

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF
MAGISTRATE JOHN ANDREW HODGINS AS A
MAGISTRATE OF QUEENSLAND

BRISBANE

..DATE 18/04/2006

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

Deputy Chief Magistrate Hine

The Honourable the Attorney-General and Minister for
Justice, Linda Lavarch

On behalf of the Public Defender:

Judge Shanahan

On behalf of the Queensland Law Society:

Mr Carne

HIS HONOUR: Please be seated. Good morning and welcome to
each of you, our distinguished guest to this ceremony for the
swearing-in of John Andrew Hodgins as a Queensland Magistrate.

I firstly would like to acknowledge the traditional owners of
the land on which we meet this morning. I also acknowledge
the presence here today of the Honourable the Attorney-General
and Minister for Justice, Ms Linda Lavarch, and also the Chief
Executive of the Queensland Law Society, Mr Carne, who is
standing in for the President, Mr Davis, who has expressed his
apologies for being unable to be with us this morning.

Apologies have also been received from the Chief Justice and
the Director General and the Deputy Director General of the
Department of Justice and Attorney-General.

However, it is pleasing to see Judge Shanahan, a former member
of the Legal Aid family as Public Defender with us this
morning, as well as the current chair of the Board of Legal

Aid, Queensland, Ms O'Donnell, and former chairs, Federal
Magistrate Michael Baumann, and Messers Keim and Kilmartin.

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I also am pleased to see with us, the Director of Public
Prosecutions for Queensland, Ms Clare, and also her deputy, Mr
Rutledge.

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I also wish to acknowledge the presence here this morning of
Magistrate Hodgins' new colleagues, the Bench of Queensland
Magistrates, and it is pleasing to see that a number of
Magistrates who have worked with you over the years have come
from far and wide to be with us this morning. I can see
Magistrate Rinaudo from Southport and also Magistrate
Previtera from Cairns, although she will soon be a member of
our Brisbane Bench.

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I would also particularly like to welcome your family members,
your wife Caroline, your daughter, Chrissa, and also your
sister, Rosemary, and the other members of your family who are
able to be with us this morning.

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I would ask that you take the Affirmation of Office, if you
could repeat that affirmation.

AFFIRMATION OF ALLEGIANCE AND OF OFFICE ADMINISTERED

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HIS HONOUR: Magistrate Hodgins, welcome to the Bench of
Queensland Magistrates. I would like to present you at this

stage, with a Bible, which I hope will remain a significant
memento of this special occasion.

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MR HODGINS: Thank you

HIS HONOUR: Magistrate Hodgins, you bring a great depth of
knowledge and experience to our Bench. As is well known, you
have, under various titles, been the Chief Executive officer
of Legal Aid, Queensland, for 16 years. In that capacity, you
have been concerned with the access to Justice by Queensland's
most socially and financially disadvantaged people as the
Attorney-General put it when announcing your appointment.

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You now become a member of a Court with similar concerns,
because these people make up the majority of person who appear
before our Court on a regular basis. This is a Court that
deals with about 170,000 criminal cases each year, and deals
with approximately 96 per cent of the criminal cases coming
before the Queensland Courts. As I say, many of those people
are the people who have been the clients of Legal Aid,
Queensland over the years that you have been a part of that
important organisation.

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You have been initially appointed to Cairns for 12 months,
from where you will circuit to Cape York, Torres Strait
Islands, and to Cooktown. Your experience will make you
acutely aware of the needs of the indigenous population of
those areas who regrettably still come before our Court in too
greater numbers, in these area and elsewhere in Queensland.

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I know from our discussions that you are embracing this and other possible opportunities for regional service with great enthusiasm and equanimity. In addition, you will bring the experience of a legal career which commenced in 1970 and has encompassed a broad range of areas, including an abiding interest in the separate representation of children. This is an area of work which you pioneered with the Australian Legal Aid Office in the late 1970s. This is another area of particular interest to our Court, particularly in the child protection jurisdiction.

