

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

CHIEF MAGISTRATE JUDGE IRWIN,
MAGISTRATE LYNN,
MAGISTRATE BLACK,
MAGISTRATE KLUCK,
MAGISTRATE LOCK,
MAGISTRATE PREVITERA and
MAGISTRATE SPENCER

IN THE MATTER OF THE SWEARING-IN OF
MAGISTRATE M R MCLAUGHLIN AS
MAGISTRATE OF QUEENSLAND

and

IN THE MATTER OF VALEDICTION IN
HONOUR OF THE LATE DUDLEY COOK,
CHIEF MAGISTRATE

CAIRNS

..DATE 18/11/2003

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

Also present

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On behalf of the Bar Association of Queensland:

Mr K T McCreanor

On behalf of the Queensland Law Society and Legal Aid
Commission of Queensland:

Mr B Kilmartin

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MICHELLE KAY WICKS APPOINTED AS RECORDER

THE CHIEF MAGISTRATE: Distinguished guests, welcome to this ceremony which is to mark the occasion of the swearing-in of Matthew Roy McLaughlin as a Magistrate of Queensland. I acknowledge the traditional owners of this land; and the presence here today of their honours Judge White and Judge Bradley of the District Court of Queensland, and also your new colleagues, the members of the Queensland Magistracy who are appointed in Cairns and are with us on the Bench this morning.

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Although the honourable Justice Jones is unable to be with us this morning due to commitments away from Cairns, I wish to acknowledge that he has kindly made the Supreme Court available to us for this ceremony. I also wish to thank John Bingham, the Supreme Court Registrar, for his assistance in this regard. Justice Jones has also joined with their honours Judges White and Bradley in conveying their best wishes to Magistrate McLaughlin, in terms of that I will express shortly.

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I am pleased that Mr Kevin McCreanor can be here this morning representing the Bar Association of Queensland. I am also pleased to see Mr Brian Kilmartin, the President of the Legal Aid Commission of Queensland, who is representing the President of the Law Society, here with us this morning. I also acknowledge members of both the Bar Association and the Law Society.

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Mr Kilmartin, the President of the Association and Mr Ferguson, the President of the Society, have extended their apologies, as does the Attorney-General and the Acting Director-General of the Department of Justice. Also, Magistrate Trevor Allingham of Mareeba and Magistrate Zac Sarra of Innisfail wish to be associated with the remarks that I am making this morning but, because of Court commitments in their jurisdiction, they are also unable to be with us.

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Although the Attorney-General is unable to be here, he has recognised your qualities, Magistrate McLaughlin, by recommending your appointment. I also take the opportunity to welcome other members of the legal profession and also his Worship's relatives and friends to the ceremony this morning.

I am particularly pleased to be able to conduct this ceremony in Cairns, where his Worship has practised for about two decades, so that he can share the significant moment with you.

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Before making some remarks about his Worship, I observe that this is also an occasion to take a moment to celebrate the life and contribution of a former Chief Magistrate, Mr Dudley Cook, who sadly died recently and whose funeral is being held this morning. Mr Cook was the Chief Magistrate of Queensland from 1979 to 1986. I did not know him personally, but I worked with his son many years ago. He was highly respected and he was liked by all as a thoroughly decent man and, thus, with the passing of a Magistrate, we celebrate the first day in the working life of a new Magistrate who, from all that I have learnt, will bring the same qualities to this Bench.

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In making this appointment, the Attorney-General said of your worship:

"His broad experience with a wide range of criminal and civil matters in a regional environment will be an asset to the Bench."

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I agree. It is significant that, in ensuring the right mix of skills and experience for the Queensland Magistracy that a regional appointment has been made, although at least temporarily you will be a loss to Cairns as you will serve in Brisbane for the first 12 months of your appointment, in fact you are appointed on the same day as two other Magistrates who have also gained significant experience outside Brisbane and southeast Queensland. Magistrate Athol Kennedy practised for many years in Bowen; and Magistrate Trevor Arnold had been a Clerk of the Court and an Acting Magistrate for many years in regional areas.

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As is evident from the attendance here today, your appointment is a very popular one. The high regard in which you are held has been evidenced by the universally complimentary remarks which have been made to me about you from practitioners and your new judicial colleagues. I can do no better to express your Worship's qualities than to adopt the words of Justice Jones, Judge White and Judge Bradley, who offer their sincere congratulations.

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They say that your Worship has earned the respect of the Judges over many years for the conspicuous fulfillment of your duty to the Court, to clients and to the profession. Your concern for those less privileged has given you deeper insights into the dynamics in our society. Your preparedness to act for under privileged persons, or in causes which are unpopular, has demonstrated your independence and fearlessness in the pursuit of justice for your clients. You have demonstrated a commitment to the values of the profession and an awareness of the public's expectations of the justice system, all of which august well for your new role as a judicial officer. Their honours wish you well. I also wish you well.

