

IN THE INDUSTRIAL COURT  
OF NEW SOUTH WALES

THURSDAY 11 JULY 2024

**CEREMONIAL SITTING TO WELCOME HIS HONOUR DAVID CHIN AS  
VICE-PRESIDENT OF THE INDUSTRIAL RELATIONS COMMISSION OF  
NEW SOUTH WALES AND JUSTICE OF THE INDUSTRIAL COURT OF  
NEW SOUTH WALES**

Justice Taylor, President  
The Honourable Michael Daley, Attorney General  
Mr Brett McGrath, President for the Law Society of New South Wales  
Mr Thomas Costa, Assistant Secretary for Unions New South Wales  
Mr Luis Izzo, Managing Director - Sydney Workplace, Australian Business  
Lawyers & Advisors

---

PRESIDENT: Welcome to the ceremony to mark the appointment of the Honourable Justice Chin as Vice-President of the Industrial Relations Commission of New South Wales and Justice of the Industrial Court of New South Wales.

We are sitting here on the land of the Cadi people, the Gadigal of Eora Nation. I acknowledge their elders, past and present, and extend that acknowledgement to all other Aboriginal and Torres Strait Islander peoples here today.

Justice Chin, when I was told you were to be appointed Vice-President, I was overjoyed. I could think of no better qualified person, nor anyone with whom I could work more closely. Your Honour, you bring to the position many attributes which enhance this Court. Legal brilliance, outstanding values, a warm personality, height. As the published author of a leading employment text now in its third edition and a leading industrial silk, you have the perfect credentials. I am so pleased that you have accepted this appointment, and I

look forward to working with you for many years. Mr Attorney?

ATTORNEY GENERAL: Thank you, your Honour, may it please the Court.

May I begin by acknowledging the traditional custodians of the land, the Gadigal of the Eora Nation and pay my respects to elders, past and present, and acknowledge Aboriginal friends and colleagues that are here with us this morning.

Mr President, thank you for the invitation to speak today. Your Honour Justice Chin, I welcome you here on this special day on behalf of our state, of the New South Wales Bar, it is my great pleasure to congratulate you on your appointment.

Today, you become a judge of the Industrial Court of New South Wales and Vice-President of the Industrial Relations Commission of New South Wales. May I reinforce what his Honour has just said about being overjoyed when he heard of your appointment, it was me that advised him of your appointment. He was overjoyed, and there are many, many people in New South Wales who are overjoyed, many of them are here in the Court today.

I welcome your Honour's wife Rachael, your mother Lorraine and your father George. Watching alongside them is your younger sister Melissa and niece, Olivia. Also here are your many friends and colleagues. Others are joining online to celebrate with you today. These people have witnessed your accomplished and interesting life.

Your Honour, you were born in 1970 in Ipoh, Malaysia. Your father George is Malaysian and was an accountant. Your mother Lorraine is a country girl from New South Wales. You have proud heritage. They met while

your father was studying in Sydney and your mother was a switchboard operator at St Vincent's Hospital. They moved to Ipoh in 1969. You came along a year later and were joined by Melissa in 1972.

At age 1, you, unsurprisingly, had a brief brush with fame when you won the local beautiful baby competition. You followed this up by travelling to Hong Kong competing in another one and won that one too. The prize was a year's worth of powdered milk, and I just take this opportunity to just pause and reflect, that there are some things in your life that you are bound to say only once. I think I have had such a moment.

Life in Malaysia was good. Swimming was your main activity and you enjoyed being in the middle of a large extended family. You were also a voracious reader. You read everything from Narnia to Gulliver's Travels and the latest sci-fi. You describe yourself as a responsible child, especially as an older brother. I will be interested to hear Melissa's take on that later on over tea and cakes.

In 1978 there was a big change. You and your family moved to Australia. You first lived in Ryde before settling in St Ives. The adjustment was hard at first. Sydney was hugely different from Ipoh, which was most felt at school where you remember being known as the kid with the strange surname. What your classmates soon found out was that you were amazing at sport. You excelled at cricket, rugby league and rugby union. You quickly made close friends.

Alongside your sport achievements were your academic ones. You were junior school captain at Corpus Christi, and later vice-captain at St Leo's Catholic College at Wahroonga. You loved school and you made most of the

opportunities there. Upon graduation you had a very clear idea of your career, sort of. You wanted to work with words. You first favoured journalism or communications, but the law quickly won out. The editors, the tabloid editors, of Sydney, were the ones who missed out there. This interest soon developed into a full-on passion as you studied at Macquarie University.

