



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

**CEREMONIAL SITTING OF THE FAIR WORK COMMISSION
TO WELCOME VICE PRESIDENT GIBIAN**

Sydney

10.00 AM, TUESDAY, 20 AUGUST 2024

PN1

THE ASSOCIATE: This is a ceremonial sitting of the Fair Work Commission to welcome Vice President Gibian.

PN2

JUSTICE HATCHER: Good morning everybody. At the outset I would like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of this land and pay my respects to their elders past, present and emerging.

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This ceremony today is for the purpose of acknowledging the appointment to the Fair Work Commission of Vice President Gibian and I welcome his family, the speakers at the Bar table and all the other guests present.

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To start off I will ask Mr Breen, who is representing the Minister for Employment and Workplace Relations to address the Commission first.

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MR BREEN: May it please the Commission. I begin today by acknowledging the Gadigal people of the Eora nation, the traditional custodians of the land on which we meet today and pay respects to their elders past, present and emerging. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

PN6

I am honoured to be able to be here today representing the Australian Government on behalf of Senator, the Honourable Murray Watt, Minister for Employment and Workplace Relations who apologises that he is unable to be with us today to welcome Vice President Mark Gibian.

PN7

I would also like to acknowledge your Honour, the President and all Members of the Fair Work Commission and representatives from the legal community, industry and the trade union movement that are here today. I would welcome and acknowledge Vice President Gibian and the members of your family on this significant occasion.

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The Fair Work Commission last month celebrated 15 years since it was established. Throughout that time the functions and remit of this institution have grown and evolved to match the social, economic and legislative changes of our society.

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This Commission and its predecessors have played an invaluable role in shaping Australia's workplace relations landscape for over 100 years. The role the Commission plays now is more important than ever, with the implementation of the government's significant workplace relations reforms to ensure secure jobs, better pay and safer workplaces for Australian workers.

PN10

The Commission has evolved to keep up with the pace of change that we have seen in our economy and in our society, because as much as technology has changed in the relatively short time the Commission has existed the fundamental tenet of a fair go must be upheld. There must be balance. There must be fairness. And that is what is delivered by the Commission.

PN11

As the nation changes so too does the framework of our workplace relations system. Now that the Fair Work legislation covers the majority of Australian workplaces, the decisions of this Commission are being felt widely across the nation. These decisions are felt in every home and they are felt in every workplace.

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The Commission's work will soon extend beyond traditional employment relationships. Soon, the Commission will have new powers to improve the rights and protections of independent contractors. It will be able to set minimum standards for employee-like workers, a cohort of contractors who currently do not have any standards at all.

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It will also be able to set standards for the road transport industry, having regard to the need to ensure the industry is safe, sustainable and viable. In addition, the Commission will also have new functions relating to unfair deactivation and unfair termination for regulated workers and will be able to resolve disputes around unfair terms in services contracts.

PN14

These are historic changes which will see a brand new set of stakeholders interact with the Commission's work. This will bring new challenges and opportunities to the Commission which is already demonstrating its commitment to the genuine consultation and outreach with affected stakeholders as it prepares for the commencement of its new functions.

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The Commission is required to perform functions and exercise powers under the Fair Work Act 2009, in a manner that is just and fair, open and transparent and in a way that promotes harmonious and cooperative workplace relations.

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Minister Watt is absolutely determined that the Commission will continue to perform its functions in this way under the government, and I echo that sentiment today.

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Vice President Gibian, you bring to the Fair Work Commission a wealth of knowledge and experience and advocacy in workplace relations, having practised as a barrister in workplace relations matters for over 20 years.

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You commenced your career in advocacy as a tenant's advocate in 1994 for the Northern Area Tenants Service in Sydney. You then joined the New South Wales Public Service as a policy research officer in the legislation and policy division in the New South Wales Attorney General's Department in 1997.

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The following year you became a research assistant for Dr Mary Crock at the University of Sydney's Law School. In that same year you also became an Associate for Justice Ronald Sackville of the Federal Court of Australia, before becoming a research Associate for the Honourable Justices Frederick Lance Wright and Michael John Walton who were then the President and Vice President of the Industrial Relations Commission of the Industrial Relations Court of New South Wales.

