



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

**CEREMONIAL SITTING OF THE FAIR WORK COMMISSION
TO WELCOME DEPUTY PRESIDENT O'KEEFFE AND COMMISSIONER LIM**

Perth

10.30 AM, FRIDAY, 14 JULY 2023

PN1

JUSTICE HATCHER: Before we begin, I would like to acknowledge the Whadjuk people of the Nyoongar nation, the traditional custodians of this land, and I pay my respects to the elders, past, present and emerging. This ceremony today is for the purpose of acknowledging the appointment to the Fair Work Commission, of Deputy President O'Keeffe, and Commissioner Lim.

PN2

I welcome their families, speakers at the Bar table, and all the other guests present. I will now ask Mr Breen, who is the Senior Executive at the Department of Employment and Workplace Relations, who is representing the Minister, to address the Commission first. Mr Breen.

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MR BREEN: Thank you, your Honour. I begin today by also acknowledging the Whadjuk Nyoongar people, 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.

PN4

I am honoured to be able to be here today, representing the Australian Government on behalf of the Honourable Tony Burke MP, Minister for Employment & Workplace Relations, who apologises that he is unable to be with us today to welcome Deputy President Peter O'Keeffe, and Commissioner Pearl Lim.

PN5

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 want to welcome and acknowledge our appointees and the members of your families on this significant occasion.

PN6

The Fair Work Commission was established over 14 years ago, with this commission and its predecessors for playing a valuable role in shaping Australia's workplace relations landscape for over 100 years. 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.

PN7

The landscape has changed as our nation has changed. Now that the Fair Work legislation covers the majority of Australian workplaces, the decisions of this commission have even more broad ranging impact throughout the country. These decisions are felt in every home, they are felt in every workplace.

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As Minister Burke said in April when he was welcoming Justice Hatcher as President of this Commission, there are three key differences to when this body

was first established. It has new objectives and powers; new plans to deal with fresh jurisdictions, and new expectations from the Australian community.

PN9

The Commission's work will be more important than ever as the government progresses ambitious workplace relations reforms to lift wages, improve job security and close loopholes undermining the pay and conditions of workers. In particular, gender equality and job security are now, for the first time, mandated objectives of the Fair Work Act which you must take into account in decisions you will oversee. It is an historic change.

PN10

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 co-operative workplace relations. Minister Burke is absolutely determined that the Commission will continue to perform its functions in this way under the government, and I echo that sentiment today.

PN11

Deputy President O'Keeffe, you bring to the Commission a breadth of knowledge and experience in workplace relations, having worked in the field for 30 years. Over this time you have held senior roles in both the trade union movement and private enterprise, providing you with the valuable insight of enterprise bargaining and industrial disputation from alternative perspectives.

PN12

In 1993 you started your workplace relations career as an Industrial Research Officer for the Breweries Employees Union of Western Australia. While in that role, you also worked as a sessional academic at the Curtin University of Technology, now known as Curtin University, where you lectured in masters units of industrial relations and occupational health and safety. In 1998 you graduated from the University of Western Australia with a Master of Industrial Relations.

PN13

As the Regional Employee Relations Manager for Bunnings, you provided industrial relations advice to operational management, negotiating industrial agreements and representing Bunnings in various industrial tribunals. You were also responsible for the management of the company's workers, workers compensation and occupational health and safety.

PN14

You joined the Shop, Distributive & Allied Employees Association as a WA Branch Industrial Officer in April 2002. You remained with the SDA for 20 years, undertaking various roles before becoming the WA Branch Secretary for nine years, in 2014. During your time with the SDA you conducted industrial negotiations, drafted agreements, prepared and presented cases before various industrial tribunals including the Fair Work Commission, and instructed counsel and assisted with trial preparation.

PN15

You bring to this role, strong leadership experience, and with your expertise and experience in workplace relations matters, I am confident you will execute your duties with impartiality and diligence.

PN16

Commissioner Lim, you also bring to the Commission, considerable experience in workplace relations, having worked as an Industrial Officer at the Australian Manufacturing Workers Union or the AMWU, for ten years before becoming a Senior Industrial Officer of the Australian Services Union WA Branch in 2022. In 2012 you graduated with a Bachelor of Law and a Bachelor of Arts from the University of Western Australia.

PN17

After graduating, you joined the AMWU as an Industrial Officer. During this time you managed a diverse caseload of workplace relations matters, including unfair dismissals, general protection claims, right of entry disputes, and various enterprise bargaining and industrial action matters.

PN18

In addition to appearing regularly before the Fair Work Commission, you have also run matters in the Industrial Magistrates Court of WA, and instructed in the Federal Court and Federal Circuit Court. From 2018 until 2021 you were a union representative on the Mining Industry Advisory Council, advising relevant ministers and the Commission on occupational safety and health, and OH&S matters in the mining industry.

