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BEFORE THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

CEREMONIAL SITTING

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CEREMONIAL SITTING TO FAREWELL  
CHIEF COMMISSIONER P E SCOTT

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TRANSCRIPT OF PROCEEDINGS

AT PERTH ON THURSDAY, 21 JANUARY 2021, AT 3.30 PM

CHIEF COMMISSIONER P E SCOTT  
SENIOR COMMISSIONER S J KENNER  
COMMISSIONER T EMMANUEL  
COMMISSIONER D J MATTHEWS  
COMMISSIONER T B WALKINGTON

MR P COOKE appeared for the Australian Mines and Metals Association

MR P MOSS appeared for the Chamber of Commerce and Industry of Western Australia

MR O WHITTLE appeared for UnionsWA

THE HON W J JOHNSTON MLA appeared for the Minister for Industrial Relations

MR S HARBEN appeared for the Industrial Relations' Society of Western Australia

MR T HAMMOND appeared for the Western Australian Bar Association

CAV M SARACENI appeared for the Law Society of Western Australia

**KENNER SC:** Welcome to the ceremonial sitting of the Commission to mark the retirement of Chief Commissioner Pamela Scott, who retires at midnight next Tuesday, 26 January 2021. On behalf of the Commission, I especially welcome members of the Chief Commissioner's family. Her husband Steve, her brother Paul and his wife Om, her nephew Edward, and her niece Melinda. I also welcome the Chief Commissioner's friends who are with us today.

I acknowledge and welcome those at the Bar table, including the Honourable Bill Johnston MLA, Minister for Industrial Relations, Mr Owen Whittle on behalf of UnionsWA, Mr Paul Moss on behalf of the Chamber of Commerce and Industry, Mr Peter Cook on behalf of the Australian Mines and Metals Association, Ms Maria Saraceni on behalf of the Law Society, Mr Tim Hammond on behalf of the Bar Association, and Mr Saul Harben on behalf of the Industrial Relations Society.

I'm also delighted to welcome their Honours Peter Quinlan CJ, Graeme Murphy J, and Rene Le Miere J. I'm also very pleased to welcome former members of the Commission who are attending today, including former Acting President and Senior Commissioner her Honour Jennifer Smith J, former Acting President and Senior Commissioner the Honourable Gavin Fielding AM, Former Acting President Mark Ritter SC, former Chief Commissioners Bill Coleman AM and Tony Beech, former Senior Commissioner Jack Gregor, and former Commissioners Sally Cawley, Bob George, Rodney Gifford and Stephanie Mayman.

And I also note the presence of Deputy Presidents Melanie Binet and Abbey Beaumont and Commissioner Bruce Williams of the Fair Work Commission and Industrial Magistrate her Honour Jennifer Hawkins. Welcome to you all. One apology has been received from his Honour Kenneth Martin J who is unable to attend this afternoon.

It's a mark of the Chief Commissioner's modesty that she was quite reluctant to have a farewell sitting today. It took some persuasion from various quarters who will remain unnamed, one of whom may be here today, to change her mind. And it's very pleasing that she has, in fact, done so.

The Chief Commissioner was appointed a Commissioner in December 1994 and she was welcomed to this Bench in January 1995. On 17 October 2009, the Chief Commissioner was appointed the Acting Senior Commissioner and the Chief Commissioner on 27 June 2016. At just over 26 years of service this makes the Chief Commissioner the second longest serving member of the Commission. A special achievement in and of itself on a tribunal whose predecessor the Arbitration Court of Western Australia was first established under the Industrial Conciliation and Arbitration Act of 1900.

One might be forgiven for thinking that the Chief Commissioner's appointment to the Commission was her first appointment. However, to an extent the Chief Commissioner's career had come full circle on her appointment as a Commissioner. At the tender age of 22 her interest in industrial relations having already been kindled the Chief Commissioner was appointed as a research officer at the Commission. She also served a short period as Acting Clerk to former Commissioner, Senior Commissioner and Chief Commissioner the late Bruce Collier AM, an opportunity that she relished.

From those early days the Chief Commissioner's career quickly progressed when she was appointed as an industrial advocate at the then Confederation of WA Industry in October 1980. Qualified with degrees in Arts and later Law she was a very able and effective advocate for employers in this State and became the Confederation's Manager of Industrial Relations and concurrently head of the Retail Traders Association of Western Australia. Juggling those two jobs obviously prepared the Chief Commissioner well for her later appointment to the Commission.

Since her appointment, the Chief Commissioner has presided over industrial disputes and industrial matters in a broad spectrum of industry portfolios in both the private and public sectors and most of the Commission's constituent authorities. Of note is the Public Service Arbitrator jurisdiction, which the Chief Commissioner has held from her first appointment to that office in June 1998 and almost continuously to date.

In this area, which now comprises a substantial body of the Commission's work, the Chief Commissioner has conciliated and arbitrated many significant cases. These have included salary ranges and career progression for specified callings in the major public service awards. She has also dealt with many important work value cases especially in the health sector, an area of the Chief Commissioner's speciality.