PN20

In 2000 you received your Graduate Diploma of Legal Practice and joined Clifford Chance Limited Liability Partnership in London as a Legal Associate. Returning to Australia in 2002 you became a barrister at HB Higgins Chambers where you have appeared and advised on innumerable workplace relations proceedings for the past 20 years across a broad range of sectors, including construction, education, transport, maritime, health workers and the public service.

PN21

In 2018 you were appointed senior counsel in recognition of your outstanding skill as an advocate and advisor in the administration of justice. Over the past 20 years you have appeared before this Commission representing unions in significant award proceedings across a wider range of industries.

PN22

Examples of the recent work value case for aged care workers to ensure an historic wage rise for those workers as well as the Horticultural Award proceedings, we saw the implementation of the minimum base rate of pay for piece workers in horticulture.

PN23

You have made appearances before the Commission representing gig workers in significant test cases dealing with their employment status, including workers engaged by Foodora, Deliveroo and Uber.

PN24

You have also made appearances in significant workplace disputes across many jurisdictions, including the Federal Court and the High Court of Australia, including recently where you appeared before the High Court representing the Transport Workers Union in the Qantas outsourcing dispute.

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Vice President Gibian, in addition to your work as a barrister, you have also shared your expertise and knowledge and industrial relations to the next generation of lawyers.

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From 2015 to 2018 you were a lecturer of the Law Extension Committee at the University of Sydney. From 2005 to 2016 you were also a convenor for advocacy in the Industrial Courts and tribunals at the University of Sydney Workplace Research Centre.

PN27

Vice President Gibian, you bring to this role strong leadership experience and with your expertise and experience in workplace relations and advocacy the Minister is confident you will execute your duties with impartiality and diligence.

PN28

The government has made clear that for the Commission to work as intended it needs to be properly balanced. The government is delivering on its promise to restore balance to the Fair Work Commission to give workers as equal voice as employers in decisions that affect them.

PN29

Great responsibility is placed on Members of the Fair Work Commission. The balance and fairness of the system depends on the integrity, judgment and skills of the tribunal and its senior leaders. If they are to discharge their responsibilities effectively they require the goodwill, understanding and cooperation of parties, employers, employees and their representatives. I trust this will be forthcoming from all concerned for Vice President Gibian.

PN30

Vice President Gibian, on behalf of the Australian Government I congratulate you on your appointment to the Fair Work Commission. I have no doubt you will make an important contribution to the work of the tribunal for years to come. I convey our good will and wish you well in the exercise of the responsibilities of your office. Thank you.

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JUSTICE HATCHER: Next, Mr Mitchell, the Assistant Secretary of the Australian Council of Trade Unions on behalf of the union movement.

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MR MITCHELL: Thank you, your Honour. I'd also to acknowledge the Gadigal people of the Eora nation and pay my respects to elders past and present. It always was and always will be Aboriginal land. I also acknowledge Adrian Breen representing Minister Watts today and Jessica Tinsley representing the Australian Chamber of Commerce and Industry as well as Dr Ruth Higgins representing the legal profession.

PN33

It is a great pleasure for me to welcome you Vice President Gibian on behalf of our affiliated trade unions and over 1.7 million union members. Your appointment today has been greeted with enthusiasm by unions who, through me, today pass on their congratulations.

PN34

A barrister since 2002, appointed senior counsel in 2018, a lecturer in industrial law at the University of Sydney and in employment law at the University of New South Wales. There will be few better qualified.

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Your career and contribution to the law and of industrial relations over to 22 years at the New South Wales Bar speaks volumes to your suitability to preside over proceedings of the Fair Work Commission. Matters you dealt with that had significant consequences include the *Bobrenitsky v Sydney Trains* matter which clarified the procedural fairness matters to workers when they're forced to contend with a new case against them for the first time and then appeal.

PN36

The Aldi matters which established that union campaigning activities did not constitute trade and commerce as per the definition of the constitutional corporation. The New South Wales trains litigation which preserved the sanctity of extra claims clauses and prevented forum shopping to re-agitate disputes which had been resolved by this Commission.

PN37

The Woodside AWU litigation which allowed this Commission to perform its functions in assessing majority support for bargaining and setting a high bar for the courts to stop that process in its tracks.

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The Qantas baggage handlers litigation which countless armchair experts assured the world at large was destined to fail and which provided an important reminder that brand recognition and status does not mean immunity from the Fair Work Act.

