SPEECH COMMEMORATING 100 YEARS SINCE THE COMMENCMENT OF THE WORKERS COMPENSATION ACT 1926 ON 1 JULY 1926

DELIVERED BY JUDGE GERARD PHILLIPS, PRESIDENT OF THE PERSONAL INJURY COMMISSION OF NEW SOUTH WALES

CEREMONIAL SITTING - DISTRICT COURT OF NSW

WEDNESDAY 1 JULY 2026

Distinguished guests, former judges of the Commission and Compensation Court, current and former staff, members, mediators and medical assessors of the Commission, practitioners and friends of the Commission.

I would pause to remark that the Hon Michael Campbell KC has expressed his regret at not being able to attend here this morning. He is the sole surviving judge from the original Workers Compensation Commission, a judge of the Supreme Court of New South Wales and was the last Chief Judge of the Compensation Court. He asked me to express his gratitude that the Commission's centenary was being marked in this fashion.

On this day one hundred years ago, the *Workers' Compensation Act 1926* (1926 Act) commenced. Its passage through the Parliament was by no means certain. It was the product of over 40 years of campaigning for such legislation. Indeed, four bills had been introduced into the Parliament before 1910, only for each one to fail. Some employees did insure themselves with insurers or friendly societies, some employers also did take out insurance but this was not common and did not solve the problem.

The *Workmen's Compensation Act of 1910*, modelled on the 1897 English Act, was imperfect but it was a start and it was followed with a further Act in 1916. Neither provided a comprehensive or acceptable solution.

In 1918, the Honourable G.S. Beeby NSW Minister for Labour and Industry visited Great Britain and the United States of America and reported upon their approach to industrial conditions. The Minister was most taken with the approach in some American States where the system was administered by dedicated industrial accident tribunals which dealt with all aspects of claims and disputes. In some states, these commissions owned and operated the insurance funds, made the investment decisions and licensed insurers. And these systems looked like they worked.

The seed of an idea had been planted.

1925 saw the first Lang Government elected. In keeping with the character of Premier Lang, reform was on the agenda and workers compensation was high on that list. The

incremental advances of the 1910 and 1916 legislation were to be replaced by the more ambitious 1926 Act. Interestingly, the public service lawyer who drafted the bill was one Ralph Perdriau, a Boer War veteran who was later appointed the inaugural Chairman and first Judge of the Workers Compensation Commission. He is little known but is a giant character in this history and about whom I will shortly return.

It might surprise everyone present here this morning to learn that the Parliamentary debate which commenced in 1925 and which went into 1926, was both vigorous and heated! Needless to say, that is one tradition that has endured to this day.

But eventually an agreement was struck and the bill passed in March 1926.

It is interesting to note that in between passage of the bill in March and commencement on 1 July 1926, that the General Strike took place in Great Britain. This is a centenary that is not being particularly celebrated, although books marking 100 years from the strike are being published this year in the UK. But the contrast is stark – at the time when working conditions for workers in the former colony of New South Wales were being substantially improved by the 1926 Act, the workers of Great Britain were comprehensively defeated by a well-prepared government and determined employers. The irony is that for many of the years before 1926, the English approach to workmen's compensation was sought to be emulated here. But in the 1926 Act, government, employers and labour worked out their differences to embark on a new era.

The 1926 Act can be seen as very much an Australian solution to what had been an insoluble problem – compensating injured workers on the one hand, while endeavouring not to harm the economic growth of the state and its enterprises on the other. This has always been the conflict in workers compensation and has lasted for a hundred years. As the French aphorism says, the more things change, the more they stay the same. This is definitely the case in workers compensation law.

Australia does not have a welfare state and this legislation was an attempt to care for those unfortunate citizens who were injured while building out the great state of New South Wales. Very much the Australian way of helping one's mates. But the framers of the 1926 Act were at pains to ensure that business and economic development was not hampered. This was made clear in the parliamentary debates and in a number of the speeches made after the Commission's commencement in July and August 1926.

Its terms relied upon aspects of British and North American approaches modified to Australian conditions. It was based upon three pillars which have endured for 100 years. Firstly, the workers compensation scheme was to be "No-Fault". Secondly, employers were obliged to insure their workers against injury. Lastly, a dedicated tribunal was to be formed

to hear and determine all disputes. The policy aim here was to remove these cases from the strict legalism of the common law courts. But the head was to be a judge to give the community confidence in its independence from competing interests and to invest the Commission with the impartiality attaching to judicial office.

What was controversial in 1925-26 is entirely uncontroversial today and is now very much a part of the legal architecture of New South Wales.

Immediately the Act was passed its author Ralph Perdriau was appointed to head the new Commission. It was an interesting creation.

It was a tribunal headed by a District Court Judge with two lay members, medical referees and medical boards. It published decisions like any other judicial body. But it also owned the scheme money. The Commission struck the premiums and licensed the insurers. It collected and reported on injury data. Incredibly, Judge Perdriau was for the first 9-10 years the only judge.

In 1926, the Commission received 688 applications with 551 being finalised in public hearings. All the principal precedents in the new jurisdiction were Judge Perdriau's decisions, most of which were upheld in the higher courts, including the Privy Council. Indeed, all of the member decisions were drafted by the judge with the lay members contribution being the comforting words, "I concur". His work ethic and output was thus prodigious. If there is a founder of the workers compensation system in New South Wales, it is Judge Perdriau.