A substantial increase in responsibility and workload of the Chief Commissioner and to a lesser extent the Senior Commissioner followed the abolition of the President's position in December 2018. This has been an additional heavy burden on the Chief Commissioner. However, in all of what she has done the Chief Commissioner has displayed good grace, impeccable fairness to all concerned, a sense of humour, and unfailing courtesy.

On the administration side modernising and reforming has been a feature of the Chief Commissioner's time in office. She has been responsible for a range of initiatives to better meet the needs of those who appear before us. This has included consultative processes to seek the views of representatives and major parties about practices and procedures of the Commission.

To help parties who are unrepresented, a challenge for all Courts and tribunals, the Chief Commissioner instigated information sessions at the Employment Law Centre. She has also been keen to promote greater professional development amongst Commissioners. All in all, the Chief Commissioner's contribution to industrial relations in this State has been longstanding and significant. She has been a large part of the institution of the Commission itself for over a quarter of a century.

Outside of the Commission the Chief Commissioner has, as some of you may know, developed in more recent times a great fondness for life in the country. I know this because the Chief Commissioner and I have had many enjoyable conversations about such weighty and important matters as water tanks and fencing. I also know that the Chief Commissioner delights in observing kangaroos some with joeys as they forage and bound about their property in the early evenings.

Perhaps as an indication of the impending retirement of the Chief Commissioner she placed a special item on her wish list for Christmas just passed, a chainsaw. I can report to you all that she is now the proud owner of one. Many enjoyable years lay ahead for the Chief Commissioner and Steve in these country pursuits.

Pam, through your stewardship you leave the Commission in good stead. Whilst today as a celebration of your service your loss will be felt. Your warm laughter in the level 19 kitchen and in the morning tearoom will be missed. On behalf of myself and my fellow Commissioners thank you for being a colleague over these past years and for your friendship. We wish you a long happy and healthy retirement.

Minister.

**JOHNSTON, MR:** I come here on behalf of the Government of Western Australia today to pay tribute to the retiring Chief Commissioner. It's interesting that, of course, we actually first met when the Chief Commissioner was at the Retail Traders Association and the Chamber of Commerce and Industry and I was a newly minted industrial officer for the Shop Distributive and Allied Employees Association. What that means is that we were representing opposite parties in matters back then.

But it's a tribute to Pam Scott that she's able to bring a clear mind and a sharp understanding of the law to her role at the Chamber of Commerce on behalf of the members that she represented and was able to often better the newly struck industrial officer of the SDA. But she brought that mind to the Commission and for all these years, 26 years, has contributed her capacity to Australia's unique system of compulsory arbitration. And the community has benefited greatly from Commissioner Scott's ability and capacity that she's brought here to the Commission.

As a practitioner in industrial relations, I often said to people that if you're looking for justice you had to wait for the afterlife because here we're dealing with the law and sometimes the law doesn't provide justice. But the good news for the system that we use in Australia is we are aiming to provide fairness. Fairness I mean to both sides of the employment relationship, so that there's a fair outcome for disputes that occur and fair conditions of employment that are both fair and reasonable for both sides of the employment contract. And I know from experience that Commissioner Scott was able to bring a very sharp mind to the processes here at the Commission.

It would have been, you know, as Minister I sadly have only really in the industrial relations area have one achievement, which is the process of abolishing the position of President, and I wasn't able to bring other reforms through that would have allowed Commissioner Scott to continue in office beyond this year.

And, you know, for continuing my inadequate representation from the SDA to my role as Minister I apologise to you, Commissioner, and to all other people that we weren't able to achieve those necessary reforms. But can I say that nonetheless we're still deeply committed to those reforms and if we're lucky enough to form a Government after the March election we hope to bring those necessary reforms back to the Parliament and hope that we can be more successful in negotiating those through the Parliament because there are many reforms that are needed.

And I want to congratulate Commissioner Scott for her role in modernising the practices of the Commission to make them more accessible and more relevant to modern society. And the fact that, you know, that work is continuing until now is a credit to Commissioner Scott.

Now, this is an unusual situation because Commissioner Scott is clearly retiring from the Bench but I don't imagine that she's retiring from active life. And I'm sure that many opportunities that will be presented to Commissioner Scott in the future by Western Australian industry because I think it would be tragic to lose her capacity and ability from the benefit of Western Australia and Western Australian industry. So, I hope that if there - you know, for those that are watching the proceedings today they take note that I think that Commissioner Scott has a strong ability to work for the benefit of the community in the future in whatever capacity she believes is best suited to her.

The Commission is privileged to have many people of talent that come here and serve. They choose this pathway rather than another one because they see this as an opportunity to be of service to the community. And I want to on behalf of the Government and on my own behalf thank Pam Scott for that 26 years of service to the people of Western Australia.

**KENNER SC:** Thank you, Minister.

Mr Whittle.

**WHITTLE, MR:** Thank you, Senior Commissioner.

It is a great honour to rise on behalf of UnionsWA and the working people of this State to congratulate the Chief Commissioner on her retirement today. And I'm pleased to have this unique opportunity to express our thanks on behalf of UnionsWA, our executive council, and all our affiliated unions to your contribution to this very important institution and more broadly to the State of Western Australia.