PN39

There are but a few of these significant cases that you have been involved in. These and many more are often referenced in the outlines of submissions and letter of demand that cross the desks of industrial relations practitioners and lawyers delivering today.

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But it is not all about the law and nor should it be. Granted there are some skills that we associate with leading lawyers which you're renowned for – a razor sharp intellect, a pronounced work ethic, an attention to detail that leaves no stone unturned.

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But this institution requires more than that. This institution plays a crucial role in maintaining fairness and balance in working relationships that are the foundation of our nation's social cohesion and economic prosperity. Every working relationship is important. Every workplace is important. Every worker is important.

PN42

Insight, empathy, candour and the ability to see the wood from the trees are – and to use an expression I generally recoil from in other contexts – inherent requirements of the position.

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Those who have worked with you, including those who were opposed to you speak very highly of your character in this regard. You listen more than you speak. You're courteous and polite but won't sugarcoat bad news. Appreciative of other people's perspectives, generous with your time and will go out of your way to assist. At all times supportive and encouraging of others and unfailingly dependable.

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We congratulate you, Vice President, and look forward to seeing your expertise, wisdom and good character reflected in your work as Member of this Commission.

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JUSTICE HATCHER: Ms Tinsley, on behalf of the Australian Chamber of Commerce and Industry.

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MS TINSLEY: Thank you, your Honour. If it pleases the Commission I appear on behalf of the Australian Chamber of Commerce and Industry. I too wish to acknowledge the traditional owners of the land in which we meet today and pay my respects to the elders past and present. I would also like to acknowledge those Members of the Commission in front of me and those beside me at the Bar table, including, Mr Breen, Mr Mitchell and Dr Higgins.

PN47

And, of course, I acknowledge one of the Commission's newest members, Vice President Gibian and his family and friends who join us today. It is a privilege to stand on behalf of employers to welcome your appointment today, Vice President.

PN48

You come to the Commission as a member of the legal profession, as many before you have. You are in the midst of a successful career at the Bar and while I have not had the pleasure of meeting you before today, Vice President, you are certainly known to many by reputation.

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You are known nationally as a leading barrister in industrial and employment law and you have your name attached to some high profile wins for workers. You are referred to in the media as a counsel of choice to unions. Predictably, it is this title which may cause some employers to write off your appointment as yet another pro-union selection by government. I don't agree.

PN50

A quick scan of your recent wins for the union movement makes clear that the government may have done employers a favour by appointing you. In appointing you, Vice President, the government has clearly removed one of the sharpest tools

the unions have in their tool box. Put simply, employers might finally catch a break in proceedings with you gone from the Bar.

PN51

It is also the case, Vice President, that in your new role at the Commission employers can finally bear the benefits of your integrity, keen intellect and expertise – attributes we have already heard about today.

PN52

The union movement's loss is the Commission's, so everyone's gain. You also come to the Commission after a successful academic career, lecturing in labour law. Your colleagues at the Bar speak of your mentorship, of other barristers, solicitors, and union staff. With this experience you bring invaluable desire to educate and capacity build to the Fair Work Commission.

PN53

Your abilities as an educator will be of exceptional value to the Commission and those who interact with the Commission, particularly given the vast changes in Australia's workplace relations landscape.

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Finally, as Vice President, you will be involved in the management and administration of the Commission itself. In this mission employers urge you to follow the path already being forged by your fellow senior colleagues, President Hatcher and Vice President Asbury.

PN55

At a time when employers are feeling overwhelmed by the scale and pace of pro-worker legislative change it would be easy for them to vent their frustrations at the body responsible for implementing those changes. I have not found this to be the case.

PN56

Overwhelmingly, I hear employers appreciative of the approach being taken by the President and Vice President in setting the shift. While we won't always agree, or be happy with every decision employers speak positively of the Commission's work in implementing the changes, particularly, the focus on collaboration, consensus, consultation and education.

PN57

Vice President Gibian, to conclude, your appointment comes at a time when the work of this tribunal has never been more critical. Over the past years Australia's economy has faced immense challenges. The effects of the Pandemic, shifts in workplace dynamics, and the increasing complexities in industrial relations regulations, just to name a few. You bring to the Commission not only years of expertise but a drive to make Australian workplaces better.