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As I have said in welcoming other new members to the Bench, you will find that you will receive great support and great assistance from your new judicial colleagues as you embark on the new challenges ahead. Personally, and on behalf of the Bench of Queensland Magistrates, please accept our best wishes for a satisfying and fulfilling judicial career.

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Madame Attorney, could I ask that you address the Court?

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THE ATTORNEY-GENERAL: Thank you, your Honour. I would like to respectfully acknowledge the traditional owners of the land on which we gather here this morning. And I acknowledge His Honour Judge Shanahan, District Court Judge; Chief Magistrate Judge Marshall Irwin; Deputy Chief Magistrate Brian Hine; Leanne Clare, Director of Public Prosecutions; Marg O'Donnell, chair of the Legal Aid, Queensland Board; Peter Carne, CEO of the Queensland Law Society; Graham Quinlivan, Acting CEO,

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Legal Aid, Queensland; and all the Legal Aid family that have
joined us here this morning.

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To legal practitioners, also Magistrates who have joined us
this morning for this swearing-in ceremony, family and friends
of John, ladies and gentlemen, most importantly, Magistrate
John Hodgins, may I be the first from the Bar table to honour
you, your Honour. As Chief Magistrate Judge Marshall Irwin
noted in a recent speech to the Queensland Bar Association, a
large proportion of time within the Magistrates Court is taken
up in sentencing. John, you of course, already know your
sentence, that is; to be a Magistrate. Not, thankfully, for
the term of your natural life, but potentially to the age of
65, unless the law changes, of course.

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As Attorney-General, I take full responsibility for this
sentence. I thought it was appropriate, therefore, that I make
some sentencing remarks, explaining why this particular
sentencing option was chosen. I am following a slightly
different order to that usually taken within our Courts, but
based on one you might know from Lewis Carroll; sentence
first, verdict afterwards. Before arriving at my decision, I
took into account well-known and time-honoured sentencing
principles. In sentencing, a Court will consider the facts
and circumstance of the case from the viewpoint of the
community, as well as the individual's particular
circumstances.

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So, what does the community look for in our Magistrates?
Firstly, there are the qualities of integrity, honesty,
fairness and common sense. These qualities will ensure a
Magistrate approaches the role with the ethical and
professional underpinnings necessary to provide impartial
decisions.

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Secondly, a Magistrate must have the legal experience to
competently and efficiently carry out the demands of the job.
Such legal experience might be obtained in private legal
practice at the Bar, or as a solicitor, or through work in
government legal service, or possibly a legal academic.

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For our higher Courts, more often than not, Judges will be
drawn for the senior ranks of the Bar. However, it is
incumbent to examine candidates from a variety of sources to
ensure the best people are considered and that the terms
'merit' and 'excellence' do not become code for 'closed shop'.

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Finally, it is useful to look at the skill set in the ranks of
the Court as a whole. The strengths of our Courts may be
enhanced by a background of a particular appointee, adding to
the institution of the Court as a whole beyond also being an
outstanding individual.

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So, let us look at your particular circumstances, Magistrate John Hodgins. What is it in your background that has brought you to this place at this time? As you all know, John is synonymous with Legal Aid Queensland. Indeed, I have heard him described as Mr Legal Aid.

John first joined Legal Aid in 1977 and has been the Queensland Legal Aid CEO for 16 years. If it is true every job is a self portrait of a person who did it, then it can be fairly said Legal Aid Queensland is a self portrait of John. There is no doubt that Legal Aid Queensland is one of the best, if not the best, legal aid agencies in Australia.

It is innovative, efficient and committed to excellence. It provides access to justice for thousands of Queenslanders who otherwise would not have it. In this sense then, Legal Aid Queensland exemplifies exactly the same attributes that we see in our Magistrates Courts. As the people's Court it is the forum of the Magistrates Courts that the Australian notion of fairness is often played out.

We seek a Court that is fair, giving victims, where possible, justice and defendants a fair trial, a fair hearing and appropriate punishment. It is the concept of social justice that is driving the many recent innovations in the Magistrates Courts. The Murri Court and two new programs to begin next month, the Homeless Persons List and the Special Circumstances List will provide a fairer process for people who are particularly vulnerable in our society.