PN19

In 2022 you became a Senior Industrial Officer of the ASU WA Branch, leading a team of industrial officers to deliver on the WA ASU's legal and industrial agenda. I also note that this is not your first role as Commissioner, having served as a Commissioner on the Combat Sports Commission from 2009 until 2021.

PN20

Commissioner Lim, your extensive experience in workplace relations and ability to adroitly navigate workplace disputes will greatly assist you to discharge your duties with integrity and impartiality. I am confident you will be successful as a Commissioner with the Fair Work Commission. More broadly, 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 a voice as employers, in decisions that affect them.

PN21

Your Honour, 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 members of the Tribunal and its senior leaders. The failure to discharge their responsibilities effectively requires the goodwill, understanding and co-operation of parties, employers, employees and their representatives.

PN22

I trust this will be forthcoming from all concerned to Deputy President O'Keeffe and Commissioner Lim. Deputy President O'Keeffe and Commissioner Lim, on behalf of the Australian Government I congratulate you on your appointment as Deputy President and Commissioner of the Fair Work Commission. I have no doubt you will make an important contribution to the Tribunal for years to come. I convey our goodwill and wish you well in the exercise of the responsibilities of your office. Thank you.

PN23

JUSTICE HATCHER: Next, Mr Whittle, Secretary of UnionsWA, and on behalf of the Australian Council of Trading.

PN24

MR WHITTLE: Thank you, your Honour. I also wish to acknowledge the traditional owners of the land on which we meet, the Whadjuk people of the Nyoongar nation, and it's a great honour on behalf of the Australian Council of Trade Unions, WA and the working people of this state to rise to address the Commission on the occasion of the appointments of Deputy President O'Keeffe and Commissioner Lim.

PN25

This Commission is central to the functioning of our fair and equal society, and the appointment to the Commission is a significant honour of which we congratulate you. It is a particularly important time in our industrial landscape as we examine our laws for fairness and equality, and I'm sure you will find your time on the Commission to be guided by these principles.

PN26

These roles are ones of great responsibilities, and you have both been appointed on the basis of your knowledge and experience in industrial relations. Deputy President O'Keeffe, we welcome you to this important institution. We acknowledge your long term and experience in industrial relations with your time both in academia, industry and unions, with times at Smiths and Bunnings, along with your time with the Breweries & Bottle Yards Union, and the Shop, Distributive and Allied Employees Association. And arguably, most importantly, your long term standing as Vice President of UnionsWA.

PN27

Your time as a union leader has been one during great change in your industries, from the fundamental changes in the nature of retail, to the arrival of Amazon into Australia, and of course, the deep and long running impacts of COVID on retail warehousing.

PN28

Throughout the pandemic I was witness to see your commitment, not only to the industrial rights of workers but to workplace safety and workers compensation, as well, with strong advocacy relating to the direct impact of the pandemic on a vulnerable and casualised workforce, but also the significant campaigns yourself and the SDA ran on aggression and violence in workplaces.

PN29

It was a vital campaign which ensured both the public, employers and regulators took more notice of the safety and needs of a vulnerable retail and fast food workforce. I would also note your very strong advocacy around law reform in relation to workers compensation, particularly your advocacy for change to ensure that workers receive medical treatment without interference of outside parties.

PN30

You have, of course, also had significant industrial wins as your time in the industrial space, notably the application to ensure that workers in the retail pharmacy sector enjoy the protection of the Shop and Warehouse State Award. Personally, I have been a beneficiary of your willingness to share your knowledge and experience, always thinking of the bigger picture, and happy to take rushed phone calls for quick advice on policy or industrial matters.

PN31

You have always had wise counsel, and often when I was off track you have often had a very polite way to persuade me to reconsider my decisions. Certainly, I think that polite and gentle way is a skill well suited to the Commission and its remit of resolving disputes and bringing parties together.

PN32

Commissioner Lim, we welcome your appointment to the Commission. Your broad experience across the Australian Services Union and the Australian Manufacturing Workers Union has earned you great respect as an industrial officer by both unions and employers. You, of course, not only have a significant industrial history, itself, but also come from a storied industrial history of your family, with your father the first President of the Union of Christmas Island Workers, which formed after secretive meetings of workers on Christmas Island, and after only one week had 700 members.

PN33

Your contribution to the broader union movement has been significant. You were pivotal in establishing a now long-running industrial officers network to support and develop new entrants into the legal and industrial space of trade unions, which of course, yesterday was pleased to receive an address from Justice Hatcher.

PN34

Your work in this network was particularly focussed on mentoring and assisting those new to the profession, and you have a well-earned reputation of taking the time with young or new industrial staff. Additionally, in your time in the union movement you have witnessed significant shifts in industrial relations.

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You have played pivotal roles in several significant commission cases, most notably the termination and subsequent appeal of the Griffin Coal Collective Agreement. I would also note that you are the first person of colour to be appointed to this Commission, and will note that it is vitally important that our institutions reflect the diversity of our community, and that our community sees themselves reflected in our institutions.