PN58

We trust that you apply your great legal knowledge with integrity and in good faith. So, again, on behalf of the Australian Chamber of Commerce and Industry and employers more generally we welcome you to the Commission and we look

forward to supporting and learning from your leadership. If it pleases the Commission.

PN59

JUSTICE HATCHER: Doctor Higgins, President of the New South Wales Bar Association.

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DR HIGGINS SC: May it please the Commission. I acknowledge the Gadigal people of the Eora nation on whose lands we meet. I pay my respect to their elders past and present and I extend that respect to all First Nations persons present today.

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Your Honour, Justice Hatcher, it is a privilege to appear on behalf of the NSW Bar Association to welcome the appointment of Mark Gibian SC as one of the Vice Presidents of the Fair Work Commission.

PN62

Vice President Gibian, it is now some two months since you took up your role and began to work at this Commission. The life at the Bar perhaps already feels like another country but my happy task today is to celebrate your achievements in that profession that led naturally to your appointment to your current role.

PN63

You were called to the Bar on the 15 February 2002 and practised in the areas of industrial and employment law, discrimination and administrative law and Vice President you took silk on your first attempt in 2018.

PN64

Throughout your time as a barrister you had one of the busiest industrial and employment law practises at the New South Wales Bar. As Mr Breen alluded to you appeared for the Australian Workers Union in proceedings seeking to amend the Horticultural Award to guarantee that every worker, on every farm was entitled to take home the minimum casual rate of pay.

PN65

The claim resulted in a variation to the Horticultural Award to insert a minimum wage for it. The Commission ruled that the existing piece worker provisions in the Horticultural Award are not fit for purpose. They do not provide a fair and relevant minimum safety net.

PN66

The then Australian Workers Union National secretary, Daniel Walton commented at the time that it was one of the most significant industrial decisions of modern times. Observing that, I believe, this decision ranks among the great victories of our union's 135-year history.

PN67

Vice President as we have also heard you appeared for gig economy workers, specifically individuals delivering for Uber Eats and Deliveroo, in cases testing

whether gig workers are employees or independent contractors under workplace law. Those cases illuminated the parlous work conditions produced by the gig economy and several unintended loopholes affecting various pieces of legislation.

PN68

The insights of those proceedings, in part, informed the announcement on the 28 July 2024 by the New South Wales Government of legislative changes to improve protections for gig workers and for delivery and ride share. Those changes utilised longstanding powers under the New South Wales Industrial Relations Act to ensure that for delivery and ride share drivers will empower the New South Wales Industrial Relations Commission to set minimum pay and conditions for gig workers in the transport sector, mediate and if necessary arbitrate disputes between platforms and gig workers and prevent companies trying to redefine gig workers to get around the reforms.

PN69

So, too, Vice President you appeared for the Transport Workers Union in its landmark claim against Qantas, challenging a decision made by Qantas during the COVID Pandemic to outsource ground handling operations work at a time when the union was unable to take protected industrial action.

PN70

In July 2021, the Honourable Justice Lee, of the Federal Court of Australia who is present today, found that Qantas could not show that it had not made the workers redundant for the reasons alleged by the union. Because the right to bargain and take industrial action of workplace rights under the Fair Work Act, Qantas had taken adverse action against those employees in breach of the Act. The outcome was affirmed in the High Court.

PN71

That case was, perhaps, as jurisprudentially and politically significant as the 1998 Patricks Waterfront workers dispute in which Patricks was alleged of restructuring deliberately to sack maritime union workers.

PN72

And at the time you were appointed Vice President you were appearing for the journalist Antoinette Lattouf in her unfair dismissal claim against the ABC which is ongoing.

PN73

Your practise extended beyond industrial relations however. You practised extensively in administrative law and judicial review, migration and refugee law, human rights and discrimination law and disciplinary proceedings. That included engaging in pro bono advocacy work in migration and refugee law.

PN74

That altruistic interest had been foreshadowed in your time as a student when you, along with other students, made a submission to a Senate Committee hearing concerning the Migration Legislation Amendment Bill alongside your teacher, Dr Mary Crock, now a Professor of Public Law at the University of Sydney.

PN75

After you had been called to the Bar, Vice President, you continued your academic pursuits being variously a lecturer for the Law Extension Committee at the University of Sydney from 2005 and lecturing on employment and industrial law at the University of New South Wales.

PN76

So, too, you gave up your time to our Bar Association, sitting on the Industrial Employment Health and Safety Committee in 2018-2019 and the Human Rights Committee in 2019-2020.