Magistrates often lead the way or facilitate new initiatives through their Courts and it is their wide-ranging experience and expertise that helps them to achieve positive changes in the judicial system.

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We can conclude from John's circumstances that he is genuinely committed to fairness and social justice but as is also common in handing down a sentence, we need to take into account references as to John's character. What do others say about him? Well, your Honours, I can tell you through a comprehensive, qualitative research program undertaken by my office, namely one of my staff members rang some of your colleagues last week to ask about your legacy. I have a selection of these top of mind quotes produced verbatim to share with you.

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"He is an innovator, someone who encourages people to have new ideas, to argue their point, to help people to grow. How can you describe him? Entirely dependable, ethical, visionary. He gives people the chance to prove themselves. He is loyal to them. We have the reputation for the leading legal aid agency in Australia. He is always someone who is always very supportive of the staff, not just on a personal level but giving structure and resources to do a good job. A man of very fine judgment, wonderful attributes for someone going into this job. He is committed to staff particularly in regional offices."

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Your Honours, these snippets speak for themselves. In
sentencing, one should also look at the impact on the broader
community of an individual's actions. I know within Legal Aid
that John's announcement has been a bit of a bombshell. While
there was widespread rejoicing for John and congratulations on
his appointment after everyone picked their jaw up off the
floor, there is also understandably a feeling of loss. How
could there not be given John's mark on the organisation.

What we need to remember however is that we thrive on new
challenges. As one door closes another opens. John leaves
Legal Aid soundly positioned for a strong future and he brings
to the Magistrates Court exactly the qualities it needs, a
passion for the rule of law, extensive legal experience,
profound wisdom, commonsense, good judgment, integrity,
honesty and a sense of fairness.

Ladies and gentlemen, your Honours, I give you the sentence,
let me give you the verdict. John, your appointment has been
enthusiastically welcomed across Queensland. We all know you
will serve the Magistracy, Justice and our State admirably in
the forthcoming years. I wish you all the best. May it
please the Court.

HIS HONOUR: Thank you, Madam Attorney. Mr Carne, would you
like to address the Court?

MR CARNE: May it please the Court. Your Honours, fellow
practitioners, family and friends of Magistrate Hodgins,

ladies and gentlemen, it is indeed a great honour and privilege that I am able to represent the Queensland Law Society and the 7,000 solicitors in Queensland at the swearing in of his Honour Magistrate John Hodgins.

As you would appreciate I have a prepared speech but I just acknowledge what an outstanding speech just given by the Attorney and I endorse everything that was said by her.

His Honour has been so long in Legal Aid, almost 30 years, that he has become so much as an institution in the profession as the Legal Aid Office is itself. It was impossible to think of Legal Aid without simultaneously thinking of John Hodgins and the whole profession had imagined, indeed had hoped, that he would stay in that role which he has performed with such distinction, professionalism and integrity for ever. But indeed as the Attorney has said, your Honour has been sentenced to a new life and one well deserved.

I am the first to admit that there comes a time in your professional life when you feel the need to move on, take a new direction, that the outgoing Chief Executive Officer of Legal Aid should be appointed to the Magistracy is a fitting and entirely warranted recognition of his skills, experience and understanding of the law.

Magistrate Hodgins did his Arts and Law degrees at the University of Queensland, was admitted as a solicitor to the Supreme Court of Queensland in February 1972. He was then

admitted in the ACT and his career began working here in
Queensland with law firms but in 1977 he went to the Federal
Attorney-General's Department in Canberra, returned to
Brisbane to join the Australian Legal Aid Office rising to
Acting Principal Legal Officer in June 1979.

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It was December 1979 that you transferred to the Legal Aid
Commission of Queensland. Now, that indeed was a very
interesting time for Queensland and in particular for Legal
Aid in this State. Legal Aid in this State has had a
difficult road for quite some time and your Honour you have
been part of that journey right from the start. I must say as
a practitioner in this State very much involved in Legal Aid
in the last 10 years or so, there is no doubt that under your
very strong leadership, Legal Aid in this State has performed,
as we said by the Attorney, as one of the best Legal Aid
Offices in this country.