You've clearly had a long and distinguished service in the field of industrial relations and it's hard to underestimate the changes that have occurred in the field since you began your career let alone your time as Commissioner in 1994. I reflect that it's changed quite significantly in my time in the union movement and I think I was in primary school at the time you were first appointed to the Commission, so I certainly feel somewhat inadequate in expressing the changes from my perspective where they must be much greater from yours.

But in acknowledging your time as a Chief Commissioner, as the Minister mentioned, it's probably come up sooner than many of us would have hoped but obviously that doesn't - and even though you had some reluctance in holding this ceremony, according to the Senior Commissioner, that's not going to stop I suppose myself and many of the stakeholders in embarrassing you in front of everyone else in terms of your career and the good work that's been done in this institution.

First and foremost, I think it's worth reflecting that your appointment made you the - it was a ground-breaking appointment and that made you the first woman to be appointed Chief Commissioner. And I think that's important to acknowledge because industrial relations has long had a history of being male dominated. But it is also a field where much work has been done and still needs to be done for working women and it's important to break those stereotypes in this field.

And I think all of us who work in or around industrial relations have found the last 12 months to be a difficult period. And I can only imagine from the perspective of the Commission that that has been the case as well. From a union perspective as Chief Commissioner you've managed the Commission's response to a difficult period of time very well. It was certainly a challenging period for us when you closed your premises and you had staff working remotely. There were no doubt more challenging matters presenting to unions and to the Commission in terms of your workload.

But in responding and the general order issued in May 2020 that was a vital general order to ensure that workers in the State system had access to the Jobkeeper scheme and if it wasn't for the Commission's swift response during the pandemic many workers would have been left worse off, if it wasn't for the swift actions of this Commission and that's appreciated by us.

Additionally, the general order in April 2020 to allow all private sector State system employees to take unpaid pandemic leave, annual leave on half pay and annual leave in advance during the pandemic was also a vital mechanism, which assisted workers at a very difficult period, and we express our appreciation for the Commission's work on that.

Aside from the more immediate kind of year of chaos that's been upon us I think we can look back at your more substantial achievements during your time on the Commission as well. Moving in 2018 on the Commission's own motion to establish a new principle for equal remuneration for men and women for work of equal or comparable value was an important move and one that now forms an important part of the State wage fixing principles. Also, by the reform that again one that is well appreciated by the union movement and our affiliated unions.

The move to introduce a consultation group, I think it was referenced earlier, I think is a very important forum and one that will prove to smooth out matters in the Commission on behalf of the stakeholders and we hope that that continues and that that important work bears fruit. Also, we appreciate that you've been very generous with your time. You've attended union conferences, shared your perspectives on the Commission's operations to unions, our industrial officers and lawyers, and your time to do that has been well appreciated by ourselves and the general union movement.

We also appreciate the emphasis you placed on access to justice, a very important issue. There are a lot of unrepresented individual employees and small business owners who are unfamiliar with tribunals and the somehow occasionally complex ways that they operate. Initiatives such as the Commission's pro bono scheme are important for vulnerable employees and employers as are the roles of the Employment Law Centre and the John Curtin Law Clinic. We hope that your successes continue the support you've shown for them but also the general principle around those clinics.

We thank yourself and other members of the Commission and appreciate both your Associates and Registry staff for the contribution you all make to this important institution. And may I say again on behalf of UnionsWA and our affiliated unions and working people of this State I wish you all the very best in your well deserved a successful retirement from the Commission.

**KENNER SC:** Thank you, Mr Whittle.

Mr Moss.

**MOSS, MR:** Thank you, Senior Commissioner.

I'm honoured to appear on behalf CCIWA in thanking Chief Commissioner Scott for your service and recognising the contribution that you have made to the community as a whole both as a member of the Commission and most recently as Chief Commissioner.

I'd also like to recognise the service that the Chief Commissioner has provided to the business community during your tenure with CCIWA and prior to that the Confederation of WA Industry prior to your appointment to the Commission in '94. And also, in particular the work that you have done in representing the predominantly small businesses which, of course, now make up the majority of the private sector entities represented by the State system. That also formed part of the then Retail Traders Association during your tenure or your assistance with them.

From the perspective of CCI your appointment to the Commission was clearly well deserved. And in appointing Commission members there isn't often a focus on the person's background and the need to maintain balance within the Commission. And whilst this is an important factor ultimately the measure of the individual's success in their role lies with their ability to gain respect of all the relevant parties and impartially fulfil their duties of the role preferably whilst retaining a sense of humour. And I think from the comments in the room today it is very, very clear that, Chief Commissioner, you've achieved that goal.

Whilst it's generally the nature of the Commission matters that at least one, if not all, of the parties may not like the outcome of an individual decision we all have great confidence that whenever we've entered into your hearing rooms we know that we're going to receive a fair hearing and a decision that takes into account both the legislative and the human elements of the matter at hand and for that we thank you.

You joined the Commission at a very tumultuous period in the industrial relations landscape. You joined shortly after the Court Government commenced a series of significant industrial relations reform that dramatically changed the options for regulating employment relationship, not in just Western Australia but also provided a catalyst for further reform in the Federal IR system as well.

And since then, the regulation of the industrial relations system has been through a multitude of change both at the State and the Federal level, which for good or bad depending on who you're asking, has required the Commission to continue to adapt to a changing landscape. The Commission has consistently risen to meet this challenge, which is a testament not only to the quality of its members but also the associates and the Registry staff as well.