PN77

As a barrister, Vice President, you were renowned for your calm accord manner, a calm informed by careful preparation and a focus upon the arguments that you knew could be soundly advanced. As an opponent you were courteous and unflappable and as a cross-examiner polite but deeply effective, carefully directing witnesses to documents in a way that facilitated a measured but devastating cross-examination.

PN78

Your clients, Vice President, valued your professionalism and honesty. Prospects of success were not over aired. Pitfalls were frankly identified but if a case was a good shot that too was simply and candidly put.

PN79

In a crisis clients and juniors alike were grateful that your first resort was often to witty one-liners as opposed to complaints or criticisms. You have been described as seeing with ease the bigger picture and being able to be pragmatic when that was called for.

PN80

Your juniors, Vice President, particularly remarked upon your self-sufficiency which is, I have found, the quality most likely to endear a senior counsel to his or her juniors. That self-sufficiency was assisted by your avant garde digital practise which largely involved working entirely from digital documents and not requiring the delivery of endless streams of briefs.

PN81

There was, however, one thing your juniors didn't get right and they needed to do so under fear of having any document returned to them with the appearance of 100 per cent tracked changes. That was to ensure the application, before sending, of your preferred font, Palatino Linotype, a highly legible typeface created by Professor Hermann Zapf which draws on the humanist types of the Italian Renaissance.

PN82

As another aficionado of Palatino Linotype, Vice President, I can only respectfully agree that it is the font of persuasion.

PN83

Your self-sufficiency did not, however, prevent you from mentoring many of your juniors, who will miss you greatly as a leader. Your juniors do not, however, regret the substantial vacancies created in the ranks of the senior industrial relations Bar by your appointment as Vice President of this Commission.

PN84

In the midst of the appointment of Justice Yaseen Shariff to the Federal Court, Deputy President Tony Slevin to this Commission, Justice Ingmar Taylor, as President of the Industrial Relations Commission and Justice of the Industrial Court, and Justice David Chin as Vice President of the Industrial Relations Commission and Justice of the Industrial Court at the same time that Harry Dixon SC retires. It is, on any view, a very good time to be an ambitious senior junior at the New South Wales Industrial Relations Bar.

PN85

Vice President, much of your professional life was conducted from HB Higgins Chambers of which you were for some time floor secretary. Your colleagues at those Chambers will miss you greatly and uniformly describe you with affecting simplicity as just a very good human being.

PN86

A lasting legacy of your time at the Bar is the Northern New South Wales Association would have tipping competitions of which from 2006 onwards you and Justice Taylor officiated as joint games master.

PN87

At Justice Taylor's recent swearing in at the Industrial Court of New South Wales, the Attorney-General of New South Wales directed completely without power that that competition should continue. I understand that no executive direction will ultimately be required and that the comp will organically persist surviving even the dual judicial appointments of its joint games masters.

PN88

Your involvement in that competition, Vice President, flowed from a love of football. It is not known whether mere coincidence resulted in your elder daughter being named Matilda, but it is known that you play, watch and coach football with both Matilda and your daughter, Nina, including cheering on Australia's most popular sporting team.

PN89

Vice President, it is abundantly apparent that you enjoyed many, many of the traits best fitted to the successful and ethical discharge of the barrister's task. The New South Wales Bar thanks you for your service to the administration of justice as an advocate, and as you commence public service we have complete confidence that you will discharge this new and important role with equal grace and we wish you every happiness in doing so. May it please the Commission.

PN90

JUSTICE HATCHER: I will now invite Vice President Gibian to speak.

PN91

VICE PRESIDENT GIBIAN: Thank you Justice Hatcher. I also acknowledge the traditional custodians of the land on which we meet and the Gadigal people of the Eora nation and pay my respects to their elders past and present and to First Nations people present or participating in the ceremony today.

PN92

Now, I thank the speakers for their kind words and all of you for attending today, you honour the Commission and me.

PN93

I am honoured and humbled to become a member of the Fair Work Commission. I first appeared in what was then the Australian Industrial Relations Commission in 2003 in a reinstatement case involving a rail worker dismissed for neglect of duties. It was heard at Katoomba Local Court. I am pleased to report that the man was reinstated. Only after the end of the case did he tell me that it was the second reinstatement in his career. I was very glad he had the common sense to keep that to himself until the case was over.