But it is not hard to imagine the pressure he was under to make the scheme work after the years of debate, controversy and disputation leading up to the ultimate passage of the 1926 Act into law. He had drafted the Act, he had watched the heated parliamentary debate and heard all of the dire concerns expressed by parliamentarians. The new Act needed to work. And it was down to him to make it work.

He remained as head of jurisdiction for 24 years which is an enormous period of time to occupy such a role, retiring in late 1950. Judge Perdriau's influence on this area of the law cannot be understated, but to him this was more than a job, it was a vocation. Speaking at his retirement ceremony he said, "Workers Compensation has always been more than a job to me; it is practical Christianity, for the injured workers and their dependants, it is the Atlantic Charter's freedom from want."[1]

He is of course now an obscure figure, fading from notice over the years. One of the tasks I wanted to undertake this year was to fix this and commemorate his huge role in the life of

[1] WCR Vols 23-24, 1949-1950, p 97.

the Commission and of the New South Wales workers compensation scheme. Here was a fellow – a soldier, a barrister, a public servant and a judge who created a new institution and ran it for a quarter of a century. To this day his name adorns a number of prizes at the University of Sydney and University of New South Wales Law Schools. It was a life characterised by charity, public service and concern for his fellow citizens. As you leave this ceremony today, you will see the 1950 portrait outside this courtroom, which was presented to the judge on his retirement by the then Attorney-General. He was a judge who left a tremendous legacy for the people of this state and he deserves to be remembered.

And here we are 100 years later celebrating this achievement which was built upon by everyone who came after this remarkable man.

The story of the Commission is above all, a story of the people who were a part of the Commission in its various iterations over time. It is the judges and other decision makers, medical and legal, who every day upheld and applied the rule of law to the cases before them. The mediators and conciliators who have skilfully assisted parties take control of their lives by resolving disputes. The medical specialists whose expert opinions assisted the Commission's deliberations. The public servants who have kept the Commission's doors open through the Great Depression, wars and most recently during the COVID-19 pandemic.

And of the solicitors and barristers who have appeared here every day since 1926 as we have heard this morning from the Presidents of the Bar Association and Law Society. Indeed, many of these practitioners were larger than life characters and have added to the colour of the Commission's story. For many, the Commission was a wonderful training ground for lawyers – the art of cross examination was learnt, the ability to master often dense expert medical evidence and the all-important lesson that one's word to a fellow practitioner had to be kept. Statutory construction had to be learnt and learnt well because all the rights derived from the statute. The way law was practised at the Commission in its earlier iterations was very much in the oral rather than written tradition. Ex tempore decisions were commonplace. Indeed Chief Judge McGrath was noted for issuing ex tempore decisions – litigants knew if they drew him they would have their matter heard and decision issued on the same day.

If one observes the legal profession over this century, work in the Commission launched a number of high-profile careers ending with appointments to the Supreme Court and High Court benches. It is wonderful to see present her today a number of legal practitioners who have been a part of the story, some of whom have practised here for over 50 years.

Work in the Commission is different from the more commercial aspects of the law. While every client's case is important, a case in the Commission may be the only contact a

citizen will have with the legal system. The result of the case means everything to them and may be the only thing keeping the worker and his or her family from poverty – this is not like the situation of a corporation where a win or a loss in court will simply be reflected in the end of year results. It is a very human experience which can be daunting for the injured citizen. The humanity of everyone involved in cases meant that each person could exercise their rights in a calm and respectful way.

For that reason, longevity of institutions like the Commission is important.

It is important because over time public trust and confidence will grow and attach to the institution. It is important because citizens will know that in their hour of need, an independent tribunal exists to rule upon their rights, providing a straightforward, dignified process to achieve this end. It is important because public institutions like the Commission are part of the glue which binds our community together. It is important because institutions such as the Commission develop, through their members, a collective approach to cases and adherence to precedent – both decided in the Commission and in the appellate courts – which observes the rule of law.

Within about a 10-minute drive from this courtroom you will find a number of venerable institutions without which life in New South Wales would be unrecognisable. The Supreme Court celebrated its bicentenary in 2024. The NSW Parliament was formed as an advisory body in 1824 before ultimately becoming the self-governing body we know in 1856 – which incidentally was the same year the New South Wales Sheffield Shield Cricket Team came into existence. The University of Sydney was founded in 1850, I could go on. But as you all can see from these examples, the great public institutions of the state have helped create the ethos of the society we enjoy – a society secured by the rule of law. We therefore need to preserve and protect them, knowing that we current occupants are but stewards of the institution to be passed onto our successors for the benefit of the citizens of this state.

It is for this reason that today we celebrate the centenary of the Commission's service to the people of New South Wales. Institutions are important and milestones like this need to be acknowledged and celebrated if only to restate the public need that the institution was created to serve. The current Commission as the latest iteration of the original Workers Compensation Commission, stands as a result of the hard work and foresight of everyone who established and worked in it over the past hundred years. In the reporting year which ended yesterday, the current Commission received slightly under 14,000 workers compensation applications. That is a lot of citizens requiring the Commission's attention and all can be confident that they will receive the same adherence to swift and effective justice, which has been the hallmark of the past century.

Later this year we will publish a history chronicling this century of service. One thing that has struck me in celebration of this century of service and the history we are writing is this – and this feeling has been confirmed by looking at the audience here this morning – the very real affection that the Commission is held in by a vast number of people. This is a rare circumstance for a public institution and is one that I think speaks volumes for everyone connected to the Commission over the years. Its existence has touched not only citizens but everyone who has worked in or appeared here.

To all of you here today, thank you for your attendance and the honour you are according to the Commission's history and place in the New South Wales legal system. And thank you for being part of the story.