Chief Commissioner, during your stewardship the last 12 months has probably provided the most significant test for the Commission's ability to adapt and respond to periods of substantial upheaval. Not only for the Commission itself but the employees and the employers that it ultimately serves.

The capacity for the Commission to adapt quickly to its rapidly changing environment was notable at a time when many other institutions struggled to do so. I particularly reflect on the two general orders issued by the Commission in response to the COVID-19 pandemic. And it highlighted the commitment of both yourself and the Commission to facilitating cooperation between the parties at a time where there was a very strong mutual focus on preserving jobs.

The decision to initiate on its own motion a general order that provides for unpaid pandemic leave and greater flexibility in the taking of annual leave reinforced the proactive nature of this Commission. And, you know, furthermore, the Jobkeeper flexibility general order demonstrated the capacity for the Commission and in particular yourself, Chief Commissioner, to be innovative and develop novel solutions to problems in crafting an order which would work within the restraints of the State IR system. And I would add without that contribution the ability to have that order just simply wouldn't exist and both from an employer perspective and clearly from the employee perspective. These changes were necessary to deal with something that was quite significant and still is.

All of this has reinforced your underlying commitment to both the employees and the employers who are central to the industrial relations system. So, on behalf of CCI I would like to wish you all the best as you embark on the next chapter of your life. Thank you, Chief Commissioner.

**KENNER SC:** Thank you very much, Mr Moss.

Mr Cook.

**COOK, MR:** Thank you, Senior Commissioner.

On behalf of the Australian Mines and Metals Association we would like to thank the Commission for providing us with the opportunity of recognising the significant and the outstanding contribution that the Chief Commissioner has made to industrial relations and workplace relations in this State during the course of her career.

We would note that there is much one can say about the contribution of the Chief Commissioner over the course of her career, much, much more than the time available permits. On a personal level I would note that I first met the Chief Commissioner in the early 1980s when I was undertaking an arts degree, probably the first or second year of an arts degree at UWA. I was doing this rigorous course of study on a fulltime basis and that was about six or eight contact hours a week.

Chief Commissioner Scott by contrast was providing industrial relations advice, guidance and representation to a large portfolio of industries as her daytime job and then undertaking much the same course of tertiary study on a part-time basis as her workload permitted. Looking back on this point of comparison perhaps it indicates why one of us ended up as a Chief Commissioner and the other one didn't. As I subsequently found out when I became a colleague of the Chief Commissioner and I was employed by the then Confederation of Western Australian Industry, the Chief Commissioner set the benchmark or the standard in the manner in which she undertook her role as an industrial advocate and later as a manager of industrial relations at the CCIWA as it later became.



One of the accountabilities the Confederation put upon its more senior industrial relations staff was to mentor and assist the more junior members of staff and I was certainly one of those. I had the benefit on a number of occasions and the privilege of accompanying the now Chief Commissioner to this tribunal and to the Industrial Magistrates Court and to watch her represent Confederation members.

Watching the Chief Commissioner as an advocate what one saw were well researched cases, intellectually strong and rigorous arguments that were always presented in a cordial and polite manner. And the employers got the very best of representation, there is no question about that. I would note on behalf of the resources sector that since the advent of the work choices legislation and all constitutional corporations moving into the Federal system our members have had less exposure to the State industrial relations system and perhaps that's a matter of regret but these are issues beyond our control.

We do note that from time to time in all jurisdictions there will be perhaps some controversy between the industrial parties over appointments to industrial tribunals. However, we would say that there has never been that same level of controversy over the appointment of the heads of industrial tribunals. We would say that any fair-minded observer would agree that the Western Australian Industrial Relations Commission has been very well served by the appointments the State Governments from both sides have made in the calibre and capacity of people to lead this tribunal.

We would like to close by submitting the last four years have proved that in 2016 the Barnett Government made an excellent appointment in their choice of Chief Commissioner of the Western Australian Industrial Relations Commission. Chief Commissioner, we wish you and Steve all the best for your retirement. I don't have a mental image of you sitting down at the bowls club enjoying an afternoon tea. I am sure you will continue to make an impressive contribution but nonetheless we thank you for your - we note your retirement, we wish you well on your retirement and we thank you for your outstanding service to this State.

**KENNER SC:** Thank you very much, Mr Cook.

Ms Saraceni.

**SARACENI, MS:** May it please the Commission.

First, I'd like to acknowledge the Traditional Custodians of the land on which we meet the Whadjuk people of the Noongar Nation and pay my respects to their Elders past and present.

It is my privilege to appear today on behalf of the Law Society of WA and the legal profession generally as we farewell you, Chief Commissioner Pam Scott. I acknowledge and welcome your family members and friends and colleagues who are present today as well as distinguished guests and members of the Commission and the judiciary. As we've heard and I won't repeat, Chief Commissioner Scott, you've enjoyed a long and distinguished career. Your university qualifications include a Bachelor of Arts from UWA and later a Bachelor of Law from the University of Notre Dame.