PN36

Certainly, as the previous speaker noted, I would also guess that you are the first Commissioner who has both served as a member of the Combat Sports Commission and the Fair Work Commission, and I certainly hope that whatever skills you learnt in that role aren't transferrable to your new one.

PN37

Having shared an adjacent office to you, many, many years ago at the Australian Manufacturing Workers Union, I personally witnessed your advocacy on behalf of workers and your sense of justice and fairness. We welcome you to the Commission. We hope that you will both bring from your experience in working in industrial relations, a pragmatic and fair-minded approach to industrial disputation, that places fairness and justice at the heart of all matters before you. Once again, we congratulate you on your appointments and wish you well in your roles.

PN38

JUSTICE HATCHER: Mr Martin, Director of Workplace Relations at the Chamber of Commerce & Industry WA, and on behalf of employers generally.

PN39

MR MARTIN: Thank you, your Honour. If it pleases the Commission, I appear on behalf of the Chamber of Commerce and Industry, Western Australia, representing the Australian Chamber of Commerce and Industry, and it is a great pleasure for me to welcome the appointment of Commissioner Lim and Deputy President O'Keeffe as members of the Fair Work Commission.

PN40

I, too, would like to acknowledge the traditional custodians of the land on which we meet, the Whadjuk people of the Nyoongar nation, and extend my respects to their elders, past and present. With a great deal of the Fair Work Act undergoing changes, it will be incredibly important for the Commission to serve as a beacon of stability, providing guidance and fairness to promote guidance and fairness to promote healthy and productive workplaces.

PN41

The Fair Work Commission and its predecessors have always had an important role in shaping the industrial relations landscape in this state, providing necessary checks and balances and ensuring a productive system of industrial relations in often complex and rapidly evolving environments. An important element of this has always been the presence of an experienced group of Perth based practitioners who understand the unique challenges of the industrial relations environment in Western Australia.

PN42

This is because while the national industrial relations framework play an important part in making Australia a more attractive place to work and do business, it is also critical to have local knowledge, for it to work effectively, with experienced practitioners on the Bench who have practical, local experience and appreciate the regional differences in employment arrangements and the relationships that exist between the respective parties.

PN43

It is also important for Western Australia to have a group of members with diverse backgrounds and experiences based in Perth, and we warmly welcome your appointments to add to that diversity and knowledge of Western Australian specific issues.

PN44

You join a well respected team of Perth based Commission members, each of whom is respected by the Industrial Relations fraternity. We know that you will demonstrate the same qualities, and in doing so, earn the respect of the persons that appear before you, irrespective of who they represent.

PN45

As with all appointments to the Commission, comment is frequently made on the background of the individuals and the need for balance. Balance is important, but that comes more from the qualities of the individual, rather than on which side of the fence they spent most of their time working on in their careers.

PN46

Deputy President O'Keeffe, your tenacity demonstrated as Secretary of the Shop, Distributive and Allied Employees Association in Western Australia is well known. The time and energy you have dedicated to advocacy on various issues and working conditions of employees for the SDA, has demonstrated your understanding of the issues of Western Australian workers and businesses, in addition to the insights and experience, your most recent roles will have provided you.

PN47

Your background in resource and management will be a valuable addition to the Bench, with the experience gained in balancing the sometimes competing needs of employers and employees, and the recognition that in most aspects of the working relationships there is a high level of alignment between the goals and aspirations of workers and their employers.

PN48

Commissioner Lim, your extensive experience as a Senior Industrial Officer at the Australian Services Union, and as an Industrial Officer at the Australian Manufacturing Workers Union has provided you with the opportunity to advocate for workers and provides a unique insight into the industrial relations framework from their perspective, along with the challenges faced by employees and their employers across a variety of businesses and industries of differing sizes, and a great understanding of the laws that underpin the disputes that you will preside over.

PN49

Earlier this year, you were chosen to moderate the ethics panel of the industrial relations officers and lawyers conference, as you are well recognised as being upstanding, passionate and a moral individual, all attributes which will continue to the strength of this Commission.

PN50

Commissioner Lim, Deputy President O'Keeffe, you come to this commission with a diverse and robust set of experiences and technical knowledge which will lend to the strength of this Commission. The Chamber wishes to congratulate you both, and wish you well in your new roles, and express our optimism that you will carry them out with a balanced and fair approach, fostering an environment that enables both workers and businesses to thrive. If the Commission pleases.

PN51

JUSTICE HATCHER: Thank you. Mr Fogliani, on behalf of the Law Society of Western Australia.

PN52

MR FOGLIANI: Good morning, President Hatcher, and members of the Commission. I trust this is one of the few occasions where I don't need to seek permission as a lawyer under section 596, subsection (2), to appear on behalf of the Law Society of Western Australia.