The class that really caught your attention was employment law, because you quickly understood that the laws that protect employees and livelihoods impact people's lives in a profound way, perhaps in a way that no other body of law does. You graduated in 1994 with a Bachelor of Economics and Bachelor of Laws with Honours, the same year you were admitted as a solicitor in New South Wales.

The next year took you to the University of Oxford, where you undertook a Master of Studies in Legal Research. You have described this as an amazing experience. It was your first time in England and you were in awe of many things, particularly its history, but at the same time, you were eager to get started with your legal career, and so on your return to Australia, you became the legal officer at the Labor Council of New South Wales. Coincidentally, your first ever appearance in court was at the Industrial Relations Commission. You instantly aligned with its purpose. To be independent, fair and efficient. It was also in this moment that you discovered how much you loved being on your feet, arguing a case. You loved the flourish. You caught the bug for advocacy, and it was clear that you wanted to be a barrister, to be an advocate.

Your journey to the bar started when you worked as a solicitor at Jones Staff & Co, now known as McNally Jones Staff. Here, you learned

under the mentorship of the Honourable Conrad Staff, as many have before you, and some are still doing now. He instantly saw your enthusiasm for the work, and you were soon running your own cases.

Colleagues offered an example of highlight of your exemplary early work. It was the case of a Fijian man who came to you because he had not been paid his wage at the butchery where he worked. His boss even went to the great lengths of denying that he was an employee. Thanks to your Honour's skill and advocacy and passion and flair, the man was paid his full salary. He got what he deserved. You ensured that fairness prevailed, and this case aligned with your desires as an advocate, and now as a judge, to enliven social justice and positively impact people's lives to remedy unfair outcomes for every-day people, and you have managed to achieve just and fair outcomes for many more people in areas of law which span industrial employment law, work, health and safety, and discrimination laws across all of those realms. You have extensive experience in these areas, having represented employees, employers, trade unions, public regulators in trials, in appeals and inquiries.

You were admitted to the bar in 2001 in New South Wales, 5 Wentworth became your home, and it is an understatement to say that you thrived there. You took silk in 2019. The breadth of your work as a barrister is extraordinary. There are simply too many matters to mention in detail, but two in particular stand out, your Honour.

In 2021 your Honour appeared with a large team before the High Court, in one of the largest and most significant employment cases in recent memory; *WorkPac Pty Ltd v Rossato & Ors* [2021]. Your Honour was arguing about how to determine whether a person was a casual employee. On this brief

description, perhaps the gravity of this case is not immediately clear, but at the time, it was suggested that its outcome would have financial implications stretching into the billions of dollars for the Australian economy and fairness for all casual employees.

The other case, that your Honour has described as one of the most that you were proud of, was in 2019, where your tireless work led to an agreement with the Department of Education to settle the Public Service Association's equal pay case for school administrative and support, or SAS staff, leading to substantial pay increases for historically under-valued staff.

In a judgment, the New South Wales Industrial Relations Commission noted at the time, across New South Wales, the Department of Education employed about 18,000 full-time SAS staff, and about 93% of those roles were occupied by women. The Commission went on to find that the work performed by SAS staff had been undervalued on a gender basis, and that the consent orders and other measures in this matter, were designed to resolve this inequity. This was a historic outcome, rectifying a lengthy period of pay inequity on the basis of gender. Your Honour was in the thick of it and has every right to be proud of your efforts.

Colleagues and opponents, your Honour, have described a number of qualities that pertain to you. They know you to be calm and measured. They say they have never witnessed you raise your voice unnecessarily. You are approachable and have formed productive professional relationships and deep friendships with many of your colleagues. Junior members of the bar have valued your guidance and support, describing you as a steady hand and a calming voice when they needed one. You cherish the opportunities that have

been granted to you to teach others.

You began as a casual lecturer at the University of New South Wales in 2001, this was followed by an appointment as an adjunct lecturer, and then a senior adjunct lecturer in law at the University of Sydney. Your writing has helped many to understand employment and industrial law.

As his Honour mentioned, a highlight of your contribution to the field, is *The Modern Contract of Employment*, written with Ian Neil SC and Christopher Parkin, which is considered the landmark text on the subject. The launch of the third edition was marred only by the inconvenient timing of the introduction of the *Fair Work Legislation Amendment (Closing Loopholes) Bill 2023*, which necessitated a small addendum be slipped into the cover. I am told that after the months of work, phone calls and meetings it took to update and perfect the book, this caused only a small degree of vexation amongst you and your co-authors. We look forward to the many references to your Honour's judgments, that will no doubt feature in the next edition.

