



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

**CEREMONIAL SITTING OF THE FAIR WORK COMMISSION
TO WELCOME DEPUTY PRESIDENT BUTLER**

Brisbane

9.30 AM, WEDNESDAY, 27 NOVEMBER 2024

PN1

JUSTICE HATCHER: All right. Good morning, everybody. Before we begin, I wish to acknowledge the Yuggera and Turrbal peoples, the tradition custodians of the land upon which we meet today. And I pay my respects to Elders past, present and emerging. And I extend that respect to Aboriginal and Torres Strait Islander people attending today. The ceremony this morning is for the purpose of acknowledging the appointment to the Fair Work Commission of Deputy President Butler, and I welcome her family, the speakers at the Bar table and all other guests that are present today. To start off with, I'll ask Mr Murdoch, who is the chair of the Queensland Bar Association's industrial law committee to address the Commission first. So, Mr Murdoch KC.

PN2

MR MURDOCH: If the Commission pleases. It gives me great pleasure to speak on behalf of the Bar Association to congratulate Deputy President Butler on her appointment to this Commission. I would also extend particular welcome to your immediate and extended family who join us here today and are justifiably proud of your achievements. Further, I acknowledge the Elders past, present and emerging of the Yuggera and Turrbal people.

PN3

Deputy President Butler, you come to the Commission with a somewhat jam-packed and varied past career which includes 13 years as a solicitor, more than five of those as a partner of Maurice Blackburn Lawyers and prior to that at Hall Payne Lawyers. Following your legal career, you spent eight years in service of the people of Griffith as their representative in Federal Parliament. You were later appointed to the Queensland Industrial Relations Commission on 8 January 2024.

PN4

As a lawyer, you were responsible for establishing and leading Maurice Blackburn's industrial and employment law division in Queensland. You became one of the firm's first two female partners in this state, a role in which you continued until 2014 when you were first elected for the seat of Griffith in a by-election following Kevin Rudd's resignation from Parliament. You were re-elected in that seat in 2016 and 2019. During your time during Parliament, you held a number of shadow ministries. Notably, you were Shadow Minister for the Environment and Water for three years. Perhaps most relevantly to the work in the Commission, you also spent 11 months as Shadow Minister for Employment Services, Workforce Participation and the Future of Work.

PN5

After leaving Parliament in 2022, you worked, chaired, advised or took senior positions with organisations including the Smart Energy Council, the Motor Trades Association of Queensland, Bioenergy Australia and the Griffith University Climate Ready Initiative. And, indeed, with other organisations concerning with the recycling of industrial waste. You joined the Queensland Commission early this year with a wealth of experience in industrial law, as well as insights from the executive branch of government and with employment

organisations. The Fair Work Commission will be well served by that accumulation of experience.

PN6

Deputy President Butler, on behalf of the Association, I extend my congratulations to you and your family. It is well-known you enjoy the enthusiastic support of your husband Troy Spence, your children April and Isaac, your mum Alison and your in-laws Marguerite and Graham Spence. Finally, it is noted that your talent with musical instruments will add to the talent which Commissioner Simpson brought to the Commission's Brisbane registry on his appointment. Perhaps April and Isaac can be co-opted to enable the formation of a quartet to play at special occasions of at the Commission. If the Commission pleases.

PN7

JUSTICE HATCHER: Ms Genevieve Dee on behalf of the Queensland Law Society and the legal profession generally.

PN8

MS DEE: May it please the Commission. In opening I reflect on the 60,000-year history of First Nations people. And in doing so I particularly acknowledge the Turrbal and Yuggera people as the traditional owners and custodians of the beautiful land of Meanjin here in which we meet. I acknowledge the elders, traditional owners and custodians of the lands throughout Queensland. And I extend my respect to all Aboriginal and Torres Strait Islander people here today.

PN9

I am honoured to be here to speak today on behalf of the Solicitors of Queensland to welcome Deputy President Butler to the Fair Work Commission. The society's 2024 president, Ms Rebecca Fogerty, has asked me to extend her congratulations to you and pass on her regrets that other commitments have prevented her being here today. Deputy President Butler, you come to the Commission from a distinguished career in private practice and politics and most recently as a Commissioner in the Queensland Industrial Relations Commission.

