The Law Society OF NEW SOUTH WALES

Remarks for

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President, the Law Society of NSW

Ceremonial Sitting: 100 Years of Workers' Compensation

Date: Wednesday 01 July 2026

Venue: Court 21A, John Maddison Tower

Time: 9.00am

INTRODUCTION & BACKGROUND

1. May it please the Court.

2. I thank President Phillips for inviting me on behalf of the Law Society of NSW and the 45,000 solicitors of this State to address this sitting on the occasion of the 100th anniversary of the *Workers Compensation Act.*

3. "It might be thought that the lawyers have said all that can be said about Workers' Compensation *Acts*." Judge Perdriau, the first chairman of the Workers' Compensation Commission, wrote this in 1946.[1] Although I am the third speaker today, neither he nor I really believed that to be true.

4. One hundred years ago, no bridge stood over the harbour, and down the road from where we now meet, Sydneysiders bought gloves and corsets at Mark Foy's, now the Downing Centre, the busiest Court in the country. Milk-carriers still delivered to households each morning and, newspapers across the country ran "Workmen's Risks" sections. Stories of workers falling from cranes and similarly tragic incidents appeared in these

newspapers as part of a national conversation about the protections workers should be entitled to.

5. The Federated Ironworkers' Union anticipated 80 worker deaths across the expected 18-month construction of the Harbour Bridge arch.[2] As it turned out, 16 died—although several more were injured due to poor safety standards—and many later went deaf.[3]

6. Progress can seem inevitable in hindsight, because we can't imagine living without the values and protections which predate us. Progress is never inevitable. The *Workers' Compensation Act* did not just appear in legislation one day in 1926, and nor did any subsequent amendments to it.

EARLY CASES

7. The first case recorded in the *Workers' Compensation Reports* of 1926-27[4] was *McCooey v Blackwell.* Edgar Patrick McCooey, a milkman, contracted bronchitis while delivering milk around Rose Bay and Vaucluse during those cold, dark mornings on his milk

round. Unfortunately for Mr McCooey, the link between his illness and his occupation was not accepted by the Commission.[5]

8. Perhaps this was an inauspicious start—but, in the 274 matters before the Commission in its first six months, 171 resulted in an award for the applicant.[6] More recently, between 1st July 2024 and 30th June 2025, the Personal Injury Commission finalised nearly 11 thousand workers' compensation dispute applications. 98 percent were brought by legally represented workers, and 1.9 percent by legally represented insurers.

9. Firms we know today appear in the pages of the earliest Workers' Compensation Report—Mallesons, Sparke Helmore, Norton White and Ashurst Perkins Coie—in their previous forms of course. The firms we do not remember are no less important in this history.

10. That's because the public's experience of the law is mediated through the solicitor profession—a profession which itself looked significantly different in 1926. Only two years earlier, *The Sun* ran the headline, quote, *"First Lady Solicitor"* regarding Marie Byles,

who had just passed her legal examination.[7] This was another major and hard-won milestone for the law in New South Wales. Today, more than half of all solicitors in this state are women.[8] Many of them have appeared in this Commission.

11. As the Honourable Keith Mason AC KC once wrote: “Justice is not self-activating. Litigants require unhampered access to courts … They also need the skilled and disinterested assistance of lawyers.”[9]

12. To lose the ability to work, even temporarily, can turn someone’s world, and the worlds of all who depend upon their income, upside down. This is no less true today than it was at the genesis of this Commission. Though through the next century, the *Act* would go through as many evolutions, just as the world around it did too.

1987—2019

13. Of course, the *Workers Compensation Act 1987, was* a radical reimagining of the scheme when introduced (...and as an aside for grammarians, this was also a particularly difficult time, as the

apostrophe for the possessive plural was dropped from the title of the *Act*.)

14. In the July edition of the *Law Society Journal* that year, Nigel Mainwaring called the Workcover reforms an "exercise in lawyer bashing."[10] But soon afterwards, a 1989 amendment saw common-law rights re-established, with the establishment of the Compensation Court of New South Wales, which would be abolished in 2003.[11]

15. In a related way, 1989 was also the year of the *Dust Diseases Tribunal Act.*[12] As we know, Sydney has a long history of dust diseases—sadly, as many as 70 per cent of the workers who cut the sandstone in the construction of this city died of silicosis within two years of commencing work.[13] I mention it, as the Dust Diseases Tribunal is part of the broader trend the *Workers' Compensation Act* has always sought to establish—protecting people at work.

16. Changes in the early 2000s also sought greater competition and choice for employers,[14] and in 2015, icare, SafeWork NSW, and

the State Insurance Regulatory Authority, came into being.[15] As the voice of the legal profession, the Law Society has actively consulted with the Government on these developments through the *Act's* history—a role which we continue to take seriously today.

2020-2026

17. Work today is in many ways better, and safer, than it was before the *Workers' Compensation Act.* But not in all ways.