Your Honour has also been actively involved in the continuing legal education of the profession. Even during the COVID pandemic, you presented multiple seminars on employment rights, including a seminar on the Guide to the JobKeeper Scheme and a seminar on Employee Rights in the Age of COVID.

Colleagues highlight your amazing legal imagination and your skills in the area of advocacy. Your attention to detail is legendary. You leave your time as a barrister with an acclaimed and esteemed reputation, as one of the pre-eminent voices in employment and industrial law. The success, of course, as is always the case at these occasions, has not been achieved alone. I know

you would want me to give thanks to the many people who have contributed and supported your journey, as you will indeed yourself shortly. Chief amongst them, is Rachael, of course. She is your biggest supporter, and you hers. She is clear in the knowledge that success has not been handed to you. She knows the work you have done to get there. She has been a witness to your early starts, a lie-in is usually 5am. She has been witness to your dedication to your clients to go above and beyond. Your compassion is intrinsic. She also sees the other side. Your dedication to family, friendships and your nurturing of a balanced home life. There is nothing you like more, apart from reading, than taking your dog Lucky for a walk. I hope you do not take him for a walk at 5am, your Honour.

Your fitness has always been important. You have a deep love of sport. You still love cricket but had to stop playing due to a dodgy knee. Watching it is still a passion, however, and Rachael offers that these days there are moments where your even-keeled nature betrays you. The ardour is too great, the game too important, the passion runs too deep. Your dodgy knee has not prevented you and Rachael from taking to the dance floor together, I am told. You started ballroom dancing about two years ago and loving the experience. You have a love of Elvis that borders on obsession and sometimes perhaps you need singing lessons to sound like him.

Your Honour, there can only be one Elvis, just as there is only one Justice David Chin. The Industrial Court of New South Wales and the Industrial Relations Commission and the people of New South Wales are fortunate to have you. I know that you are honoured by your appointment and that you say that it is a dream come true. I know from talking to you when I



offered you the appointment and from the subsequent meetings that we have had after that, that you are so excited to be part of the re-establishment of this Court.

I saw when I first met you the glint in your eye, the energy, the passion, the enthusiasm, the willingness to get stuck into this job. It is there today for all to see and we all know that it will accompany you through a long and distinguished career on the bench. On behalf of the bar and on behalf of the people of New South Wales, congratulations, your Honour, and thank you for your service. May it please the Court.

PRESIDENT: Thank you, Mr Attorney. Mr McGrath?

MCGRATH: Thank you, your Honour. May it please the Court. I too acknowledge the Gadigal of the Eora Nation, the traditional owners of the land on which this Court stands, and pay my respects to their elders past and present. I acknowledge and extend my respect to all Aboriginal and Torres Strait Island people who are with us here today. Your Honour, I am privileged to come before the Court on behalf of the solicitors of New South Wales to offer congratulations and wish you well in your appointment as a judge of the Industrial Court of New South Wales and as Vice-President of the Industrial Relations Commission.

Indeed, this week, taking in the opening days of this Industrial Court of New South Wales, is a significant one. We are making the start of a new chapter in industrial relations law in New South Wales, almost 125 years on from when it first began. We are joined today by your Honour's wife, Rachael, and your family and friends who are delighted and deeply proud of you. This pride includes your father's, who recently celebrated his 80th birthday with the

news that his son was to have the dual titles of vice-president and judge of the Industrial Court of New South Wales, no doubt a terrific birthday present from the Attorney General.

As we have heard, your Honour was born in Malaysia in 1970 and moved to Australia with your family in 1978. A lifetime of achievement began early. You were vice-captain of St Leo's College and developed a fast love for the law upon commencing a double degree in law and economics at Macquarie University and then, as we have heard, onto Oxford. From an early age, you believe in the right of all of us to live in a fair and cohesive society. After being admitted as a solicitor in June 1994, your Honour's first job as a legal officer was with the Labour Council of New South Wales, now known as Unions New South Wales, followed by four years as a solicitor with Jones Staff & Co.