PN10

You served as a member of the Australian Parliament for the federal electorate of Griffith which is demonstrative of your strong commitment to public service. That commitment to public service is also reflected in your membership on Queensland's Anti-Discrimination Commission's Advocates' Committee and the community roles you have held, including on the board of YWCA Queensland and on the management community of Children by Choice. You have also been a sessional academic at the Queensland University of Technology and an organiser and then communications organiser with the Australian Services Union.

PN11

I would like to focus though on your time as a solicitor in Queensland, commencing first as an articled clerk with Hall Payne Lawyers and through to becoming a partner at Maurice Blackburn. Your colleagues from that time have described you as a strong advocate for the legal rights of employees and one of the leading employment lawyers. The society was also very fortunate to have you as

a member of our industrial law committee, which is another volunteer position. The work of our policy committees allows the society to provide expert advice to government and other stakeholders in support of the making of good laws which are evidence based and in the (indistinct).

PN12

Deputy President Butler, you wrote recently that it remained true that conciliating disputes while providing an incentive to negotiate in the form of a possibility of arbitration can help people get a fair go all around and contribute to the industrial peace, benefitting the parties and the public. Your previous role as a solicitor and an advocate has no doubt instilled in you that a fair go is dependent on access to advice and information about legal rights and the ability to seek assistance.

PN13

This Commission is tasked with making important decisions about the way in which work is undertaken and needs to deal with difficult scenarios including harassment, bullying, pay disputes, as well as making and reviewing critical awards and agreements. Recently, it has also been given increased functions to respond to changing work patterns and technologies. Your recent experience as a Commissioner of the Queensland Industrial Relations Commission when combined with your previous experience will enable you to make sound determinations in consideration of the relevant facts and rules. The Commission and the parties who come before it will greatly benefit from your leadership as Deputy President. On behalf of Queensland Solicitors, I welcome you to your new role and we wish you well in it. Our members and I are confident you will enjoy great success. May it please the Commission.

PN14

JUSTICE HATCHER: Mr Peter Allen of the Rail, Tram and Bus Union on behalf of the ACTU.

PN15

MR ALLEN: May it please the Commission. I would like to acknowledge that we meet on Aboriginal land. Ceremonies have been held upon this country for hundreds of thousands of years by the Yuggera and Turrbal people as part of the long continuous culture – the longest continuous culture in the world. I pay my respect to their elders past and present and any First Nations people here today.

PN16

I appear on the behalf of the Australian Council of Trade Unions, and I offer an apology for Sally McManus today, the secretary. The ACTU represents 38 affiliated unions and around 1.8 million Australian union members. I also appear for the Queensland Council of Unions, and we together extend our congratulations to Deputy President Butler on her appointment.

PN17

Now, I must say it's been a while since I've appeared in this Commission but promise not to make much of a habit of it. I'll ask for your patients though. I'd like to acknowledge Your Honour and all members of the Queensland Fair Work Commission along with Ms Dee, Mr Murdoch and Ms Tinsley here at the Bar table. I'd also like to acknowledge Hon Matt Foley, a former Queensland attorney

general. And all the representatives from the trade union movement industry and the community here today. And I'd especially like to acknowledge Deputy President Butler's lovely family and friends who are also very proud. I know your dad would be terribly proud if he could be here, even if he grumbled quietly about the seats or some such.

PN18

What a pleasure to be able to welcome Deputy President Butler, a highly qualified and exceptional woman to the Fair Work Commission. Someone who is always about fair outcomes and never ego. Deputy President, the Australian Trade Union Movement is very pleased to see your appointment. You bring a wealth of not just experience, but intellect and integrity to this work. You are by nature a person of not just diligence, but also warmth and kindness. And these are all attributes that will serve you well here. They fit with this unique system of industrial relations we have in Australia, which has the regard for the human nature of work and the dignity that it brings. It's not just a place of law, but a place of humanity. It's a truly Australian body that is served well by those who believe in a genuine fair go.

PN19

Deputy President, you have earned success across your life in so many ways. Your academic achievements include the attainment of a Bachelor of Arts and a Bachelor of Laws with Honours. The hard work, courage and intellect saw you capable of working everywhere successfully, from the factory floor to the court rooms and the halls of power in our Federal Parliament. You've had a successful career in the union movement working as an organiser and communications officer for the Australian Services Union.

