe. Doubtless it will soon become fashionable to comb your Honour's judgments for coded messages almost as much as for their jurisprudential value.

30 When her Honour Justice Kiefel was sworn in to the High Court, it was noted that she was the first Baby Boomer appointed to that Court. It is fitting therefore that I should acknowledge that your Honour is the first Gen Xer (and I am not referring to the Punk band) appointed to this Court. Time Magazine described the members of Generation X as those who – and I quote, “possess only a hazy sense of their own  
35 identity but a monumental preoccupation with all the problems the preceding generation will leave for them to fix.” I don t know about the former in your Honour's case but I have no doubt that you have the latter and occupying a seat on the Federal Court is a good place to apply it.

40 In keeping with your Honour's relative youth, your Honour is also the first judicial officer, federal or state, known to have a Sony Play Station. You see, all your secrets come out at events like this. Grand Theft Auto, reputed to be your Honour's favourite video game, is described, by the promoters no less, as having – and I quote, “blood, intense violence, partial nudity and strong sexual content.” The game is set  
45 in Liberty City, “the centre of the known universe for egomaniacs” in which characters like Bledar Morina, “Albanian thug and fitness enthusiast,” – getting the picture? – rise in the ranks of organised crime over the course of the game. Various

missions are set for completion by the figureheads of the city underworld, generally criminal, which must be completed to progress through the storyline. Bank robberies, assassinations, and other crimes feature regularly, but so do taxi driving, fire-fighting, pimping and street racing.

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I hasten to add that I make these comments in connection with your Honour's suitability for judicial office. Any resemblance to the Sydney Bar is purely coincidental. *Honi soit qui mol y pense*.

10 If the Court pleases, I shall now return to the law. Before graduation and that brief but spectacular career at Mallesons, you worked as a paralegal at Allens. At Mallesons, you reportedly exceeded the billing of a first year solicitor and were cautioned to wind back the number of hours worked. Little wonder you left to go to the Bar.

15

At the Bar you read on the 12<sup>th</sup> Floor Wentworth/Selborne Chambers (with Rares and Higgs) and there, save for an interruption spent in Oxford, culminating in your BCL, you remained. It is there, I suspect, that your departure from the Bar will most keenly be felt. I notice that all the floor members are today downcast, holding hands and clad in the colour of mourning. Only Justice Rares is wearing a smile.

20

Upon coming to the bar, your Honour quickly built up an extremely busy and diverse practice in commercial law and equity. One of your former colleagues described your practice at this early stage as comprising numerous debtors' cases "for whom little could be said by way of merit." You settled one of those cases when your opponent, whom you had not previously met and whose client had driven her to distraction, begged you: "Please don't make me go back in there." I expect that it may be a little harder to win over your Honour in future.

25

30 In the more complex cases, your Honour soon became known among senior counsel as the "junior of choice." Your Honour was the architect of the challenges to the cross-vesting laws that culminated in the High Court declaring that the cross vesting scheme was constitutionally invalid. The Federal Court duty judge was said to be so sceptical about the merits of the case that he was most reluctant to issue the s.78B notices to the attorneys general. The Law Council issued a press release after the decision expressing its alarm at the ramifications of it. The then ASIC Chairman complained that the impact of the decision "in terms of delay, disruption, uncertainty and sterile debate about technicalities has been all too real and expensive." The High Court's decision led to a flurry of legislative activity across the country to validate all the earlier decisions. Ironically, it stripped this Court of most of its jurisdiction in Corporations Law matters. It was probably a direct cause of the collapse of the national corporations law and the passage of the Corporations Act in 2001. And in the long term, it has probably had a much wider effect on our Constitutional arrangements.

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It was quite a case for a junior barrister of roughly three years standing to have undertaken. It showed, as one of your former colleagues put it, that “you had the courage to take an unorthodox position and [the talent to] be vindicated.”

5 Another remarked that the case typified your Honour's constitutional practice: “entirely self-developed and powered by intense intellectual curiosity, rather than years of experience accumulated in government service.” The then Attorney-General was not so generous in his praise. He is said to have referred to your Honour as “a constitutional vandal.”

10 Apparently undeterred by such criticism my predecessor appointed your Honour to the rank of senior counsel in October 2006. You were, as the saying goes, a shoo-in.

15 Your Honour has been described as a “pure-bred barrister:” a great believer in the collegiality of the bar, and one who values highly the institutional importance of professional courtesy. And you practice what you preach. One of my colleagues made the entirely unsolicited remark to me that you were the nicest opponent he ever had – and you won that case.

20 Your Honour has given back to the Bar in spades. On the Bar Council, you have served with distinction. You have always been calm and measured, logical and persuasive and tremendously helpful. The Attorney has referred to your pro bono work and your stint in Fiji last year. That case well illustrates your forensic skills, your generosity and all those other qualities of which the Attorney has spoken.