It was working across both of these rules where your Honour first caught the attention of your former boss, the Honourable Conrad Staff, and described as attaining the advocacy bug and, the pervading symptom, a desire to become an advocate as swiftly as possible for your Honour, wanted to go to the bar early in your career, but it was Mr Staff himself, a former judge of the New South Wales Industrial Relations Commission, who encouraged you to continue to practise your advocacy work and ever-growing specialisation in work, health and safety, industrial employment and discrimination law.

Two and a half years after this initial conversation and the advocacy bug took hold, and after running several workplace reinstatement cases, you were called to the bar in February 2001 with your boss's full blessing. Your Honour quickly built a large and high-respected trade union practice. Your work in some of the most formative industrial cases in Australia has already been

covered by the Attorney General, but some of these achievements bear a quick repeating. *WorkPac v Rossato*, the High Court ruling on the common law meaning of casual employment, resulting in a clarification in definition of what it means to be a casual employment, the significance of this case is apparent from the Fair Work legislation amendment closing the loopholes reforms.

There was also *Crown Employees, School Administrative and Support Staff Award 2019*, as referenced by the Attorney General, which resulted in rectifying the gender-based undervaluation in a workforce which is overwhelming female. This landmark case resulted in a pay increase for staff of more than 19%. Then there was *Skene v WorkPac Pty Ltd* in 2018 regarding compensation and penalty for mischaracterisation of employees as casual rather than permanent and on which the *Rossato* case relied, and *Aged Care Award 2010* in 2024 before a Full Bench of the Fair Work Commission concerning a stage 3 application for wage increases in the aged care industry for work value reasons and, again, gender undervaluation.

Throughout your Honour's illustrious career at the bar you have appeared in a number of coronial inquests and other commissions of inquiry as well. Your Honour took silk in 2019. Your areas of practice spanned discrimination, restraint of trade, statutory employment rights, public sector appeals and workplace health and safety. Through the many matters in which you appeared, your Honour became renowned across the country for your analytical mind, as well as your dutiful and fair dealings with your clients. Your expertise across employment, workplace and industrial law has been widely read and appreciated by your colleagues. They also note your outstanding

taste in Haigh's chocolate.

Alongside Ian Neil SC and Christopher Parkin, as we have heard, you were the co-author of *The Modern Contract of Employment*, now up to its third edition and considered the leading book in this area of law. Your Honour can no doubt look forward to having this work cited for you from time to time on the bench. I believe you have been passing on your distinguished skills to the lawyers of tomorrow. For many years, your Honour taught the Masters Degree in Employment Law Advocacy as an adjunct senior lecturer at the University of Sydney.

Your Honour is regarded as someone who consistently maintains excellent relations with all of your colleagues, including your opposing counsel, despite the adversarial nature of the work. As one of the most eminent silks in the country, those who have worked alongside you say your meticulous and well-researched submissions will no doubt translate into sound and considered judgments on the bench. Those we spoke with are thrilled to be here today to witness this deserved next step in an exceptional legal career. As Mr Staff, who treasures your enduring close friendship told the Law Society about being here today, it is like watching the success of your own son. On behalf of more than the 42,000 solicitors of New South Wales, we congratulate your Honour on this exceptional achievement and wish you the very best. As the Court pleases.

PRESIDENT: Thank you, Mr McGrath. Mr Costa?

COSTA: Thank you, your Honour. I also would like to acknowledge the traditional owners of the land and pay my respects to their elders past, present and emerging. President, members of the Industrial Relations Commission

and the Industrial Court, Attorney General and representatives of the legal profession and to the family and friends of Justice Chin, it gives me great pleasure to appear today on behalf of Unions New South Wales and welcome you, Justice Chin, on your appointment to the Court of Industrial Relations and the Industrial Relations Commission. Congratulations and welcome.

You have joined the unique New South Wales institution. Its purpose is to uphold the longstanding system of workplace and industrial relations. It is an institution that has witnessed considerable change to its role and relevance. Already in my lifetime there has been a distinct shift of the IRC's employment and industrial jurisdiction from predominantly private sector employees and employees to now almost solely public sector and local government workplaces. As part of this shift, unions and our members have relied on the Commission to conciliate and arbitrate or facilitate through negotiation disputes with predominantly workplaces governed by government departments.

The New South Wales IRC is the heart of an industrial relations system that, at its best, balances the unilateral power of management with the right of employees and their unions to utilise collective action and to access an independent and impartial umpire when circumstances require it. It is an industrial relationship system that has always recognised that work and work relations are not just part of our economic story, but that work is also part of the story of our society and the story of our community as well.