PN20

You moved to law, working first for Hall Payne Lawyers and later starting up and building the industrial practice for Maurice Blackburn Lawyers in Brisbane, attaining the role of partner. Having sat with you at this Bar table on some significant matters, I know what a fierce and skilful advocate you are. The RTBU was always pleased to work with you on our most significant matters, knowing we're in good hands and our opponents were in for a hard time.

PN21

You had a successful, impactful role in public life, getting elected three times when doing so was always so incredibly tough. You were quickly recognised by your parliamentary colleagues with peer roles in the shadow ministry and later the shadow cabinet. It was a great loss to them when you left the Parliament in 2022, not just for your role in public policy and your sharp eye for tactics. But it left another space that was hard to fill.

PN22

I'm told by your former colleagues that your role in the parliamentary band Left Right out, has never been the same, and they now have nowhere to practice given they relied so heavily on your office. They've tried to continue the tradition of playing Helen Reddy, but they just can't say goodbye to you. They pass on best wishes. But you are a woman who can roar. And no sooner had you left public life, but you immersed yourself in a range of board and similar positions,

providing your time and skill to leading peak bodies in the renewable sector, on top of consulting on a range of projects. You never seem to be able to keep still for long.

PN23

Recognising your skill and drive, the Miles Queensland government appointed you to the Queensland Industrial Commission in December 23. Not long after that, the federal government appointed you to as Deputy President of the Fair Work Commission. The Fair Work Commission is an important institution for working people. It's unique and seen as an important end point of real justice for union members. Vice President, your value-based approach to life and unshaking integrity only serve to strengthen the faith our members have in this important institution.

PN24

Finally, equity and equality are important union business, they mean in part celebrating especially when women achieve important roles and do important things. We celebrate those things as a movement. But as a personal note, when you see a good friend achieve that advancement, it's also a tremendous pleasure. May it please the Commission.

PN25

JUSTICE HATCHER: Ms Tinsley on behalf of the Australian Chamber of Commerce and Industry.

PN26

MS TINSLEY: Thank you, Your Honour, may it please the Commission. I'd like to begin by acknowledging the traditional custodians of the land on which we meet today and pay my respects to Elders both past, present and emerging. I'd also like to acknowledge, Your Honour, the President, other members of the Fair Work Commission and my fellow representatives here at the Bar table from the legal profession and the trade union movement. And, of course, I acknowledge the newest member of the Commission, Deputy President Butler and her family and friends who join us today. And it is certainly standing room only, which is fantastic to see.

PN27

It is a privilege to appear here today before the Fair Work Commission on behalf of the Australian Chamber of Commerce and Industry and employers more generally, to welcome you Deputy President Butler and to congratulate you on your appointment. As is repeatedly emphasised at these ceremonies, the Fair Work Commission performs a crucial role within the Australian economy. Industrial peace, social cohesion, economic productivity and workplace relations all depend on its efficiency. As a result, it is imperative that its functions are performed by exceptional and trusted tribunal members. And today, we officially welcome Deputy President Butler in those ranks.

PN28

Deputy President, on behalf of ACCI and employers broadly, I sincerely congratulate you on your appointment to the Commission. Your experiences, and qualifications make you a worthy appointment to this critically important public

body. Deputy President, you were elected to the federal seat of Griffith for eight years and held various positions during your time in Parliament, including being a member of the shadow cabinet.

PN29

You have dedicated much of your career already to public service, a commendable and noble pursuit, which holds you in great stead for this next chapter in the Fair Work Commission. It's certainly the case that Parliament's loss is the Commission's gain. Most recently, you've been a member of the QIRC, and you started your career as an organiser before spending 14 years in legal practice with Maurice Blackburn, where you advanced to the position of partner in establishing and leading a Queensland employment and industrial section.

PN30

Deputy President, your extensive experience as an officer of the court promoting justice and upholding the law holds you in great stead to execute your duties at the Commission with diligence and integrity. Above all else, Deputy President Butler, you're a proud Queenslander, a title myself, I hold myself. So thank you for being from here and giving me an excuse to come up to my favourite state for a few days. We'll have to plot with your colleagues to get some more peak council consultations up here. I'll put that on the record.