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JUSTICE HATCHER: Permission is granted.

PN54

MR FOGLIANI: I pay my respects to the traditional owners, the Whadjuk people of the Nyoongar nation, their elders past, present and emerging. It is my great honour to appear here today on behalf of the Law Society of Western Australia and its members, to welcome Deputy President O'Keeffe and Commissioner Lim to the Fair Work Commission.

PN55

I also welcome their families and friends who are here today to celebrate this momentous occasion. The ongoing support, kindness and encouragement you have each provided to Deputy President O'Keeffe and Commissioner Lim over the years has engaged them to make this journey to the Bench. It is through your actions that society at large now shall reap the benefits.

PN56

I shall first remark on the appointment of Deputy President O'Keeffe. The Deputy President comes to this Commission with the unique experience of having acted as a Human Resources practitioner for employers, and as a union representative for employees. During his career the Deputy President assisted workers with industrial matters, such as unfair dismissals, general protections and anti-discrimination claims.

PN57

He helped negotiate numerous enterprise agreements which set the minimum standards for many retail workers throughout Western Australia, and the Deputy President was a strong advocate for lifting safety standards in the retail sector, and more broadly, in Western Australia during changes to the legislative scheme in WA. That experience makes the Deputy President eminently qualified to be appointed to this Bench.

PN58

Having spent considerable time conferring with the Deputy President's past work colleagues and peers, I have a trove of things that I could say about the Deputy President. For example, I have it on good advice that the Deputy President is a big fan of West Perth and the West Coast Eagles. When conferring with these peers I have been cautioned against mentioning where the West Coast Eagles currently stand on the ladder, as that may involve me having my permission to appear revoked.

PN59

I am also advised that the Deputy President is a big fan of cricket and was a bit of a speed bowler when he used to play cricket in his younger days. Perhaps more relevantly, the Deputy President's peers have provided me with details of the three traits that they believe will best serve the Deputy President in his time in the Fair Work Commission.

PN60

The first is the Deputy President's passion for industrial relations. The second is his sense of fairness and pragmatism. And the third is his pursuit of justice. I shall pause here to say something about the concept of justice and its applicability to matters before the Fair Work Commission.

PN61

As a member of the Fair Work Commission you have been entrusted with the great responsibility to do justice above all else. Matters before the Fair Work Commission often involve arguments about unfairness, unreasonableness, genuineness, and trust and confidence. These concepts can be challenging to navigate at the best of times, even more so in a tribunal where it is quite common for parties to be unrepresented, the effect being that they can often not present the best case that they wish to present at trial.

PN62

For these reasons the application of justice in this tribunal requires its members to exercise the highest degree of intellectual maturity, empathy and patience. With all that in mind, it is no surprise when you come to this appointment, so heavily praised by your past and present peers. May your passion for industrial relations, sense of fairness and pragmatism, and pursuit of justice be your guiding star during your time at the Fair Work Commission.

PN63

Deputy President, on behalf of the Law Society of Western Australia, I welcome you and your appointment to the Fair Work Commission. That brings me to Commissioner Lim.

PN64

It is no surprise, thanks for my learned colleague, Mr Breen, and my learned friend, Mr Whittle, that this is not the first time that Commissioner Lim has held the title of Commissioner, having previously served on the Combat Sports Commission, which may also be a first for the Fair Work Commission. That appointment was attributed to the Commissioner's knowledge of the boxing industry.

PN65

What my colleagues haven't mentioned – and this is one of the pitfalls of going last, is that sometimes everything has been said that needs to be said – but one thing that hasn't been pointed out is that in addition to her time in the Combat Sports Commission, the Commissioner spent much of her spare time organising and acting as the Madam of Ceremonies of Strongman competitions around Perth.

PN66

I daresay that while her time in the Fair Work Commission may not involve the degree of physical conflict that she is accustomed to, or the feats of strength that she witnessed at those strongman competitions, there will be plenty of interesting industrial disputation to keep her busy in her new work at the Fair Work Commission over the next three decades.

PN67

Before her appointment, Commissioner Lim acted as a Senior Industrial Officer at the Australian Manufacturing Workers Union, and at the Australian Services Union, and served on the UnionsWA executive. Over the last decade Commissioner Lim has played an active role in numerous landmark cases in industrial law and has assisted countless workers resolving their industrial disputes.

PN68

Her experience spans all spheres of industrial law, including enterprise bargaining, mediation, conciliation, unfair dismissals, denied contractual benefits, anti-discrimination, general protections, and appellate work. I have been reminded to point out that Commissioner Lim holds a special title amongst her peers, as the Queen of the PABOs.

PN69

The reason she holds this title is because in her time at the AMWU she perhaps ran more PABO applications than perhaps any other advocate who has ever stood at this Bench. Not one of those was ever dismissed. Every single PABO was granted. Her appointment to this Commission cements her unblemished record as the Queen of the PABOs.