Importantly, in the context of the public sector, it is imperative that the evolution of that story recognises that employees of government-controlled workplaces are committed servants of the public, never to be considered a mechanism for mere profit creation but, rather, recognised for their

fundamental role in the delivery of essential public services. The New South Wales industrial relations system at its core is a system designed to acknowledge that all workplaces should not just be productive, but they should also be fair, and our history has demonstrated the merit of having a third party who is able to intervene in the employment relationship in the interests of fairness, equity and efficiency when circumstances require it.

This approach, when allowed to operate free from excessive political constraints, has been good for the economy, has contributed significantly to improving living standards for workers and their families, and it has ensured a degree of economic equity across our nation. The Commission is an old institution and it has existed in some shape or form for over 100 years. In the past, the tribunal was a venue where unions and our members not only sought the enforcement of industrial laws, but argued and achieved improvements in the conditions and nature of work. Above all, the Commission has been and still is an institution that both Unions New South Wales and public sector employers respect to air their grievances and resolve their disputes in a way that upholds that law fairly and justly.

Your Honour, your appointment also comes at a time as the nature of work in the public sector is changing. Over the past decade there has been a shift, with employment moving increasingly from full-time direct hire to outsourcing and contracting. A number of privatisations have also seen many former government-controlled workplaces moving into the private sector and outside of the jurisdiction of this place. However, recent reforms have seen the creation of a new optional bargaining stream and the facilitation of mutual gains bargaining promising to herald a new era of an interventionist role for the

IRC to facilitate and actively assist willing parties in their award and agreement negotiations.

Justice Chin, I believe that you will more than live up to the great history and responsibility endowed in this place and, although I do not know you personally, nor have I come into contact with you professionally, I can say that that faith in you is not blind. Prior to today's proceedings, I consulted with some of my union comrades who know you and your professional history better than myself and I am pleased to say that I was informed that you are well respected by all those I consulted. As an advocate, you have been described as fair and compassionate. In your interactions with the representatives of unions, you have been described to me as approachable, good natured and polite but not a pushover, all qualities which I am sure will serve you in good stead in your new role.

Your Honour, I believe that you can live up to the great history and responsibility endowed in this place. Unions New South Wales welcomes you and I welcome you as the latest member to be appointed to the Industrial Relations Court and the Industrial Relations Commission and I look forward to working with you and appearing before you in this important and ancient institution. If the Court pleases.

PRESIDENT: Thank you, Mr Costa. Mr Izzo?

IZZO: I too would like to acknowledge the traditional custodians of the land on which we meet today, the Gadigal people, and pay my respects to their elders past, present and emerging. Justice Taylor, Attorney General, distinguished guests and ladies and gentlemen, I am delighted to congratulate Vice-President Chin on his appointment to the Industrial Court of New South

Wales and the Industrial Relations Commission on behalf of the employers who appear in this jurisdiction. Before I commence, I would like to make a couple of comments about the tribunal itself.

The New South Wales Industrial Commission and Court represent Australia's oldest industrial tribunal or jurisdiction dating back to 1901. In years gone by, it has often been the frontrunner in setting precedents on matters of important principle and I understand Justice Taylor spoke about some of the national standards that have been derived from this tribunal earlier in the week. The New South Wales industrial jurisdiction is notorious for the regulatory simplicity which underpins it. Unlike the increasingly rules-based Federal jurisdiction, the New South Wales regime has had the setting of fair and reasonable industrial conditions as its cornerstone, allowing the members who sit on the tribunal significant discretion to consider the merits of a dispute and to facilitate fair and just outcomes.

In many areas, the Commission has a mandatory emphasis on conciliation before moving to arbitration, allowing for a focus on party-led resolution before moving to judicially-imposed outcomes. These simple notions have underscored a system that has seen considerable stability and a noted absence of protracted industrial action when compared to some of the disputes that can arise in the Federal jurisdiction.

The Commission's jurisdiction under ch 6 of the *IR Act* is nationally widely respected as giving rise to safe and sustainable practices in the road transport industry and has been offering protection to what some might describe as employee like workers, decades before the catch phrase "employee like" emerged as common place. We are delighted to see the tribunal progress into



its new era with all of these foundations intact.

Now turning to the Vice-President, your Honour, you are an excellent appointment because you have demonstrated all the traits that are vital to be trusted with both the considerable discretion afforded to the Tribunal as well as the skillset that will be necessary to adjudicate the proceedings that might be brought before the Industrial Court.