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I wish to take up the reference to your representation of the under privileged. For the past 11 years you have been retained by the Njiku Jowan Legal Service. I understand that this has translated to mean "our friend" and we, the Magistracy of Queensland, have much pleasure in welcoming you as our friend and our colleague. Magistrate McLaughlin, would you please stand?

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OATH OF OFFICE ADMINISTERED

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THE CHIEF MAGISTRATE: Thank you, Magistrate McLaughlin, welcome to the Queensland Magistracy and please accept this Bible as a memento of this occasion. I invite Mr McCreanor to address this Court.

MR McCREANOR: Your Honours, your Worships, ladies and gentlemen, on behalf of the Queensland Bar I would like to welcome your Worship and congratulate you on your appointment to the Magistracy. It may come as a surprise to you, particularly after some of the things that were said about you at dinner last Friday night, that in fact you do enjoy the respect and admiration of your peers.

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For those of us who have known and worked with you for over 20 years, your qualities are manifest. First and foremost is your ability as a lawyer, particularly in the field of criminal law. As one who was fortunate enough to receive briefs from you, I can attest to the lucidity and clarity of your ability to sort the wheat from the chaff; and of your observations to counsel, you always went straight to the nub of any problem. Not only that, but on occasions counsel was favoured with references to recent cases which had some bearing on the matter. I do not know whether they were inserted there to show off your learning or to assist counsel who, I am sure, would have looked up those references in any event.

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As an advocate who is in Court on almost a daily basis, you invariably fought strongly for the interests of your clients, often in the face of public criticism which was whipped up by some of the stupid and ill-informed shop jocks of the media. At other times you had to contend with the slings and arrows of others in authority, whose personalities were perhaps not well suited to the positions they held. However, throughout all of this you remained constant, never took a backward step in asserting that everyone had the right to be treated fairly and properly by the law.

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You also, your Worship, enjoyed a reputation as being a practical realist. You never wasted the Court's time with submissions that had no merit. If the evidence was overwhelmingly against your client, you acknowledged it, said what you could in mitigation and got on with it. Likewise, if

the prosecution case against your client had deficiencies, you were quick to point them out and often negotiated an appropriate lesser charge in its stead. In this way, much Court time and limited police resources were saved to the overall benefit of the community.

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Very importantly, however, your Worship, you always have been a man of your word; you have been a man that people can trust. This is a quality that is much overlooked in today's world. As we know, in the hurley burley business of a private criminal practice, you speak to dozens of different people about dozens of different cases on any given day. You do not have the time to record every conversation or confirm it in writing to other parties, as some would want us to do. If, indeed, we were required to do that, the whole system would grind to a halt. It is for that reason that trust is central to the smooth operation of the criminal process and the criminal justice system. It might also be noted that trust is a quality that the community expects in its judicial officers. Your Worship has it in full measure.

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On a lighter note, perhaps it should be recorded that your Worship has a highly developed sense of humour and the wholesome ability to be able to laugh at yourself. Members of the criminal fraternity will miss your company on the rare occasions when we permit ourselves to have a drink.

I should also like to extend our best wishes to your wife, Liz, and your family. No doubt it is she who will bear the greater burden in the inevitable troubles of relocating to Brisbane and the inevitable hassles of finding a new home and setting it up. We wish her well.

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Your Worship, again we congratulate you on your elevation. We will miss you and one day hope to see your return. Thank you.

THE CHIEF MAGISTRATE: Thank you, Mr McCreanor. Mr Kilmartin, would you like to address the Court?

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MR KILMARTIN: Your Honours, your Worships, distinguished guests, ladies and gentlemen, on behalf of the Queensland Law Society I, too, extend congratulations to you on your elevation to the Bench, and of course I endorse the remarks so eloquently expressed by my predecessor at the Bar table in speaking this morning. I would like to add a few additional comments and observations of my own.

The occasion of the elevation of a Magistrate to the Bench affords the Court the opportunity to, I think, reflect - for the community, the legal profession as well, to reflect on a number of important matters. I think probably it is useful to consider just how big Queensland is and how vastly distributed the population is, and yet yours is a court which is required to dispense justice to all over a very, very wide cross-section of the community, spread right across a very big State.

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Without in any way diminishing the level of the responsibility that the Judges of the higher courts have, I think it is important to realise that the Magistrates, in many respects, have a far more difficult task because there are so many people who come before the Magistrates. Whereas a Judge, perhaps, has the opportunity to observe a person before the Court, maybe at a trial over three or four days, or it might even be longer than that, Magistrates see a constant procession of people before them, day in, day out.