18. Last year, the New South Wales government introduced, in their words, the *"most significant reforms to workers compensation in a generation*."[16] The Law Society's recent submission to the State Insurance Regulatory Authority outlined our concerns with these reforms. These include the increased difficulty added to the process of making a compensation claim in relation to psychological injury.[17]

19. Striking a balance between the legitimate needs of people who rely on our workers compensation scheme, and the limits of our resources, is not an easy task. The Law Society has consistently

acknowledged the pressure the system is under, and the urgency of reform. It is a complex problem, and any solution will necessarily be complex too.

20. But it is worth remembering that the *Workmen's Compensation Act 1910* was limited by its narrow focus.[18] Today, action to reduce workers' entitlement to compensation must not be taken lightly.

CONCLUSION

21. A few weeks ago I found myself walking across the Harbour Bridge. There were construction workers decked out in hi-viz on one of the entry ramps. They were carrying out maintenance works. Workers in hi-viz are a ubiquitous sight across our city these days, indeed one that is barely remarkable. Reflecting of that scene today, however, there's a certain poetry to it—and to the hi-viz vests one sees everywhere.

22. I don't want to overstate this; and it may not stop all poor practices. But the fluoro vests just might make a forklift or delivery truck driver slow down. And if you pay attention, if you count, that poetry of

protection dances around thousands of people in this city. It's in the suburbs. It springs up like shoots across regional areas throughout our State. This is not just a utilitarian piece of clothing. It is also a brilliant realisation of the value of protecting workers that the *Workers Compensation Act* has strived to introduce into society. And if it's not stretching the metaphor too much, both offer a cloak of protection for workers that one could hardly have visualised over 100 years ago.

23. However, this is still a reminder of the significant Work Health and Safety challenges that face so many daily. And sadly, many solicitors still see the tragic side of this in their practices.

24. But the hi-viz vests on the Harbour Bridge and elsewhere, recall the deeper changes that have been achieved for workers this past century. Changes that make our society better. And real compensation for workers is a change worth protecting, and therefore, this notable milestone, is truly one worth celebrating.

25. One hundred years hence, one wonders if hi-viz uniforms will be replaced with something with even more 'tech smart': perhaps 'AI

enabled' protective clothing to warn of an impending accident … that might also file a statement of claim whenever it does. But whatever innovation the next century brings, I would confidently wager that the scheme as heralded by the 1926 *Act* will be as fundamental to society into the future, as it is today.

26. As the Court pleases.

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[1] Marjorie O'Brien, *Workers' Compensation Law in New South Wales* (2nd ed, 1946) 5.
[2] "Unions Claim Increased Pay", *The Sydney Morning Herald,* (online, 26 March 1929) <https://trove.nla.gov.au/newspaper/article/16541156>
[3] 'Sydney Harbour Bridge Survival Medal', *National Museum of Australia,* (Web Page) <https://www.nma.gov.au/explore/collection/highlights/sydney-harbour-bridge-survival-medal>
[4] *McCooey v Blackwell* (1926) 1 WCR 1.
[5] Ibid 13.
[6] *Interim Report (1st July, 1926, to 31st December, 1926) on Activities of the Workers' Compensation Commission of New South Wales* (Report, 1927) 45.
[7] "First Lady Solicitor", *The Tweed Daily*, (online, 9 May 1924). <https://trove.nla.gov.au/newspaper/article/191745944>
[8] LS 2024 annual report.
[9] Keith Mason, 'Laywers and Litigants' in Keith Mason and Larissa Reid (eds), *Constant Guardian Changing Times* (Judicial Commission of NSW, 2024) 103.
[10] N Mainwaring, 'Recent legislation and the political climate: a time for cool heads and steady hands' [1987] (July) *The Law Society Journal* 32.
[11] *Safe Work Australia, Comparison of Workers' Compensation Arrangements in Australia and New Zealand (Report, 29th edition, 2023) 11 <https://www.safeworkaustralia.gov.au/sites/default/files/2024-04/comparison_of_workers_compensation_arrangements_in_australia_and_new_zealand_29th_edition_2023.pdf>*
[12] *Dust Diseases Tribunal Act 1989.*
[13] 'GN 10.1 Dust Diseases', *State Insurance Regulatory Authority,* (Web Page, 11 June 2024). <https://www.sira.nsw.gov.au/workers-compensation-claims-guide/insurer-guidance/other-nsw-wc-schemes/gn-10.1-dust-diseases>
[14] Safe Work Australia, *Comparison of Workers' Compensation Arrangements in Australia and New Zealand* (Report, 29th edition, 2023) 11.
[15] Ibid 12.
[16] New South Wales Government, 'Agreement reached on workers compensation reforms' (Ministerial Media Release, 11 December 2025) <https://www.nsw.gov.au/ministerial-releases/agreement-reached-on-workers-compensation-reforms>
[17] Letter from the Law Society of New South Wales to the State Insurance Regulatory Committee, 15 May 2026, 4.
[18] *Workmen's Compensation Act 1910.*