The first of these traits is an exceptional work ethic and sharp legal mind, underscored by a meticulous approach to preparation. We've already heard multiple times about your involvement in the prominent *WorkPac v Skene* and *WorkPac v Rossato* proceedings. Your involvement in those has been described by those involved as essential. That is, the cases would not have happened without you. We also heard that these two cases significantly developed jurisprudence pertaining to the law of the employment contract and such was their prominence that they prompted their own legislative intervention.

We also heard about your acting for the Public Service Association of New South Wales in securing a major remuneration increase for school administrative support staff based on equal remuneration principles. Wages in this substantially female dominated industry increased by an average of 19%.

You also have a strong capacity for compassion, working on pro bono refugee cases, including having worked on one refugee case with the late Jeff Shaw QC that was ultimately heard before the High Court.

Before joining the bar, you worked as a solicitor at Jones Staff. A source from Jones Staff who briefed you in your early years at the bar identified two notable features of your practice as a barrister. The first was a brilliance in

cross-examination, again put down to meticulous preparation. The second was that you left handover notes on all your client files as you left the firm for the bar, suggesting that a junior counsel with knowledge of the facts of the matter should promptly be briefed. Oddly enough, many of those files found their way to you at the bar, and your practice got off to a flying start.

We have also heard about your command of the area of employment law through your authorship of *The Modern Contract of Employment* with Ian Neil SC. I will not talk too much about it because we have already heard from the other speakers, other than to say that Ian informs me that the book is a testament to your tireless efforts. I also know it is available in all good bookstores, for those interested.

You also have some more personal characteristics that I now realise mean that your choice in career is a prudent one. For example, a lot of people have talked to me about your cricketing prowess, but the feedback has been very mixed. The Attorney General was quite complimentary on the one hand, moreover I have been told that you demonstrated a judicially appropriate commitment to impartiality in the very complex application of the LBW laws to all batsmen, all batsmen that is, with a notable exception of yourself. On the other hand, a senior counsel sitting with us today has informed me that after scores of matches playing with you, you are a very enthusiastic cricketer, but in the same breath, he said your recruitment to the bench is no great loss to Australian cricket. I thought about whether to say this, but others were actually harsher still, describing you as the slowest ostensible medium pace bowler they have faced, with an almost miraculous ability to never bowl a ball that deviates in any way, shape or form. Now, I actually could go on with this topic,

but I will not.

I have also been informed and we have heard that you are an enthusiastic singer and do not mind a dress up party, especially if there is an excuse to do some Elvis impersonating. However, again, I found much greater hesitancy with this type of praise coming from the people I spoke to, compared to when they spoke about your legal skills.

Then there is an interesting deviation to the world of showbusiness when you lent your barrister's wig to the crew from The Chaser to use in a nationally televised TV skit which I cannot really talk about because like much of their content, it is not really PG rated.

Needless to say, from all these stories, the consensus is that the bench is a better fit for you. Overall though, what I have been struck by in preparing to make these comments is how thrilled members of the bar, solicitors, unions and employers are about your appointment. It gives me great confidence that the application of our industrial laws are in good hands and I might add that this applies with respect to all the new appointments. I wish you all the best in what is a very important role in our state's industrial landscape. May it please.

PRESIDENT: Thank you, Mr Izzo. Justice Chin.

VICE-PRESIDENT: Wenyo budyeri kamaru cadi jam ora karinya didjurigura. My respectful greetings, I am in Cadi, a peaceful home, thank you. These words are chosen from the language of the oldest continuous culture on the planet, the Gadigal people of Warrane or Sydney Cove. These words are my way of acknowledging the rich and living legacy of the nation's first people, the land on which we are meeting today and on which the Commission and the Court exercises its jurisdiction. In doing so, I pay my respects to their elders

past, present and emerging and to their legacy.

Now, I know I should heed the advice given by the comedian Ricky Gervais to potential winners of the 2020 Golden Globe awards that if you should win an award, remember that nobody cares about the award as much as you do. To quote Mr Gervais, just come up, accept your little award, thank your agent and your God and promptly adjourn the proceedings, or words to that effect. But forgive me, I choose to reject that advice.