PN70

Commissioner Lim is known for her strong work ethic, sharp intellect, charisma, and ability to unite people. The Commissioner has spent a great many years facilitating negotiations between union organisations and officials, no easy feat, human resource practitioners and lawyers. These attributes will no doubt serve the Commissioner well in her new appointment.

PN71

Commissioner, on behalf of the Law Society of Western Australia, I welcome you to your appointment to the Fair Work Commission. We have no doubt that your appointment will inspire many who will strive to walk in your footsteps. May it please the Commission.

PN72

JUSTICE HATCHER: I will now invite Deputy President O'Keefe to speak.

PN73

DEPUTY PRESIDENT O'KEEFFE: Thank you, your Honour. Before I start, I'd like to also acknowledge that we're meeting here today on the land of the Whadjuk people of the Nyoongar nation, a people who never ceded sovereignty of this land of theirs. The speakers have been very kind, and I thank them for their very kind words.

PN74

By starting, I do have a lot of people that I'd like to thank. Firstly, to my parents, Frank and Denise, whose love and support of me has been unwavering, and who made such significant sacrifices so that I could be sitting here today. They would have loved to be here but my dear dad is a little bit poorly at the moment, but I'm sure he'll be on his feet and back on his bike doing 50k rides, soon enough.

PN75

To my darling wife, Emma, who has stood beside me, come what may, and who always keeps me grounded, though somewhat overly grounded, perhaps, on occasion. But she is a great source of advice on industrial relations matters, although I imagine she is rather sick of the conversations with me that begin with, 'Now, you're a reasonable person.'

PN76

I would also like to thank my mother-in-law, Anne-Maree, who desperately wanted to be here but has come down with a rather bad flu. But I want to say, here on transcript for the record, that she is the absolute opposite of the stereotypical mother-in-law that one might find in bad comedy.

PN77

To my sons, Matt and Luke who are here today, you are the two greatest achievements of my life, and your love and friendship is something that I can't express in words. I am so proud to have you here with me today.

PN78

As always, to my incredible colleagues, or former colleagues, I should say, in the SDA whose support and advice and camaraderie is something that I will always treasure. Special thanks to Ben, Joe, Martin and Gina for being here today. And to Ben, I know that over the last couple of months there's been a whole lot of extra worries put on your plate, but at least you no longer have to worry about where my slightly acerbic communiques to companies might land the union.

PN79

To my other friends from the union movement, thanks for having my back, and the good humoured conversations we had about the job. It can be rather difficult and rather lonely as union secretary, so it's good to know that there are other people out there who are having the exact same problems that you are, with all the various things that come your way.

PN80

I would like to congratulate Commissioner Lim on her very well deserved appointment, and I look forward to drawing on her significant reserves of industrial knowledge and industrial nous to inform me, as the years go by.

PN81

I would like to thank the President and the Members of the Commission for the welcome I've had, and I would like to especially thank the members here in Perth, Deputy President Binet, Deputy President Beaumont and Commissioner Schneider, who have been incredibly gracious and warm with their welcome, and so generous with their time and advice. They have made the new boy feel at home from day one, so I thank you all, so much for that.

PN82

I'd also like to acknowledge the staff here at the Commission who are an incredibly hard working bunch, and who have gone out of their way to make sure that everything I needed to be successful in the job, I got. I would also like to note, having been here for a bit and watched the work of the Associates, I'd like to note how important they are and what a fantastic job they do, and of course, I've got to make special mention of my own Associate, Catriona, whose good humour, sage advice and incredible work ethic has just been invaluable to me as I've started the career.

PN83

In terms of industrial relations, I'm not exactly sure where my interests came from. I do remember spending a week of work experience with my uncle at the West Australian Commission when I was about 13, and I was frightfully impressed with all the thanking of learned friends, and bowing and pleasing of the Commission.

PN84

I also recall being a Year 11 economic student and we had to have a class vote on what optional units we would study that year. When industrial relations came around, my hand shot into the air excitedly, as I looked around the room. The final tally: industrial relations one vote. Now, I do recall the teacher being a little bit churlish, I thought, and out of line when he said in response to the result of the vote, 'Oh, so it's just Peter who wants to learn all about trade unions.' If he only knew what the future held.

PN85

I then moved on to study economics at UWA. Now, with the President here and his passion for the discipline well known, perhaps I'm doing myself a disservice by saying that it is not for nothing that economics is called the dismal science. Certainly, as a 17 year old in 1985, I did find it difficult to get overly enthused by the minutiae of the Keynes v Monetarist debate, as espoused by some very dry and dusty, tenured economics academics.

PN86

Fortunately, the Faculty of Economics at UWA contained the Department of Organisation and Labour Studies, so I was able to break the monotony by hoovering up of the industrial relations units, and that was a time of the Accord, in its infancy. We'd had the Dollar Sweets decision, and here in Western Australia, we had the Robe River dispute going in all sorts of crazy directions.