PN94

From that humble start I have come to appreciate the critical role this Commission has played and its predecessors have played in shaping the nation for 120 years.

PN95

The institution has, of course, at times reflected the imperfections of the nation. It created and maintained discriminatory wages for women and First Nations people for too long, a history the correction of which remains an ongoing task.

PN96

The Commission, however, has been critical in balancing the interests of workers and employers in individual disputes, in collective bargaining, and in establishing what is now called a fair and relevant safety net of wages and conditions in an endeavour to make good of the country's self-perception as an egalitarian place.

PN97

It is particularly exciting to join the Commission at a time of significant legislative change and in which the Commission has been conferred with important new powers and jurisdictions.

PN98

I want to spend most of the time today expressing my gratitude to the many who have assisted me along the way to this point. It is not possible to even begin a journey to a position such as this without the assistance and support of a great many people.

PN99

I have to start with my parents, Pip and Tom. Both are doctors and instilled from an early age the importance of education, a sense of public service and a commitment to social justice and provided me with enduring love and support.

PN100

They also had the sense to send me to public schools and I am the proud product of the New South Wales public education system, having attended the local comprehensive primary and secondary schools which provided not only academic learning but an appreciation that people come from a range of backgrounds and experiences.

PN101

I came into law primarily, I think, because I was interested in politics without really knowing what law or what being a lawyer involved. At university my world expanded in many ways. Aside from the study of constitutional law, contracts and equity and contemporary German philosophy I was fortunate to begin an involvement in and an enthusiasm for areas of law which directly touch the lives of ordinary people.

PN102

As Mr Breen, I think, mentioned it started with housing law. In the early 1990s the New South Wales Government had defunded the Tenants Advice Services and the only avenue available for renters in New South Wales to receive legal information was a telephone hotline staffed by volunteers – which was run by the Tenants Union of New South Wales.

PN103

Willing law students were recruited to the task including me. When funding of the services was restored that led to a job as a Tenants Advocate in Northern Sydney and Redfern Legal Centre. Having completed a third of a law degree, aged 20, I was thrust into advising tenants about disputes with their landlords and extremely green gained advocacy experience appearing in what was then the Residential Tenancies Tribunal of New South Wales, mainly for public housing tenants facing eviction.

PN104

Before my first appearance the Legal Aid solicitor who supervised the services asked me if I had heard of the rule of *Browne v Dunn*. Having not reached that part of my law degree I stared back blankly. Justice Lee who is here taught me more about that rule recently.

PN105

It was a formative experience of the importance of the law, in protecting the vulnerable, but also that the law could not solve all problems. Out of university I applied for a job with the newly appointed President of the then New South Wales Industrial Commission, Justice Lance Wright.

PN106

Lance likes to take credit for introducing me to employment and industrial law. To the extent it is credit, it is credit he deserves. Lance was a great source of knowledge of industrial law and imparted a reverence for its history, richness and traditions.

PN107

When it came time to become a proper lawyer, Justice Michael Walton, then the Vice President of the New South Wales Commission told me to go straight to the

Bar – the sooner, the better. 'If you want to do union work' – he told me – 'Go and see Steve Crawshaw at HB Higgins Chambers.' He told me in advance that Steve would gruffly tell me I was wasting my time – but to ignore him.

PN108

When I went to see him Steve **duly** told me I'd be wasting my time and would never get any work but I could join Chambers if that was what I really wanted. So began 22 years at HB Higgins Chambers. Due in no small part to Steve's own support, his prognostication proved inaccurate. I owe a great deal to all at HB Higgins Chambers, particularly Steve and the President Justice Hatcher.

PN109

Not only did they get me involved in many important and interesting cases they taught me much about the practise of the law and what I regard as the right attitude to take to it. Take the law and the cases seriously, work hard, and fight like hell. Your clients deserve no less. But don't take it or yourself too seriously, you're just a lawyer. You're hardly saving the world here.

PN110

There were nonetheless many interesting and significant cases that some of the speakers have mentioned today. Major award proceedings involving public sector employees, aged care workers, fruit pickers, teachers, police, health care workers and paramedics, test cases on the status of gig workers, the dismissal of fixed term employees, the entitlements of workers on workers' compensation, working with children legislation, casual employment and superannuation.