I am grateful to those at the bar table for the generous remarks made by each of you, Mr Attorney, Mr McGrath, Mr Costa and Mr Izzo, I appreciate what has been said, notwithstanding the customary hyperbole and embellishments, particularly in regard to my outswing bowling. Mr Costa, I can say without any exaggeration, that yours is by far the warmest and kindest welcome to a new job I have ever received from anyone at Unions New South Wales who shares your surname.

I am honoured by the presence of all of you: distinguished guests, judges and members of the various Courts and Tribunals, my colleagues, friends and family. I am particularly honoured by the presence of the Honourable Justice Robert Beech-Jones of the High Court of Australia, the Honourable Julie Ward, President of the Court of Appeal and Acting Chief Justice of New South Wales, and also the Honourable Judge Michael Allen, Chief Magistrate of the Local Court of New South Wales. I appreciate you all taking the time from your busy schedules, many of you for the second time this week, to be here at this Court in this ceremony.

To assume the position on the bench of this Court as Vice-President of the Commission is a great responsibility, having regard to the traditions of this

institution. I accept this responsibility as a culmination of a career devoted to the study and practice of Industrial Law in particular, of the purposes of Industrial Law, Keith Ewing Professor of Public Law at King's College London wrote:

“The first is what might be referred to as its public law purpose which relates to the role of the citizen as worker and the importance of work to the realisation of citizenship within a community which extends beyond the workplace. The second is its private law purpose in terms of the private relationship between the employer and the worker and the need to regulate what is invariably a relationship of sometimes profound inequality with great capacity for abuse.”

I have the honour of joining an institution which launched the great industrial law project in Australia. In *Clough v Leahy* [1904] 2 CLR, Griffith CJ of the High Court of Australia referred to this great project. He said:

“The Arbitration Court is a Court lately established in New South Wales, and is to a certain extent an experiment in legislation. It is not likely that all the details have at the first attempt been worked out to complete satisfaction, and it is very probable that the machinery of the Arbitration Act may not work exactly in the way intended. These are difficulties which arise in respect of every new institution.”

Since those early days, the experiment has evolved into the unique Australian system of compulsory arbitration and conciliation of industrial disputes. The evolution of this system reached its coherent, non-legalistic and workable zenith with the enactment of the *Industrial Relations Act* in 1996 authored by Jeff Shaw QC, the then Attorney General and Minister for Industrial Relations. With the passage of the *Industrial Relations Amendment Act 2023* late last year by the hand of the present Minister for Industrial Relations Sophie Cotsis, the model system of industrial arbitration under Jeff Shaw has returned and been restored. Under this system, the primary means of resolving disputes, as Shaw made clear in his second reading speech to the

1996 Act, is by the empowerment of the Commission to do everything it considers proper to assist the parties to resolve the dispute in conciliation and to do so in the shadow of the Commission's broad arbitral powers, including the power to fix fair and reasonable wages.

An essential pillar of this model is the role of an authoritative, fearless and independent Commission and Court; one that operates, I hasten to add, not on a jurisprudential island, but instead merges coherently with the greater body of the Australian statutory and Common law. Like Justice Geoffrey Giudice at the inaugural sitting of the reconstituted Federal Industrial Tribunal in 2009, I recognise that our newly re-established Industrial Court of New South Wales is probably, at this very moment, at the peak of its popularity. In any case, by my judicial affirmation, I committed to do right according to law without fear or favour, affection or ill will. This commitment I take seriously. It will underpin the fearless independence of this Commission and the Court, whatever might be the criticisms that come from individuals, industrial organisations, the media or indeed, executive government.

Now, as my professional life merges with the future of this fine institution, I cannot express my gratitude more for those who have nurtured me, educated me, employed me, accepted me and worked with me. I am reminded of the words of Charles Dickens in *Great Expectations* about life. He wrote:

"Imagine one selected day struck out of it and think how different its course would have been. Pause you who read this and think for a moment of the long chain of iron or gold, of thorns or flowers, that would never have bound you but for the formation of the first link on one memorable day."

The chain of gold and flowers of my life include my parents, an unlikely union between a country girl from around West Wyalong in New South Wales

and a skinny Chinese student who in those days spent more time studying the odds of the TAB than he did studying his accountancy textbooks. My father arrived in this country alone at the age of 13, to attend boarding school, speaking no English. Before that, he was raised with his eight younger siblings in small lodgings above a shop operated by my grandfather on the main street in the town of Ipoh in Malaysia. My father is here today. He celebrated his 80th birthday on 1 July, carefully timed to coincide with the re-establishment of the Industrial Court and my swearing in.