PN31

Deputy President, your appointment represents more than just a personal achievement. You're a powerful role model to women everywhere and your new role will no doubt serve as an example for countless young advocates who appear before you. Deputy President, your appointment comes at a time when the work of this tribunal has never been more critical. Over the past years, Australia's economy has faced immense challenges, the effects of the pandemic, shifts in workplace dynamics an overwhelming increase to the complexities of industrial relations just to name a few.

PN32

Despite how incredibly busy you will be performing your new role, I'm sure your Twitter fans will be dying to know if you're still available for lunch. Deputy President, on behalf of the ACCI network and employers more broadly, we extend our warmest welcome and sincere congratulations on your appointment. If it pleases the Commission.

PN33

JUSTICE HATCHER: I will now invite Deputy President Butler.

PN34

DEPUTY PRESIDENT BUTLER: Thanks very much, everyone. Your Honour and colleagues, I, of course, want to commence – Your Honour and colleagues, I want to commence by acknowledging the traditional owners of the land on which we gather today, the Turrbal people and just over the river, the Yuggera people who have a very important and significant meeting place there that's been significant for tens of thousands of years.

PN35

I want to acknowledge so many people who are here. Thank you for taking the time to come to this ceremonial welcome today. I particularly acknowledge the Honourable Matt Foley, whose photo is on the wall, actually, just outside this room. I pointed it out to him earlier, I said, 'We can only see you from the back', and he said 'Well, that's my best side.' But he was certainly a role model for many of us and remains that for all of us.

PN36

And I also want to, of course, acknowledge our terrific speakers, Mr Murdoch KC, of course, Ms Dee, Mr Allen and Ms Tinsley. It is quite difficult to listen to people talk about yourself, but I want to say I am grateful to all of you for the respect that you've shown to this Commission by taking the time to be here today. This is an incredibly important institution, and it is a real honour to be appointed to it. And a part of that honour is the honour of being welcomed by such distinguished speakers. So thank you very much for taking the time to do that.

PN37

I also want to acknowledge my former colleagues from the Queensland Industrial Relations Commission, and their related bodies, the Queensland Industrial Registry and the Industrial Court of Queensland. Thank you for being here, it's really terrific. I do remind people that the QIRC is a court and so I will be bowing to you all before you leave today.

PN38

The people who've travelled, you really honour me by travelling, thank you so much for being here. Former colleagues, I see Luke Forsyth up the back from Hall Payne. I see Kelly Thomas from Young Workers Victoria. Former colleague of mine at Maurice Blackburn Daniel Victory is here. From Maurice Blackburn, if you've travelled and I've missed you, give me a wave. It's really wonderful to see you, thank you for being here.

PN39

As well, I've acknowledged my colleagues, but to former Commissioners and Deputy Presidents of this Commission who are here, I believe Deputy President Swan is here, I think Commissioner Booth is here, it really is a great pleasure to see you back here. And, of course, to all of the union members and employer association representatives who are here, more than a couple, it's wonderful to have you present for this welcome ceremony. To my former opponents who are here, it's great to see you too. It's always wonderful to see colleagues and for those from, I think, I see Jade Knight from Maurice Blackburn as well, it's really wonderful to get the opportunity to see you all today.

PN40

Can I particularly thank my family for being here? My family, as it is the case for most of us, such an important support for me, I wouldn't be able to do anything without them and I particularly want to acknowledge them. Friends, it is a great honour to be appointed to this Commission. It's of substantial importance to this nation's history, its economy, its culture. You think about the history of Australia and the history of Queensland, the thread of industrial relations runs through it. I see my friend Aaron Pont is here; his grandfather was a Commissioner of the

Industrial Commission of Queensland, and so in this room, you've got certainly connections through to industrial relations conciliation and arbitration running back decades.

PN41

The individual cases that we do here matter, of course, greatly to the parties, but they're also means for setting norms, they're a means for setting culture in workplaces and the sort of country we want to be. The Commission's – the fact of our existence creates an environment in which there is at least an expectation of a fair go all round. And that's, of course, incredibly important. And beyond that, setting paying conditions in workplaces has an effect on the entire Australian economy, so it affects you whether you're working age or not.