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In 1991 you were confirmed as Director of the Legal Aid Office
in Queensland and in 1997 that title was changed to CEO. His
Honour's distinguished contribution to Legal Aid and by
extension to the most disadvantaged and marginalised in our
community, has been remarkable by any yardstick. He has
served twice as chair of National Legal Aid, was a member of
the Council of the Institute of Judicial Administration from
1996 to 1999, a member of the Family Law Council from 1994 to
1997 and from 1991 to 1992 served as a member of the steering
committee reviewing Aboriginal Legal Aid services.

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His Honour's legacy beyond the considered and expert advice to
innumerable clients and the sound and responsible management
of what has become a major institution has been the hard to
define but certain fact that Legal Aid practitioners are now
held by the public and the profession equally as practitioners
of skill, compassion and commitment.

A long time ago, and I'm sure his Honour will acknowledge this
unhappy fact, there was a certain reserve among some about the
standard of Legal Aid lawyers. Under his Honour's leadership
that most certainly has vanished for good and those who work
in this vital area are numbered now among the best and the
brightest. Indeed, I understand, that there are now several
District Court Judges and Magistrates who at one stage of
their careers worked with his Honour in Legal Aid. So, the
wheel has certainly turned full circle. If there was any
stigma once in the eyes of the minority about Legal Aid work,
now it is positive for any CV.

His Honour leaves shortly to take up his position in Cairns
and he goes with sincere best wishes, grateful thanks and a
biding respect of his solicitor colleagues. May it please the
Court.

HIS HONOUR: Thank you, Mr Carne. And now, your Honour, I
give you this opportunity to respond.

MR HODGINS: Chief Magistrate, Deputy Chief Magistrate,
Attorney-General and Minister for Justice, Judge Shanahan,
Magistrates, Mr Carne, former Legal Aid colleagues, ladies and
gentlemen, I firstly would like to acknowledge the traditional
owners of the land on which we meet this morning. Thank you
very much for your attendance today and the wonderful
expression of support I have received.

I count myself fortunate to be moving from a management role
with my head still intact and to be able to embark on a
journey of legal service. The Attorney-General, Linda
Lavarch, is regarded by Legal Aid staff members as part of the
Legal Aid family. That honour is bestowed because she
practised as a family lawyer doing the difficult Legal Aid
cases particularly Legal Aid conferences. Therefore the words
of praise and encouragement expressed this morning have a
special significance to me and I am truly grateful for them.

I was very relieved to hear Mr Carne's kind words. He has
known me for a long time and has let me off very lightly. As
Legal Aid went through difficult phases from time to time
solicitors who did Legal Aid work never abandon the Legal Aid
system. I admire very much that commitment and appreciate the
kind words from Mr Carne this morning.

The Director General, Rachel Hunter, is an apology this
morning and phoned me late last week to say that she is
balancing working life with some family commitments which I
was relieved to hear. I just would like to say that Rachel

has been a breath of positive fresh air in the Justice port
folio and I thank her for the support she gave me.

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As some of you might know, one of my particular interests is
ancient history. So, therefore, I will take a few brief
moments to acknowledge some of the key individuals who
influenced my career. The first is the late Ernie Duncan, who
was known as the silver fox of the law. My father used to get
into scrapes from time to time and Ernie Duncan was the family
solicitor. So, I used to go along to Ernie's office with my
parents and it was he that first told me that you cannot know
all the law and the trick was to know where to find it. So, I
have tried to follow that adage.

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I was very fortunate early in my career to spend 18 months
working with Ernie Duncan. When I came through university the
last two years of the Arts Law Course you had to do two years
articles of clerkship. The only person I knew in the law was
Ernie Duncan and he did not have a vacancy. So, I adopted a
very sound methodology of working through the phone book from
A to Z.