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Magistrates have to make judgments, which can often have an enormous impact on the lives of those people. They have to exercise their judgment momentarily, perhaps only with the benefit of a very short experience of that person. Yet, as I said - and I repeat it because it is worthy of emphasis - the decisions that the Magistrates make, whether to let the person out on bail, to interfere with the liberty of the person; it could be to decide whether to convict the person, perhaps allow the person to have a noncustodial sentence, the range of impacts which can befall someone in front of a Magistrate are enormous and they are significant. The Magistrates have to perform those functions, perhaps under very great difficult times, circumstances and conditions. So I think it is important that we realise the role of the Magistracy in a State as large as what Queensland is, with the wide diversification of people who are part of our community.

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Also, your Worship, I know from your career thus far, you have always had an interest in the community and you have always seen law as a way to advance society, as a way to make a contribution. One only has to read your CV to understand that you always have seen law, not just as a profession, not just as a way of life, but as a way of making an useful social contribution; to try to make the world a better place. For the efforts that you have put into it, I think you are to be congratulated on that.

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Your Worship, like myself, you were educated at the University of Queensland in a time when we did not have to pay fees. And I have noticed, from my colleagues who have gone into the profession in the last 15 to 20 years, a lot of them are very conscious of the fact that they were educated, thanks to the generosity of the taxpayers, and they have felt they have a need and an obligation to put something back into the community. I only hope that in the current regime for educating the next generation of those in medicine and law, where there are other arrangements made for collection of fees and so forth, the incoming generation will have the same sense of community obligation and support.

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I recognise also, your Worship, that you have always taken an interest in those areas of law where you can help those less fortunate.

Finally I want to say, your Worship, that when I look at everything that you have achieved so far, I have every confidence, in the years ahead on the Bench, you will make an even greater contribution for the good of society. So, again,

on behalf of the solicitors of Queensland, I take the opportunity to congratulate you, congratulate your family. I know, as a Magistrate, you are going to be travelling around the State. I know that has its own sense of burdens and obligations but, nevertheless, joys and satisfactions. I wish you well for the future.

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THE CHIEF MAGISTRATE: Thank you, Mr Kilmartin. Your Worship, Magistrate McLaughlin, would you like to respond?

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MAGISTRATE McLAUGHLIN: Your Honours, ladies and gentlemen, thank you all for coming here today. My particular thanks to his Honour, Judge Irwin, for arranging this ceremony to take place in Cairns. Thank you, too, to the speakers this morning for their kind words.

My wife, Liz, and I arrived in Cairns in 1982 when I was a first year solicitor. We had planned to stay for, perhaps, three to five years but, as it turned out, we both fell in love with the far north and over the last 20 years, it really has become our home. To see so many friends, family and colleagues here today is something that I will always remember.

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In 1982, Cairns had one resident Magistrate, three or four barristers - Mr McCreanor may be able to correct me on that - and around 50 solicitors. Today, Cairns has a Supreme Court Judge, two District Court Judges, six Magistrates, over 20 barristers and more than 200 solicitors. We have a vibrant legal community here, I believe, and I am proud to have been part of it and sorry to be leaving.

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Without a doubt, the most difficult part of accepting this appointment, for me, has been the realisation that it means leaving Cairns and making a new home somewhere else. My wife and children, who are all here today, have been very supportive of that move. I thank them for that very much; I could not have done it without them.

Even though it does mean leaving Cairns, I am extremely grateful for the opportunity to enter into this new career, which I expect will be challenging and rewarding. Many people find toward the middle years of their working life that, to an extent, restlessness sets in and what is known as the midlife crisis makes them yearn for something new. I feel that I am honoured and privileged to be able to take on a new career at this stage of my life.

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As no doubt you are all aware from what you have heard this morning, my practise as a solicitor has for many years concentrated on criminal law and, in particular, representation of indigenous Australians in criminal cases. I sincerely hope that, during my tenure as a Magistrate, some solutions will be found to deal with the disproportionate number of indigenous people who are dealt with by the Courts and imprisoned. I hope that in some small way I can make a contribution to that by sharing what I have learnt in Cairns over the last 20 years.

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I would like to thank the Judges and Magistrates in Cairns for the warm welcome that they have extended to me since my appointment was announced. I would also like to thank all the members of the legal profession who have made such encouraging comments to me over the last couple of weeks and I only hope that I can live up to your expectations. To all of my friends, I would like to say goodbye and, last but not least, to the staff of the Njiku Jowan Aboriginal and Torres Strait Island Legal Service, I would like to say... thank you.

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THE CHIEF MAGISTRATE: Thank you, your Worship. Everyone is invited to join his Worship for morning tea in the jury-room on Level 3. I would like to thank Dareyle and the Registry staff for organising that. I would like to thank you for your attendance here this morning to honour the appointment of his Worship, Magistrate McLaughlin. I ask that these proceedings be adjourned.

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