PN42

The Commission through its predecessors is actually only slightly younger than the federation. It was a very Australian idea, born from industrial strife. Though, New Zealand, I acknowledge, implemented it sooner. Creating the original court wasn't easy. In his foreword to Joe Isaac and Stuart Macintyre's 2004 book *A New Province for Law and Order*, former President of this Commission Justice Giudice noted that three governments failed to procure the passage of the bill, and two prime ministers resigned as a direct result of unsuccessful efforts to do so.

PN43

It wasn't easy to get this Commission, and there have been plenty of changes to it and its jurisdiction ever since. But the amount of contest should be of no surprise to us because both industrial relations and federal-state relations raise issues of how power is distributed and constrained and used. When you also consider that the relative power of participants changes over time, it's clear that industrial relations will always be a source of contest, if not conflict.

PN44

But the question is, how do we resolve that? Of course, people have the right to strike, people have the right to use their economic power, but there are other ways, and those ways include conciliation and arbitration. Conciliation to help people reach agreement, arbitration to be there in the background if they can't, to provide them with an incentive to agree, to avoid an independent umpire making the decision for them. And the Commission can help defray power imbalances: the work, for example, on undervaluation. The Commission is important because it can affect power relationships. It's such a pleasure to be a part of that.

PN45

I was reflecting this morning, I really wonder what my great grandfather, who was a shearer in Barcaldine in the early 1900s, would have made of the institution that this is today, let alone when it was created. I cannot imagine he would have thought a descendant would be appointed to it, and I can barely believe it myself. So naturally, I have a lot of people to thank, I have thanked a lot of you already.

PN46

But let me say in their absence, I'm incredibly grateful to Prime Minister Albanese, to Minister Watt and Minister Burke, our former minister, for

proposing to appoint me to this position, and to the Cabinet for agreeing to the appointment, and also to the Governor-General for making the appointment. I'm conscious that today is one of the last sitting days of the year for the Parliament and they're all working incredibly hard. So let me just say to them from afar, thank you for your confidence in me and for your support, not just now, but over many years.

PN47

Your Honour, the President, and colleagues, thank you for the very generous and warm welcome. People have been uniformly wonderful in support, guidance and assistance, and I'm grateful to all of you. I also want to acknowledge that I've interacted with many of the present members in the course of my working life. And I particularly acknowledge Commissioner Thornton, whom I lured to Brisbane many years ago, when we were sitting at Maurice Blackburn's Queensland practice, it's great to be working with her again. And, of course, thanks also to Commissioner Simpson for getting me onto the clarinet very recently. Former members, many of whom I appeared before in other capacities have been really welcoming and supportive too.

PN48

And speaking of former members, I really feel that I must thank His Honour Michael Kirby, who is among many things, a former appointee to the predecessor of this Commission. I want to thank him for congratulating me. You can only imagine what that felt like. Former QIRC and other colleagues, many of whom are here today, have been terrific, thank you.

PN49

I want to give a particular mention to my associate Isabella Strauss, who you see in front of you. I would not be able to do this work without her, she's been terrific. We're losing her to the District Court soon. But I just want to say to her, thank you for all of the work that you have done here and at the QIRC. And thanks also to my former clients, the former boards I have been on, Rod Hodgson, Peter Koutsoukis, Laura Neill, Anne Gooley, former Member of this Commission, and Josh Bornstein for recruiting me to Maurice Blackburn, to John Payne for – the person to whom I was articulated, really the best foundation in industrial that you could hope to get. And Janice Mayes, the late Janice Mayes who gave me my first job in the union movement. Thank you to all of them, to all of my former colleagues in the movement. Thank you to those who sent apologies.

PN50

And again, thanks to my family, it's really great to have you here, I appreciate everything you do for me. I think my father would have been proud. And I certainly look forward to doing the best that I can in this role. If it pleases the Commission.

PN51

JUSTICE HATCHER: On behalf of all of my colleagues, I'd like to congratulate you, Deputy President Butler, on your appointment. I'd like to thank everyone for their attendance this morning, the Deputy President's family, the speakers at the Bar table, members of the Queensland Industrial Relations Commission and everyone else here today as guests. I'm told that there's some form of morning tea

that will be available in conference room A. So I hope you will stay and join us more informally to congratulate the Deputy President in person. So thank you. And we will now adjourn.

ADJOURNED INDEFINITELY

[10.10 AM]