25 The trial was televised and your Honour acquired celebrity status in the South Pacific. Fanfare aside, it was an especially tough, hard-fought case: one that was not without risk to your Honour's personal safety. Your client was moved to write to the Bar Association lavishing praise upon you and your junior, Rachel Pepper, for your courage and determination for standing up for the oppressed, which he appropriately described as “consistent with the finest traditions” of the legal profession.

30 Despite the breadth of your work and the demands for your services and despite your numerous extra curricular activities I would not do you justice if I did not also mention that you are devoted to your family and your large legion of friends – and they to you.

35 In short, your Honour is a clever, warm, funny, generous, loyal and honourable person.

40 Now, I know I have taken a lot of time but, your Honour, I wear three hats today and so on behalf of the Australian Bar Association, the Law Council of Australia and the New South Wales Bar, I congratulate your Honour on your appointment to the Federal Court.

45 For my own part, am sorry you have chosen to leave the Bar at this point. I console myself with the knowledge that you are admirably suited for the new job – by both

talent and temperament. But we will miss you and I, especially, will miss the contribution your wisdom and common sense brought to the Bar Council.

5 All too soon, the refrain will be heard across this city: that all persons having business before the Federal Court now draw Nye, give their attendance and they shall be heard.

If the Court pleases.

10 BLACK CJ: Ms Katzmann. Mr Westgarth, do you move?

MR S. WESTGARTH: I do, may it please the court. I am honoured and privileged to speak on behalf of the solicitors of New South Wales to congratulate your Honour on your appointments to the bench. This occasion is made even more remarkable  
15 because, as has already been noted, you are one of the youngest appointees ever to the Federal Court. Your appointment is testament to the high esteem in which your Honour is held and an acknowledgement of the skills, experience and personal attributes which you bring to the bench.

20 Your biographical details have already been noted but may I repeat some and add some additional ones. Born in 1969 in Sydney's northern suburbs to parents John and Gillian, your Honour is the youngest of two children, the other being your brother David. I am sure your family, all of whom are here today, are immensely proud of your Honour's achievements, especially as they have been achieved at such  
25 a young age. It must be noted that your father John and your brother David have made a special trip from Denmark and Portugal respectively to share this significant occasion with you.

Your Honour attended Sydney Boys High School where your teachers unanimously  
30 described you as a brilliant student. Your Honour's high school years were brimming with activity as you successfully combined your academic commitments with a plethora of extra-curricula activities. Your teachers instantly recognised your aptitude for numbers, a talent you no doubt inherited from your father, who, as we have noted, is a maths professor.

35 In addition to equations, you also demonstrated a talent for argument, spending six years on the school's debating team, a skill that I am sure served you well in your later years as a solicitor and barrister. However, your talent for debating did not reveal itself overnight, with some recalling your first address at age 11 as sounding  
40 more like a drawn-out speech than a logical argument.

Your Honour also plays the piano, with a strong liking for Bach and in one of your first performances it is said that you played brilliantly the parts you liked but not so the parts you did not. While your musical talent exited stage right, like your first  
45 debating performance, your piano skills also required a little fine-tuning.

Your Honour was also on the school's rugby and rowing teams, being a member of the school's second eight crew in your senior year. Although many other commitments kept you busy, you still had time to execute your duties as a cadet and after six years of devoted service, your Honour rose to the rank of Cadet Under  
5 Officer in command of two platoons. Little did you know then that you would later exchange the jungle green uniform for the more sombre judicial robe. In your senior year you showed yet another talent for doing the numbers when you were elected senior prefect, a duty which you both enjoyed and took seriously.

10 After school you studied arts/law at the University of Sydney, studying both English and maths and after graduating from university, your Honour practised as a solicitor at Mallesons Stephen Jaques for one year before being called to the Bar in 1993 at the age of 24. Some of your Honour's early submissions were considered so creative that other practitioners assumed, incorrectly, that you had read with your good friend  
15 Steven Rares, whom you now join on this Court.

Your Honours major areas of practice were Constitutional and administrative law, equity, commercial law and corporate regulation. In 1999 your Honour travelled to Oxford to study a Bachelor of Civil Law, which you completed in 2000. In 2006  
20 your Honour took silk, attracting the attention and admiration of your peers, who acknowledged your remarkable talent and skill in the courtroom.

During your time as a barrister you worked on a number of high profile cases. One of these already referred to involved representing the ousted Fijian Prime Minister  
25 Laisenia Qarase after the 2006 military coup. Your Honour's performance in Court was so impressive that members of the Fijian community went online to commend you on your performance, one saying, and I quote:

30 *His arguments in front of the Court in the case brought by Laisenia Qarase against the state were simply magnificent. His preparation and delivery is simply outstanding. They –*

referring to the state's defence –

35 *are very scared of being ripped to shreds by Nye Perram.*

Your Honour, on behalf of the solicitors of New South Wales, I hope you enjoy your new position and look back fondly on the days when you ripped the defence to shreds, but look on the bright side, now you can do it to the applicant as well.  
40

We all know that you will continue to apply the same diligence, integrity and compassion that have been the hallmark of your career to date. As the Court pleases.