Also, at the age of 13, my mother Lorraine came from country New South Wales to live and to work fulltime in Sydney, initially in a bookbinding factory in Redfern, then in an aged care facility in Stanmore and later operating, as you heard, the telephone switchboard at St Vincent's Hospital. After they met, my mother managed to extricate my dad from the TAB and back into his studies. They married and went to live in the country of my father's birth where I and my sister were born. My sister Melissa and my niece Olivia are also here today all the way from Washington State in the United States where they live. They were not able to be joined by my brother-in-law, Jeff, and my other niece, Anna, who are also in my thoughts today.

Our family migrated to settle permanently in Australia in 1978. We did so seeking a new life, one of peace, prosperity, security and, above all, safety. We found all those things. I eventually found the legal profession through a love of words and books. My mother encouraged me to read relentlessly. It did not matter what material, comics, science fiction novels. It did not matter to her. She may have been binding the books that, in a just world, she might have been reading while attending school. But she and my father were

assiduous in making sure that I had every opportunity to flourish intellectually. For their constant support and encourage throughout my life, I am profoundly grateful.

The most important link in my chain of gold and flowers is, of course, my wife, Rachael. Rachael is the great love of my life. Originally from Adelaide, Rachael forged her own path in Sydney as a young woman, first as a solicitor, then as a journalist with the Australian Financial Review. In her later career as a book author, and especially her collaboration with a former Director of Public Prosecutions Nicholas Cowdery, she has demonstrated a rare ethical approach to reportage, based on thorough research, the public record and a deep understanding and respect for the rule of law and the fundamentals of a fair trial. Her work will be an inspiration to me in the exercise of this Court's criminal jurisdiction in particular. Much more than that, Rachael sustains me. Long may we cha-cha our way through this life.

I acknowledge two important mentors. The Honourable Conrad Staff, a former judge of this Court, is here today. As you have heard, Conrad employed me as a solicitor in his firm, Jones Staff & Co. After a short time at the firm, I confidently declared to Conrad one day that I was ready to go the bar. In his typically diplomatic style, Conrad suggested to me that I may wish to rethink this grand plan and, as there was no one else in the jurisdiction who I could conceive of was likely to brief me if I did go to the bar, I thought it prudent to follow Conrad's advice. So I held my horses and launched myself from a much more secure platform a few years later. This was only one example of Conrad's guidance and care throughout my professional career. I am deeply grateful to him.



When I eventually came to the bar in 2001, I also had the great good fortune of reading with Ian Neil SC. Ian is a consummate advocate. His generosity and skill as my tutor and then my leader for many years exemplified the best traditions of the bar. As a mentor and a friend, Ian was a constant source of support to me, available at all times with advice and encouragement. I am deeply grateful to Ian Neil.

I pay tribute to my friends and colleagues at the bar, particularly members of 5 Wentworth, which has been my professional home for most of my career, many of whom are here today. I am grateful for the support of the clerks, who have helped me navigate the bar, most recently Sarah Tiffen of 5 Wentworth. I pay tribute to my dear friends generally at the bar and beyond, too many to name here. You know who you are. To each of you, I extend my gratitude and my love.

I am delighted to be joining the Commission with my fellow Commission members and, particularly, I am delighted to be serving on the Court with Justices Taylor and Paingakulam. Between the three of us, I believe, we have the requisite degree of experience, expertise, collegiality and, so it was incessantly emphasised during the President's ceremony this week, hair to form a decent Full Bench.

The Welcome to Country, with which I commenced this speech, is a relatively new addition to our national story. It was first performed in the summer of 1976, just two years before my family moved to settle permanently in Australia and in the same year that Justice Taylor and his family migrated to Adelaide from England. It is now a distinctly Australian custom. It is a gesture which speaks to a national identity that values fairness and which has the

ability to renew itself. This Court and Commission also share in our national story. Their part in that story is also bound to fairness and to renewal. I believe the degree of social cohesion and shared prosperity that we in Australia enjoy, and which my family reached out for many years ago, owes much to our unique system for setting fair and reasonable conditions of employment for employees.

It is a great privilege to play a role in this system. And I regard my new role as an invitation to work harder. I intend to engage with my duties, not with any hubris but, rather, in the best spirit of, again, Charles Dickens: “to have a heart that never hardens, and a temper that never tires, and a touch that never hurts”. Thank you all.

PRESIDENT: We are about to adjourn. You are all welcome to join us for morning tea in the next room.