You were admitted to practice in 2013. Your standing as a then Senior Commissioner of the Commission meant I believe amongst other things that you were exempted from doing any articles of clerkship or anything of that sort. Like most lawyers you joined the Law Society that same year and you remain a highly valued member of the society.

Some of the ground-breaking firsts that you've achieved have been pioneering and that is partly and obviously because of your gender. And I don't want to go through them in detail but some have been moved or discussed very briefly and that includes your illustrious career in industrial relations since about October 1980 when you were one of the first industrial advocates at what is now CCI and you were the first female in that space and I understand that that created a few issues at the time but you alleviated the concerns that any people had.

I'm also reliably informed that you were the first female advisor of what was then the Confederation of WA Industry. Your promotion then as a team leader, again a first for a woman. And then when you were appointed to industrial relations manager and then also secretary of the Retail Traders Association all as a woman and you were the first in that space.

You worked across various industries, construction, mining, retail and health and your breadth of experience with what was happening at the coalface put you in good stead for your elevation to the Bench. You were appointed a Commissioner some 26 years ago and again whilst at the Commission you've been the first female in lots of spaces. I was standing outside with a few of the retired Commissioners and looking at the black and white photographs and you were the first female Commissioner on the Commission and the photographs evidence that. Again, the first female Senior Commissioner, the first female Chief Commissioner.

You're a commensurate professional, quiet achiever and modest with your achievements. You are also a trained mediator having undertaken mediation training at Harvard Law School. You've conducted various mediations through the employment disputes resolution provisions that work in conjunction with the Commission. And then you've been a public service arbitrator, as has been said, since June 2001 and in that role you have conciliated and arbitrated employment disputes in the public sector. I understand that perhaps and the Commissioner's even - - - spell check that is required or that you imposed to make sure public read public in all the documents that were issued.

Your role at the Commission has always focused on dispute resolution in all different types of issues, both workplace relations and industrial relations. There was some concern going back to 2009 with the introduction of the Fair Work Act as to the Commonwealth grab for power and what it might mean for the purposes of the Industrial Relations Commission of the State.

What would happen to the jurisdiction constitutional corporations and not constitutional corporations but I'm pleased to say that the Commission has found that it still retains jurisdiction through denied contractual benefits claims even for constitutional corporations all through the Industrial Magistrates Court.

And then there's always the Occupational Safety and Health Tribunal which continues as part of this jurisdiction and with the new Act that the Minister put through back in November this year, the Work Health Safety Act, the role that the tribunal will continue. At the time that you were appointed the first female Chief Commissioner the then Attorney General Michael Mischin said that you were highly regarded within the labour relations community for performing duties in a fair and impartial manner.

You've chaired and served on many complex Commission matters, including Full Bench appeals, the annual State wage case. The abolition of the Presidency of the Commission meant that the responsibility for the Full Bench fell to you as Chief Commissioner. I'm not sure whether that entitled you to a higher duties allowance but we won't go into that. The annual State wage cases have over time become more complex and more onerous. As has been mentioned COVID-19 last year was an added complication but under your stewardship the Commission rose to the occasion evidenced by the general orders.

In performing your duties, Chief Commissioner, you've always performed them with the greatest integrity, skill and impartiality. You've built and nurtured important relationships with those that appear in this Commission and this has created more effective communication, consultation and cooperation amongst all stakeholders in workplace relations in this State.

As a member of the Law Society, you've contributed to the Law Society's program of continuing professional development, playing an important role in passing on knowledge and expertise to WA practitioners. And on behalf of the Law Society, I thank you for your valuable contribution.

There are some matters that you were and remain passionate about in industrial relations in this State and your annual reports have reported on them. One of the issues that you have spoken about is the registered industrial agents and questioned the quality, depth, the professional ethics and lack of oversight of some of them and the impact that some disbarred lawyers have had when they have appeared in this Commission as industrial agents and that is something that is still to be put to bed.

There is also then your view of the utmost importance of relationship building resulting in more effective communications, consultation and cooperation and that is consistent with the objects of the Industrial Relations Act, particularly promoting goodwill in industry and enterprises. Again, when ensuring agreements are there that they provide fair terms and conditions of employment.

Fairness is throughout most of those objects but one of the important objects under the Act and dear to your personal philosophy is to encourage persons, organisations and authorities involved in or performing functions with respect to the conduct of industrial relations under the laws of the State to communicate, consult and cooperate with persons, organisations and authorities involved in or performing functions with respect to the conduct or regulation of IR under the laws of the Commonwealth.

Now, just a few memorable matters, cases that I've been told reliably that perhaps are noteworthy. There was a distant wages dispute in the childcare industry many years ago, Chief Commissioner, when you worked at CCI. It involved the Miscellaneous Workers Union. It appears that all parties had agreed orders and yet when there was an appearance before the Commissioner at the time there was the consent case was lost and apparently a question was asked by you in relation to whether - or a comment made by you that only you and the Commissioner at the time were not members of the Miscellaneous Workers Union.

But in any event the consent case was lost and in reminiscing the storyteller mused to me that the win on the day was because of your keen eye for strategy, well crafted submissions and convincing oral submissions was part of it. There's also an unfair dismissal case involving a disgruntled ex-farm manager. And again, the Senior Commissioner has mentioned your love for the south west. That farm I understand was in the south west and he'd been sacked by his brother, a fellow farmer.