PN87

I thought, this stuff is far more interesting than economics, and as far as I knew, unlike economists, no one made derogatory jokes about IR practitioners. Anyway, I moved into the workforce, came back to uni, did a masters degree and then I was lucky enough to get work and a career in IR, and it is an area that has just fascinated me for over the 30 years I've been here.

PN88

There's been a lot of changes, but one of the constants has been this amazing institution, in which I for one, take a lot of nationalistic pride. I think the Commission is one of the great successes of the Australian system, and the work that it does in our workplaces is vital and makes such difference to the working lives of people, and in doing so, their sense of identity and wellbeing.

PN89

Now, I do want to be brief, so I'm going to finish with just a quick story and it's an anecdote that I hope stays with me as the years go by in this role, when I get young, enthusiastic, but perhaps badly instructed advocates before me. Many years ago, a colleague of mine sidled into my office on a Friday afternoon and said, 'I'm going on six weeks' holiday. This case won't come up while I'm away, but I'll give you the file, anyway.' I promptly ignored it.

PN90

Three days later the matter was, of course, called on. I opened the file and read with a growing sense of dread, the contents. This was no file. This was a hand grenade with the pin pulled out of it. I went down to see the boss, and I said, 'Look, I don't understand our argument here. Not only do I not understand our argument, I don't think I understand our maths.'

PN91

The boss, however, was a fairly forceful character, and obviously very keen on the argument. 'No, no', he said, 'Our argument is watertight', and he explained to me how it should be put to the Commission. He said, 'There you go, you go down there, you put that, you'll win. You'd better win.' It all seemed very easy in the office, but on the day as I trudged down to the Commission, I was feeling a little bit disconsolate.

PN92

Anyway, I mused to myself, look, maybe my incredible charm will win over the Full Bench. Maybe - these guys are humanities students, maybe they're not interested in hard science like maths. Anyway, within about 30 seconds it was very clear that my charms were having no impact on the Members of the Bench, whatsoever. Worse still, they could all count.

PN93

The presiding Member then began to pepper me with questions delving into the central theme of the argument. I bravely stood my ground. He continued. I hung on, grimly. His questions then changed from those about the central thesis of my argument, to questions of a more personal nature. Specifically, 'Mr O'Keefe, are you going to continue standing there, wasting everyone's time with this utter nonsense?'

PN94

At that stage, my primate brain's fight or flight response was in top gear. I flew. There was nothing waiting for me back at the office that was worse than the withering gaze of that presidential member. So, look, I hope I keep that in mind, because I know that having been an advocate, there are times that advocates are sent down here with instructions that are somewhat misguided, but nonetheless, firmly put, and I hope I can perform my duties here with patience, understanding and a modicum of sympathy for them.

PN95

I thank you, your Honour, for this opportunity to tell a little bit about my story. I look forward to making such contributions as I can to the worthy achievements of this great institution to which I have been very fortunate to be appointed.

PN96

JUSTICE HATCHER: Commissioner Lim.

PN97

COMMISSIONER LIM: Thank you, Justice Hatcher. I begin by acknowledging the traditional owners of the land on which we meet, the Whadjuk people of the Nyoongar nation. I pay my respects to their elders, past, present and emerging. Thank you, everybody at the Bar table for your kind comments, even though it is effectively a sort of live eulogy.

PN98

I apologise in advance for standing between people and the refreshments, which is very unusual for me. As my old comrades know, and my new Commission colleagues are coming to know, I'm a very firm believer in eat early, eat often. However, I do have several acknowledgements I would like to make, because the reality is that no one comes to this place on their own, and I have been particularly lucky to have had the support of a great number of people.

PN99

There are two sets of acknowledgements I would like to make. The first is for everyone who has assisted me since I've come to the Commission. Thank you to all the members of the Fair Work Commission for welcoming me here. In particular, I thank the WA Members, Deputy President Binet, Deputy President Beaumont and Commissioner Schneider. I acknowledge and thank Deputy President O'Keeffe, with whom I am sharing today's sitting and who has been a long-time supporter of mine.

PN100

Thank you, Justice Hatcher, for your support and leadership of the Commission. To Vice President Catanzariti, Vice President Asbury, Deputy President Hampton and Commissioner Bisset: you have my heartfelt thanks and gratitude for your patience and for answering my many, many, many inane and rambling questions. Your warm guidance and support have been invaluable.

PN101

I express my profound gratitude to all of the Commission staff. They are essential for the operation of the Fair Work Commission and I pay tribute to the invaluable

work they do for the people who rely on this institution. Thank you to the General Manager, Murray Furlong, and the members of his excellent team, such as Amelia Gow, Joelle Leggett, Deanna La Rocca, and Kate Purcell, just to name a few.