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I got to F and I made an appointment to see the managing
partner of this particular firm. Letters from the firm were
signed off at that time, "We are Dear Sirs, Yours Truly.". On
the way in my car broke down, as it usually did in those days,
and I did the magic trick of tapping the carburettor. So, I
made the appointment on time. I received a strange look from
the receptionist on my arrival. I thought it was my white

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shirt and tie, I did not own a suit. And I then went into the managing partner and received a gruelling interrogation, I think a High Court Judge would not pass. It was clear I was not going to get articles at that firm. When I got back to the car and looked into the rear vision mirror I realised the problem. I had a grease streak right across my forehead from when my car broke down.

Fortunately for me one of my first appointments was the letter B and that was Des Breen who referred me onto Paul McCauley. I had very good articles with Paul and he instilled in me a love of the law. He also did introduce me to the art of conversation at the Grovenor School of Law, actively known as the Grovenor Hotel.

In September, 1974, I answered the Whitlam call for assistance and went to work in the Commonwealth Attorney-General's Department. It was an exciting adventure setting off with my wife, Carolyn, and our nine month old baby. Two figures stand out from the two and a-half years in Canberra, apart from the incessant cold. First one was Trevor Bennett, who was the deputy secretary of the department. Trevor taught me a lot about resilience and stamina, particularly physical stamina. He would start a meeting about 1.30 on a Friday and he would finish about 6.30 p.m. or 7 p.m. at night with no breaks.

The second person was John Greenwell who was the first assistant secretary. John was a very polished speaker. I remember vividly he had just started in the position, been

there a couple of weeks, and he gave some learned papers at the International Trade Law meeting on subjects he knew nothing about. But he spoke so expertly. It was all about confidence in speaking. So, I have tried to emulate but not always succeeded.

We came back from Canberra in April, 1977, and I commenced work at the Brisbane office of the Australian Legal Aid Office. You will be very pleased to hear that I will be skipping the next 25 years as it has been so well written by Kay Cohen in the history of Legal Aid. Kay did a wonderful job describing the various staff members who contributed over the years and it is a true reflection of the wonderful work that was done.

It would be remiss of me not to pay tribute to Barry Smith, the first director of Legal Aid. He gave me encouragement to explore different areas and try new ideas. They assisted me greatly in my later role. I was very fortunate over the years to have had a number of fine people as either president or chair person of the Legal Aid Commission for the board of Legal Aid, Queensland. Stephen Keim, Michael Baumann, Brian Kilmartin and Marg O'Donnell.

Stephen Keim was an inspiration to work with during the difficult early 90's. He was a man for the times and made many hard decisions which conflicted with his personal beliefs. A very honest and principled person. Michael Baumann, also in 1997, in his usual hardworking style, had the

courage to make some good policy decisions which proved to be
a sound policy basis for the future.

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I have left Legal Aid, Queensland, confident that it is an
efficient operation delivering a high quality and
comprehensive range of legal aid services. My success at
Legal Aid could not have been possible without the backing of
so many wonderful staff who are always dedicated and committed
to what we were trying to achieve. Two who worked with me for
more than a decade and a-half need to be mentioned. Ross Beer
and Graham Quinlivan, a special thank you to them both.

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My four children are scattered to the winds at present.
Stephen is in London, Robert in Mt Isa, Alana in Melbourne and
Karissa is here today. I thank them for the education they
have given me and for keeping my feet on the ground. There is
nothing more humbling then coming home from a difficult Legal
Aid Commission meeting to lose the battle to your daughters
for possession of the remote control.

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Managing Legal Aid over long periods and now a move to North
Queensland could not be possible without having excellent
support at home. Thanks to my wife, Carolyn, for her
positive, cheery, smiling outlook on life. However, I do have
a concern at the advice Stephen Keim gave to Carolyn. Stephen
said that it was Carolyn's duty to treat me with even less
respect to counterbalance all the bowing and scraping I will
receive at work.

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I look forward to the challenges ahead. Thank you very much
for your attendance today.

HIS HONOUR: Thank you, your Honour. I would now like to
invite those of you who have the time, understanding that many
of you, particularly those members of the Bench and the Legal
Aid family have very busy schedules to attend to this morning,
but if you do have the time, I would invite you to join his
Honour, his family and ourselves for morning tea on level 9.

THE COURT ADJOURNED