As an unrepresented litigant the relief he sought included requiring you as the presiding member to dig up the farm to find the missing cattle and to also supervise that digging. Now, although that was well outside the parameters of your statutory relief that you could afford given your love for the south west and the fact that you do have a house in the south west and at the time I think your father was also in the south west, you could have actually supervised the digging up of the property because you were not far away and kept bumping into them.

Chief Commissioner Scott, after a long and distinguished career most recent as head of the tribunal I hope your retirement will leave time for more relaxing pursuits with Steve as you embark on the next exciting new chapter in your life. On a personal note, I would have told some stories about your obsession about prints aligning in the corridors of this Commission but the Society has told me not to press that, so I won't go any further.

On behalf of the Law Society of WA and the legal profession we sincerely thank you for your exemplary service and leadership over the years and wish you well in your future.

Thank you, Senior Commissioner.

**KENNER SC:** Thank you very much, Ms Saraceni.

Mr Hammond.

**HAMMOND, MR:** Thank you, Senior Commissioner.

I join with Ms Saraceni in acknowledging Traditional Owners of the land that we meet upon and also join her in acknowledging the judicial officers in the room, other dignitaries, and the Chief Commissioner's friends and family.

Chief Commissioner, I'm delighted to be able to deliver these remarks on behalf of the West Australian Bar Association. Mr Cuerden also sends his personal apologies for not being able to be here today.

Chief Commissioner, the Commission has already heard numerous examples of the dedicated service that you've offered to this Commission over the last 26 years, including four years as Chief Commissioner. We have heard from Senior Commissioner and others, notable cases upon which you have presided over in your tenure at the Commission, any number of countless reforms that you ushered through for the benefit of litigants and stakeholders alike in the Commission. And over the course of that 26 years have seen off more than a few governments of either political persuasion and their attempts at reform that they bring through this place all to your utter credit.

Having regards to all of those matters and having regards to the qualities that we have already heard today, including but certainly not limited to your formidable intellect, your work ethic, and the universal respect that you've commanded from those who you sit with and stakeholders alike.

I was reflecting on the role that the Bar Association plays in relation to appearing before the Chief Commissioner and I think it's true to say that perhaps this isn't a jurisdiction upon which counsel appears as often as perhaps some other jurisdictions and the like. And I suspect certainly when it comes to, Chief Commissioner, your role we are quite appropriately reminded and perhaps not reminded enough that as counsel perhaps the best service we can offer is not so much a passionate argument on behalf of our client but being of assistance to the Commission or to the court as the case might be.

And I think simply the reality is, Chief Commissioner, is that having regards to the unique skill set that you have brought to decision making over the course of the last 26 years. Even with, Chief Commissioner, your formidable memory I think it's fair to say that what little you might have forgotten is almost more than most of us already know on this side of the Bar table. And I'm not quite sure how much assistance we can possibly give you having regards to all of those things.

I suspect it is far from us and certainly far from me at this side to make any assumptions or guesses in relation to having regards to that formidable work ethic, Chief Commissioner, what you may go on to do in the course of your retirement. But I can say from a personal perspective having regards to your professional demeanour sitting deciding matters it didn't matter what submission was brought either from myself or my opponent.

Master Sanderson you might recall in the recent eulogy of such to the Bell litigation observed leading counsel at the time John Vaughan SC as his Honour Vaughan J then was as presiding over proceedings with a sphinx-like visage in relation to any submissions that was put.

I think that comment is appropriate of you, Chief Commissioner. It was almost impossible to ascertain whether one was on the right side or the wrong side of the argument because of that impeccable sphinx-like demeanour that you brought to every single case regardless of the quality of the submission that was being put to you. Again, far be it for me to suggest but, Chief Commissioner, if you were deciding to venture into say competitive poker playing I would not want to be betting against you.

Chief Commissioner, the observations that have been made before the speakers prior to me today we join in offering from the Bar Association. The reality is the contribution that you have made to the Commission and to the administration of justice in the industrial relations space is so valuable I think it's probably incapable of measurement. All I can say on behalf of the Bar Association to join those remarks is to thank you immeasurably for your service to public life and to decision making in this space.

Thank you.

**KENNER SC:** Thank you very much, Mr Hammond.

Mr Harben.

**HARBEN, MR:** Thank you, Senior Commissioner.

It is a great pleasure to be here today to address the Commission this afternoon on behalf of the Industrial Relations Society of Western Australia on the occasion of the retirement of the Chief Commissioner. In doing so I note, Chief Commissioner, that you have been a member of the Industrial Relations Society of Western Australia for 42 years and spent five years as a member of the committee of the society and I thank you for your membership and your service.

Advocates appearing before your Honour have always been treated fairly and respectfully and allowed to make out their arguments as best as their cases would allow them to. This has greatly assisted us in performing our roles and we thank you for that. It was and still is a great regret of many industrial relations practitioners that the introduction of the Workplace Relations Amendment Work Choices Act in 2005 significantly limited the ability of trading corporations to participate in the Western Australian industrial relations system.