PN102

A very big thank you to Michael Holland who has given the Commission over 30 years of service and has been a huge support to me and the other new members of 2023. Thank you to all of the wonderful Perth-based staff. It is a joy to work with such dedicated people every day. To my Associate, Rhiannon, thank you for commencing on this journey with me. I am deeply grateful that someone as committed and talented as you agreed to work with me as my Associate. I would also like to thank all of the Associates here in Perth – Ash, Ben, Cat, Rhiannon T and Taylor, for the generosity of their time and their support.

PN103

At the start of my address I mentioned that noone comes to this place on their own. This second set of acknowledgements is for some of the people who have helped me on my journey to this appointment.

PN104

My first job in the union movement was actually a temp job at the WA Prison Officers Union, under the leadership of Secretary John Welsh, and Assistant Secretary John Walker. I started off doing general admin duties, but halfway through John Walker realised I was finishing my law degree, and so by the end, I was doing legal research and writing submissions for disciplinary action reviews at the Tribunal. It was at this point I thought to myself, 'this is okay, maybe I could do this for a living'.

PN105

My next role was at the WA Branch of the Australian Manufacturing Workers Union. I had a handover of an anaemic few half days, before being thrown into the deep end. My first full day in the office, Monday morning, I had a majority support determination hearing at 9.30 am; a PABO hearing at 10.30 am; another PABO hearing at 11.30 am; and a conciliation for an unfair dismissal application at 1.30 pm.

PN106

Of course, being quite dumb and inexperienced, it didn't hit me until the weekend before that perhaps I was slightly out of my depth, or perhaps my predecessor had something against me. That first day, I turned up at the office at 6 am to re-read all the files, so that even if a member pineapple me on my ignorance of the law, at least I knew what was in the applications.

PN107

When the State Secretary, Steve McCartney, arrived he looked at me and he asked if I felt ready. I replied, honestly, 'No. But it doesn't matter, does it? These applications are going ahead, regardless of how ready I am.' He looked at me for a moment and sagely advised me, 'Well, no one's going to die if you stuff up.' Pleasingly, not only did nobody die that day, I also did not stuff up.

PN108

During my time at the AMWU I was very lucky to be given the room to grow in my knowledge and practice of industrial relations, to try out every sort of application, and to work collaboratively with other unions in pursuit of a collective goal. Above all, I was lucky to learn not from a textbook, but directly from workers and employers about the issues they deal with on the ground, and to work with them on creating practical outcomes.

PN109

I am deeply grateful to Steve McCartney who changed my life by taking a huge gamble on hiring an untested law grad who didn't know the difference between a boilermaker, a welder and a mechanical fitter. I still don't know if I know the difference between the three, but at least I am now experienced enough to know not to ask. I am thankful to have served at the AMWU under the leadership of Steve McCartney, Assistant Secretary Glen McLaren, and National Secretary Steve Murphy.

PN110

After the AMWU I joined the WA Branch of the Australian Services Union. For some reason, the ASU trusted me with leading a team of industrial officers, and it has been a true privilege to have had the opportunity to teach others to avoid my mistakes. Rob, Lewis and Conall, thank you for letting me be your team leader. I am extremely proud of all of you, and I can't wait to see what you all achieve next.

PN111

I thank the leadership team at the ASU for their trust in me. Thank you to Wayne Wood, the WA Branch Secretary, and Jill Hugo, the Assistant Branch Secretary, two of the most inspirational figures in the movement, and to Rob Potter, the National Secretary of the ASU. I would like to acknowledge all the rank-and-file leaders of the unions I have worked for, who sit on the unions' governing bodies and do the union's work on the job, every day.

PN112

Thank you also to all the organisers and staff I have had the privilege of working with over the years. To the close caucus of women I have been privileged to have supporting me, thank you for the joy of your friendship and faith in me. In particular, thank you to Amy Bracegirdle, Alex Cassie and Abha Devasia. Thank you for lifting me up, even when it wasn't easy, and for always pushing me to persist and to prevail.

PN113

To Owen Whittle, thank you, not just for your remarks today, but for allowing a humble industrial officer to sit on the UnionsWA Executive with union leaders and secretaries. I will always value the opportunity I had to play a small part in the peak body's vital work. Thank you to all of the IR lawyers and industrial officers that I have had the opportunity to work with.

PN114

I am grateful to all the practitioners who have helped shape my skills and approach to industrial relations, such as Commissioner Kucera, Nashell Ireland,

Kevin Sneddon, Luke Edmonds and David Scaife, who are in the audience today. Most of all, I thank my good friend, Cory Fogliani, not just for his remarks from the Bar table today, but for his considerable support and friendship over the last decade.

PN115

I acknowledge and pay tribute to my family, to my Ah Kim, Elaine, and my cousin, Benji, who are here today. Thank you to my sister, Crystal, who is watching this from Singapore, for your lifelong support and love. To my mother's partner, John, thank you for being part of our lives. It has been a joy to have you in our family. And then there are my parents.