PN111

Proceedings arising from major industrial disputes. From Qantas's grounding its airline in 2011 to the outsourcing its ground handling operations during the Pandemic. Industrial action by train drivers, tug boat operators, offshore oil workers and many others I have no doubt forgotten. It was all great fun and I am sad to leave that behind but eager to make a contribution in another way.

PN112

Many at HB Higgins Chambers and at the Bar, generally, have become life long friends and provided invaluable support and camaraderie. Without meaning any disrespect in naming just a few, I will omit their current titles. They include Francis Backman who was my tutor, Ingmar Taylor, Tony Slevin, Patricia Lawson, Tony Howell, and more recently Jim Glissan, Adam Guy, Darian Nagle and Ahmad Moutasallem. I am also grateful to Damien Elliott, who was the clerk at HB Higgins for that entire period.

PN113

Becoming senior counsel gives one the opportunity to work with many great juniors. I have to particularly mention Phil Boncardo who is chief among them. Phil is a wonderful, skilled and committed barrister and provided astounding support to me in the many cases we did together and is a good friend. His work in the Qantas outsourcing proceedings deserves particular recognition. I think he is exceeded only by Chris Tran in the unholy hours of the day and night at which he would send me draft submissions.

PN114

I would also like to thank particularly Tony Howell, Leo Saunders, Lisa Doust and Adam Guy – among others.

PN115

The presentation of cases is, of course, a team effort. I was fortunate to have many outstanding instructing solicitors who provided invaluable insight into the conception and preparation of the cases and did amounts of work that I'm sure I didn't even comprehend. Most also provided fantastic company. Being in court not infrequently reminded me of the scene in the George Clooney film *Intolerable Cruelty*, in which during a trial, George's character is so busy gossiping at the Bar table with an Associate that the Judge has to interrupt to ask if counsel has any questions for the witness.

PN116

The solicitors are again too many to name but to mention a few – Judith Wright, Alison McRobert, Alex Grayson, Bill McNally, Nathan Keats, Michael Doherty, Josh Bornstein, Mia Pantechis, and Penny Parker. There would, though, be no cases of course without clients. It is an incredible privilege to be trusted to run cases for clients who place their faith in your hands.

PN117

I was fortunate to develop longstanding relationships with many unions. That started with public sector unions in New South Wales, principally the PSA, the Nurses Association, the Police Association, Teachers Federation and HSU. I am particularly grateful to the Transport Workers' Union and its Federal Secretaries Tony Sheldon and Michael Kaine and Assistant Secretary, until recently, Nick McIntosh, and long standing legal officer Lorraine Biviano.

PN118

Lorraine sat beside me and behind me in many cases. Seared in the memory are the hearings of what was then the Road Transport Remuneration Tribunal, that the President of that tribunal insisted on listing every day of the Easter long weekend in Melbourne one year starting at 9.00 am each day. The elected officials abandoned Lorraine and I to that task. I think only Commissioner Sloan who is here would have probably experienced that treat.

PN119

There were many other important cases in which I was briefed by the AWU, MUA, CEPU, AMWU, IEU and MEU – among others.

PN120

I have, of course, to thank the loved ones in my life. I have mentioned my parents. I would also like to thank my sisters Alice and Jane for their support. My two smart, talented and tenacious daughters, Matilda and Nina, enrich my life to an extent it is impossible to exaggerate and make me prouder every day.

PN121

There is no more challenging bench to address or one whose opinions I respect more than my partner, Katherine, Matilda and Nina. Without their critical rulings I no doubt would have become even more unbearably self-important before now.

PN122

My partner, Katherine, is the love of my life and my inspiration and my greatest supporter. Thank you for everything.

PN123

Can I thank, finally, Justice Hatcher, Vice President Asbury and the other Members of the Commission for welcoming me so warmly to the Commission. It helps to have so many good friends already here.

PN124

I thank my Associates Zane and Indigo for helping to organise today and for their assistance so far. Thank you all.

PN125

JUSTICE HATCHER: On behalf of all of my colleagues I would like to congratulate the Vice President on his appointment. I thank everyone for their attendance this morning, both at the Bar table and as guests. I am told that there is some rudimentary form of morning tea that has been arranged on Level 12. So you are all invited to attend. We will now adjourn.

ADJOURNED INDEFINITELY

[10.39 AM]