However, there remains opportunity for IR practitioners to be engaged in matters before the Commission, including importantly in pro bono matters. Your Honour has demonstrated an unwavering support to the development of a pro bono function within the Commission and in doing so has ensured access to justice for a significant number of employers and employees. The impact of access to justice for someone who is impecunious or does not have English as a first language cannot be underestimated.

Chief Commissioner, you should rightly be proud of the positive impact the Commission's pro bono scheme has had on those who could not otherwise afford representation. I can say from firsthand experience that it has simply changed people's lives by being connected by the Commission's pro bono scheme with a lawyer or advocate who has been able to help them find a voice and put their case forward.

On behalf of the Industrial Relations Society of Western Australia we thank you for your service and wish you all the very best for the challenges that lay ahead.

**KENNER SC:** Thank you very much, Mr Harben.

Chief Commissioner?

**SCOTT CC:** Thank you all for doing me the great honour of coming along today to help me mark the end of my time at the Commission. I'm greatly honoured in particular by the presence of their Honours Quinlan CJ, Le Miere and Murphy JJ and our former colleague Smith J. I also see Industrial Magistrate Jennifer Hawkins here too. Thank you all for your attendance.

I'm very pleased to see here too former colleagues' members of this Commission Mark Ritter SC former Acting President, former Chief Commissioners Bill Coleman and Tony Beech, former Senior Commissioners Gavin Fielding and Jack Gregor, former Commissioners Bob George, Sally Cawley, Rod Gifford and Stephanie Mayman. And to my colleagues from the Fair Work Commission thank you too for being here.

To those of you at the Bar table your comments have been very kind and generous even if some of them have been embellishments or alternative facts but it does remind me of a funeral where no one speaks ill of the dead.

And I'm humbled by the presence here of so many people who I've had the pleasure of getting to know and deal with over so many years. Minister Johnston, in my time as Chief Commissioner I have enjoyed the benefit of having a Minister who is knowledgeable of and interested in industrial relations and in the role of the Commission and I have to say that that's not necessarily been a given.

I know it's disappointing to you as it was to me that the bill did not get through before Parliament rose and it has meant that some very positive changes for the industrial parties and for the Commission's jurisdiction have not come to pass. And it's true to say that I would have enjoyed a role in implementing some of them.

Mr Whittle and Mr Moss, your organisations play a very important role in the Commission's deliberations, particularly in the State wage cases and in the general orders that we've issued. I thank you for your comments. But I must assure you that after I finish here and I intend to devote myself to supporting the retail industry I will not spend much time or thought on whether the consumer price index should be disaggregated. Whether the Gini co-efficient of income inequality is affected by my economic activity or how I fit in the HILDA Survey.

Mr Harben, the Industrial Relations Society has been part of my life for decades and I have benefited from the wonderful opportunities that it provides for people to cross the divide and to hear different views and experiences. And it's delightful to hear from you, Mr Cook, particularly given that we worked together when we were both very young and naive. Mr Hammond and Ms Saraceni, thank you both for your comments.

When I started at the Commission 26 years ago I was told that we were soon to be abolished. I'm very gratified that governments of various persuasions have seen the benefits of this institution to the community. The industrial environment in this country has indeed changed beyond recognition during my career. It has become a more professional activity. The legal profession takes a more significant role, not only in advocacy but also in strategy and negotiations.

The role of the Commission has also changed; it now deals with more individual matters than before. People have commented on the changes that have come from the Federal Government's use of the corporations power and that together with unions having had difficulty organising the State small business sector have resulted in the atrophy of State private sector awards and I hope that that will find a way to be resolved.

But the Commission's role has broadened in both the corporate and other sectors in a range of areas and, of course, its role in the public sector remains a cornerstone of equity and fairness. The Commission has changed also in a couple of significant aspects. When I commenced all but one of the Commissioners were so called lay people in that they were not lawyers. Now all but one are lawyers for better or worse. The role of the President, as people have noted, has been abolished after decades of that change being on the agenda.

I have been blessed to have enjoyed a long career in an area of work that I have found both fascinating and rewarding. If you'll permit some indulgence on my part it is traditional on these occasions to acknowledge the sacrifice that one's parents have made but in my case it was the most significant aspect of enabling me to make the most of the opportunities that have come my way.

I'm the proud daughter of 10 Pound Poms. They migrated here with nothing but a couple of suitcases and their first two of four children. They left London, a place still ravaged and in the deprivations of rationing after the war. My mother was never able to return to her homeland as they simply could not afford it in spite of coming to the land of milk and honey. They came here with strong beliefs in socialism and in education as a way to improve life.

My father Ted worked in the motor vehicle industry, coal mines and in the timber industry taking on all the overtime he could to support his family. My eldest brother dearly wanted to continue at school but being the eldest he had to go to work at 15 because there wasn't enough money to support him. As the youngest I've received the benefit.

In our small town the opportunities for women to work were very limited. My mother Mary worked as a meat packer in an abattoir to ensure that I could finish school. I pay tribute to them for their sacrifice. They raised me to believe that I could do anything I set my mind to if I worked hard enough and took the opportunities that came my way. Due to their dedication and by the skin of my teeth I escaped the fate of many young women without choices and education. Young women who often faced the very real prospect of leaving school at 15 or younger and being married or alone with a couple of children by the age of 20.