45 BLACK CJ: Thank you, Mr Westgarth. Justice Perram.

PERRAM J: Chief Justice, your Honours, Mr Attorney-General for the Commonwealth, Ms Katzmann, Mr Westgarth, ladies and gentlemen, thank you for your very generous remarks.

5 It is generally said to be the duty of a judge to apply what has been said in the past to  
a present set of facts, thus contributing to achieving the worthy goal of producing  
similar results in similar cases. That outcome is said by some legal philosophers to  
be close to central notions of what constitutes justice itself. The application of that  
solemn principle to an occasion such as this morning's festivities presented particular  
10 legal problems which are at once both difficult and novel.

Fortunately, modern technology has ensured that many of the speeches given by new  
judges on the occasion of their respective swearing ins are available on the internet  
and, by and large, for free. This is because the notion of pay-per-view judicial  
15 speeches has not yet quite captured the public imagination. A dour afternoon reading  
these speeches convinced me of the need not to read them again. However, at least  
five principles seem to emerge from them.

First, by and large, new judges, at their swearing in, are a very thankful bunch. That  
20 seems to me to be a sound principle and one which, despite some of Ms Katzmann's  
remarks, I will return to in due course.

Secondly, many, but by no means all, give a brief exposition of their proposed  
judicial method, usually intertwined with the expression of a generalised hope that  
25 they will not be as horrible as some of the ogres they recalled as practitioners.  
Judicial ogres are not as common as they once were, having been largely ousted by  
an era of judicial politeness ushered in I think by Justice Kirby when he was the  
President of the New South Wales Court of Appeal. Since that time, the notion of an  
appellate hearing being a blood sport, similar, perhaps, to fox hunting, has faded in  
30 most courts, although as Justice French, who I am pleased to have sitting here today,  
may soon discover, the hounds are still running in some parts.

Thirdly, many new judges are often moved to speak in favour of the rule of law. It is  
always a relief, no doubt, for the Court and the public to find, often after some no  
35 little anxiety, that the new judge is, in fact, in favour of the concept. I will not be  
speaking in favour of the rule of law but I would not want it thought that by omission  
I was against it. I am not. It is merely that I do not think that in the 36 minutes that I  
have been a judge I have yet become equipped with any particularly new or  
especially interesting insights into the concept.  
40

Fourthly, some new judges look forward to the challenge and responsibility of the  
office and hope to discharge its onerous burdens. You may be assured that is most  
certainly my position.

45 Fifthly, many are often forced to respond to some of the calumnies heaped upon  
them by the speakers at the bar table. In this case, there are probably too many to do  
that properly but I will just say one thing about Grand Theft Auto. I am not very

good at it. In a recent game I was mugged by an accountant, which is, I think, the game's way of telling you that it thinks you are truly hopeless.

5 I then turn to the question of thanks. I thank each of the speakers. A lot of work goes into the speeches prepared on these occasions. I thank them for all of the things they have said and I thank them even more for the things that they did not say.

10 My entire career at the Bar was spent on the 12<sup>th</sup> Floor of Wentworth Chambers, next door to this building, where I had the distinct advantage of reading with David Higgs and also Michael Pembroke. I effectively also read with Justice Rares, who is here today, although not in a formal sense. From Mr Pembroke I learnt the benefits of calm and order, from Mr Rares I learnt the benefits of off-piste advocacy and from Mr Higgs I learnt the value of the strategic deployment of drama. I thank all of them. I also thank the 12<sup>th</sup> Floor, which has provided me with the most warm and  
15 intellectually stimulating environment since I was young, or I should say since I was a younger man. I will greatly miss it.

20 My family is here today and my brother and father have both flown from Europe for the occasion and I am deeply thankful that they did so. Apart from a deep sense of consternation at having to give this speech – which you cannot imagine what an anxious experience it is – this day is a great day of pride for me. However, as I was pondering this last night, it occurred to me that so very few of one's own achievements are truly one's own.

25 In my case, without my mother's iron determination to see me raised with a good education, I fear that my circumstances would have been very different indeed. She raised me in circumstances of considerable adversity. I owe her a debt of gratitude which cannot be repaid. She is here today and I hope this ceremony brings her great  
30 pleasure.

My father is also here. I thank him for instilling in me a fascination with things scientific and mathematical. It is only a shame that I have not inherited his very good golf swing.

35 Although she is not here due to ill health, I thank also my grandmother who, at the age when I was 23, mortgaged her house so I could buy my first set of chambers. Although it has all worked out in the end, I must say the idea of mortgaging one's house for a 23-year-old barrister in the middle of a recession is not one which naturally commends itself to a person, but as always, she was adamant about the  
40 matter.

I thank my partner Ross for his forbearance, patience, company and support. People who do not live with lawyers cannot know what it is like to endure a domestic life with a person who genuinely believes that everyone finds the difference between  
45 capital and income interesting.

Finally, I thank all of you for honouring me with your attendance this morning. It has meant a lot to me.

BLACK CJ: Ms Tanner, would you adjourn the Court please.

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