PN116

Just over 50 years ago, on 11 June 1973, the Racial Discrimination Act 1973 was passed, abolishing the last vestiges of the White Australia Policy. Later that same year, my father migrated to Australia, by way of Christmas Island, followed by my mother in 1982. They both came to this country in pursuit of the undefeatable migrant dream: a better life.

PN117

However, when my father migrated to Christmas Island he found a deeply segregated system managed by the British Phosphate Company. Asian workers were paid a fifth of what white workers received, and were prohibited from owning land. There were two systems based on race for housing, transport, provision of amenities and even schooling.

PN118

The Asian community organised, and in 1975 formed the Union of Christmas Island Workers. My father was the first President of the union and was likely the first Australian union official of Asian heritage. He was an integral part of the union's aggressive industrial campaign that saw mass strikes of the island's workforce and a co-ordinated political strategy, all in the pursuit of equal pay and better conditions.

PN119

However, though there are parallels between my father's achievements and my own, it was not my father who set me on this path. He, in fact, actively discouraged it. When I was 17 and considering what I should study at university, I said to my father that I was considering studying law. He said to me that in a few years the study of law would become obsolete, and I should study computer science instead.

PN120

According to my father, Judges would be replaced by computers, and so all people would have to do is input their cases into the system and a computer would spit out a decision determining the matter. If my father were alive today, he would be simultaneously pleased and furious. Pleased because he would feel vindicated by the advent of AI such as Chat GPT, but furious because I would still be telling him that he is wrong.

PN121

The reality is that justice cannot be found through an algorithm, at least, not yet. People need to be heard and they need to know that their matter is being dealt with in accordance with fairness, equity and compassion. I did not learn these values from my father. I learned them from my mother. It was my mother, a migrant to this country who spoke English as a fourth language, who taught me the value of listening to people and understanding their story.

PN122

It was my mother, raising my sister and I as a single parent who taught me the importance of having compassion for people's different circumstances. And it was most definitely my mother who first showed me the art of negotiation and driving a hard bargain whenever she sent the market sellers in the Pasar Malam markets of Malaysia crying broke.

PN123

And lastly, but not even closely least, my husband Harrison, or as he has been introducing himself, Mr Commissioner Lim. Every day with you is a reminder to me of the importance of being a good person, and doing the things that will make the world a better place, for no other reason than it is the right thing to do. Thank you for always believing in me, especially when I could not.

PN124

I would like to close with a reflection. It is surreal to be sitting here where I am today, knowing that I have been privileged enough to be appointed to this place and contribute to the important role the Commission plays in Australian industrial relations and the employment relationships of millions of Australians.

PN125

Work, and our relationship with work, are among the greatest influences in how we live our lives. Whether you live to work, or work to live, work is the predominant method in which we contribute to society and the community around us. For many of us, what we do for work is an integral part of our identity and the foundational building block for many of our hopes and dreams in life.

PN126

There is dignity in all work. Whether you are a CEO or a cleaner, a doctor or a shop assistant, your work has value and dignity. And no matter what you do, you deserve fairness. Industrial tribunals have played a long and distinguished role in protecting fairness in the workplace. This is a role I promise to uphold and perform without fear or favour.

PN127

Industrial tribunals also have a significant role in driving progress in our workplaces. Without industrial tribunals, we wouldn't have the hallmarks of progress, such as the minimum wage, leave entitlements and the eight-hour day. It speaks to the significance of the employment relationship that the achievement of industrial conditions is one of the markers by which we judge the advancement of society. And it is fitting that the Fair Work Commission today also reflects the work of that progress.

PN128

When the first iteration of this institution, the Commonwealth Court of Conciliation and Arbitration, was established in 1904, people who looked like me were not allowed into this country. It means more than words can possibly convey, that for the first time in this institution's nearly 120-year history, that someone like me, a child of two Chinese Malay migrants who came to this country ready to work for a better life, can sit where I am now.

PN129

I am grateful to the government for appointing me to this position. I am also overjoyed that whilst I may be the first person of Asian heritage to be appointed to this position, I will not be the only for very long. I look forward to officially welcoming Commissioner Oanh Tran who commences her position at the end of the month.

PN130

Thank you to everyone who has come here today and who has dialled in. You honour me with your time, care and belief, and I plan to make all of you proud. Thank you.

PN131

JUSTICE HATCHER: On behalf of all my colleagues, I would like to congratulate Deputy President O'Keefe and Commissioner Lim on their appointments. I thank all those who attended today, both at the Bar table and as guests. When we adjourn, we'll have morning tea served out in the foyer, so you're all welcome to attend and eat your fill, and we will now adjourn.

ADJOURNED INDEFINITELY

[10.50 AM]