The mother of one of my school friends had six children and they were in real poverty. That woman became the first woman in our town to be employed as a timber stacker in a timber mill. Is that the sort of female first we're proud to celebrate? And it needs to be acknowledged that those circumstances and limited choices still face some women in our society today.



My parents' views of education have affected my view of life, including how I've seen my role as Chief Commissioner. I have aimed to build on the lead of my predecessors to make the Commission more open to communication with people and bodies who are affected by our work and to learning from each other and I think I need to acknowledge that the pro bono scheme that the Commission established was established before I took on the role of Chief Commissioner. I'm grateful to all of those who have worked with the Commission to enhance our understanding and theirs.

I've been very fortunate to be in the right place at the right time throughout my life but it hasn't always been easy. My first encounter with resistance was when I applied for a job as a research officer at this Commission in 1978. At that point there had never been a female Commissioner or a female Commissioner's clerk. In my interview the Deputy Registrar asked me about my aspirations. I said I'd like to be a Commissioner's clerk. Up until then in accordance with my parents' indoctrination I believed that every door was open, every opportunity was available to me. I got that job.

When I started I had to take some documents to the then Chief Commissioner Bernie O'Sullivan. I can tell you it was a very long walk for a 22-year-old from the Chief Commissioner's office door to his desk. As I took that walk he launched a verbal rocket telling me that while he was Chief Commissioner there would not be a female Commissioner's clerk and that I should get that into my head. It had never registered with me that my gender could be an impediment to pursuing a career and but for the help of many people it may have been so.

And I want to acknowledge the people who have helped me along the way and you'll note that they have been almost exclusively men but that was a function of the times. Commissioner Bruce Collier gave me the wonderful opportunity to accompany him on an inspection tour of power stations as his acting clerk.

Bill Brown at the Confederation of Western Australian Industry took a chance on me as their first female industrial officer and I know that he did so against the wishes of some there.

I'm pleased to acknowledge former Senior Commissioner Jack Gregor who was one of those at the Confederation who welcomed me and has encouraged me ever since. It was a time when the Confederation was the main player on the employer's side. Many of my colleagues took a very adversarial approach and saw themselves as industrial warriors. One of my colleagues had many colourful sayings, one of which was that "We were industrial panel beaters and what we needed were bigger and better smashers". Winning was what counted.

One matter I dealt with I reported to Bob Gregg. He took a very strategic view and he taught me one of the most important lessons that I have ever learned in industrial relations. I came back from the Industrial Magistrates Court one day full of myself. I had won. His response completely deflated me, he said "But did you fix the problem?" And I had not.

My two predecessors as Chief Commissioner have been very significant to me. Bill Coleman who's been a friend since we worked together at the Public Service Board when I was 19 years old. I still rely on Bill for advice. One of the things he impressed on me was the great privilege it is to be a member of this Commission mainly because we're trusted to do work that affects important aspects of people's lives in their employment and in their businesses.

Tony Beech my immediate predecessor was firstly my friendly adversary in our days before the Commission. When I started here he was very welcoming and full of helpful advice when I needed it and still is. I also acknowledge the guidance, patience and generosity of our former Acting President now her Honour Jennifer Smith J.

After many years I've learned an enormous amount, however, it's lucky that I'm going now because many of you obviously haven't woken up to all my deficiencies. While the rest of you who have been mercifully quiet and I thank you for that. So, it's nearly time to go. My future is still a little uncertain but those of you who follow the science of astrology will have noted that this week some Aquarians will change jobs or careers. The fortune cookie I got in late November said that the best times of my life had not yet been lived.

I'd like to record a few final thank yous. Firstly, to my fellow Commissioners for the cooperation and willingness they have shown me. To Senior Commissioner Kenner who has given me every possible support, assistance and cooperation and who has been a wise counsel. I need to note here that I can't take credit for our response to the COVID-19 closedown. Senior Commissioner Kenner was in charge while I was in New Zealand and then under self-isolation and he took that role.

Our registrar Susan Bastian is an absolute dynamo and she's contributed greatly to any successes I've managed to achieve as head of this tribunal. I'm very proud of this institution and the staff who serve the people of this State. I will miss them and I thank them all. I've enjoyed working with several personal staff over the years, people of great willingness, skill and hard work. These people have made my work look better than it would have done without them.

I want to acknowledge my very first associate Joy Brown who is here and my first admin support officer Cathie Rose. I would also like to thank my most recent associates and executive officers Jeanene Rodrigues-Smith, Thomas Klaassen, Elizabeth Roberts and Acting Associate Melissa Crosthwaite, research officers Brodie Skalko and Chantal Kong, and admin support officer Jeanette Richardson who has turned many sow's ears, if not into silk purses, then at least into cotton ones.

Thank you to my family and friends for your unstinting support and encouragement especially Rae Freeman my wonderful friend who often gives me advice that I don't want to hear. Finally, my husband Steve who has shared the ups and downs, believed in me and picked me up and put me back on my feet in the most challenging times. Thank you all.

**KENNER SC:** Thank you, Chief Commissioner.

Thank you for attending this afternoon, we'll now adjourn.

**AT 4.30 PM THE MATTER WAS ADJOURNED ACCORDINGLY**