

## TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF A WELCOME IN HONOUR OF  
MAGISTRATE KATHERINE MARY MCGINNESS, and  
MAGISTRATE JOHN HODGINS

CAIRNS

..DATE 05/05/2006

..DAY 1

**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 and the Far North Queensland Barristers Association:

Mr Jim Henry

On behalf of the Queensland Law Society:

Ms Nerida Wilson

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On behalf of Legal Aid Queensland:

Ms Trish Price

HIS HONOUR: Good morning. This is a ceremony to welcome Magistrates Katherine, also known as Katie, McGinness and John Hodgins to the Bench of Magistrates in Cairns.

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I'd like to start by acknowledging the traditional owners of the land on which we meet.

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I also wish to welcome all of you, our distinguished guests, and to say how pleasing it is to see such a large attendance this morning.

I'd like to, yet again, thank Justice Jones for allowing us to use this Court for this special occasion.

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I'd like to acknowledge the presence here this morning of his Honour, Judge Hoath, and also his Honour, Mr Justice Carmody, and also record apologies from Judge Bradley, and Judge White who are out of Cairns this morning.

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It's pleasing to have at the Bar table representatives of the Bar Association of Queensland, the Queensland Law Society, and also Legal Aid Queensland, particularly given John's background.

I also wish to welcome Katie's husband, Mr Andrew McGinness and John's wife, Caroline, and to acknowledge the presence here today of the Bench of Cairns Magistrates who are able to be with us. It's particularly pleasing that Magistrate Morgan and his partner, Frances, have been able to join us from Innisfail this morning, and I'd also like to acknowledge some retired Magistrates who I'm very pleased to have with us for this occasion.

As you are undoubtedly aware our new Cairns colleagues have joined us in place of Magistrates Previtera and Lock who have returned to Brisbane. As I have said previously on these occasions that wherever possible I would like to see Magistrates remaining in Cairns for lengthy periods of time. However because of the geographical size of Queensland with some 30 different centres in which Magistrates are permanently stationed, and the requirement of regional service, changes in the constitution of the Cairns Court from time to time will be a fact of life. Magistrates Previtera and Lock were in this region for over three years.

Magistrate McGinness has been appointed to Cairns for the next three years, and for the purposes of flexibility at this stage the appointment of Magistrate Hodgins is for one year.

I'd like to thank the Attorney-General for insuring that these appointments have been made in such a way that there has been little if any hiatus in the constitution of the Cairns Bench.

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Magistrate McGinness was in fact appointed on the 22nd of August 2005, and she brings to our Bench considerable experience with the criminal law: over 19 years as a barrister both at the Public Defenders Office - as it was then called - with Legal Aid Queensland, and also with the Commonwealth Director of Public Prosecutions office, and she also spent five years before her appointment in private practice with regular appearances in the Court of Appeal. The Attorney-General at her swearing-in described her as, "A veteran, well-placed to take on the challenges of the Magistracy" and I couldn't agree more.

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Magistrate Hodgins also brings to our Bench a great depth of knowledge and experience having been the Chief Executive Officer of Legal Aid Queensland for 16 years prior to his appointment - to quote the Attorney again at his swearing-in ceremony, "He could be described as Mr Legal Aid". In that capacity he has been concerned with access to justice by Queensland's most socially and financially disadvantaged people. In addition he brings with him the experience of a legal career that commenced in 1970 and has encompassed a broad range of areas including pioneering work on developing the concept of separate representation of children, something which is very important in our Court given its child

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protection jurisdiction. Along the way he was twice the chair  
of National Legal Aid, he was the member of the Counsels of  
the Australian Institute of Judicial Administration, and the  
Family Law Counsel, and he was also a member of a steering  
committee reviewing the Aboriginal Legal Service. So he is  
well-versed in a number of issues which Magistrates in Cairns  
have to deal with on a regular basis.

John has managed until his appointment the - what is really  
the State's largest criminal law practice, and during the 25  
years or so that he's been associated with Legal Aid in one  
capacity or another that organisation has grown from a six  
million dollar, 66 person operation to one that now has an  
annual budget of 83 million dollars, and a staff of 365 with a  
network of 14 officers State-wide. And as the Attorney-General  
said at his swearing-in, "That he left the Legal Aid office  
soundly positioned for a strong future."

I'd also like to incorporate in my remarks some words from  
Justice McMurdo, the President of the Court of Appeal, who was  
unable to be present at the swearing-in of John in Brisbane.  
And in a note of congratulations she said of John, "You will  
bring distinction to this important judicial office as you  
have to the positions that you have previously occupied", and  
I know that John is looking very much forward to the  
challenges of the future.

Mr Henry, it's pleasing to see you here this morning. Would you like to address the Court?

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MR HENRY: May it please your Honours, I address the Court on behalf of the Cairns Bar having been deputised by the local Bar's leader, Mr Philp of Senior Counsel who's away. He has asked me to convey his best wishes to your Honours.

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Your Honours Magistrates McGinness and Hodgins are a welcome addition to our local bench each of you holding a wealth of experience and achievement in the law. You are fortunate, may I say, to be joining a very strong local Bench.

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Magistrate McGinness, my first recollection of you was as a junior practitioner learning your craft at the Public Defenders Office in Brisbane back when I was a junior practitioner trying to do the same at the DPP. Over time your Honour became one of Legal Aid's premier advocates. You appeared regularly in a wide array of criminal matters including in appeals before the Court of Appeal where I recall we were on occasion opposing counsel. By that time, of course, your Honour had by your marriage to another lawyer, Andrew McGinness, acquired I felt a rather less novel surname than that which I knew you by at first.

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Your Honour's inevitable progress to the private Bar, your time with your illustrious colleagues at Moore Chambers, and the broadening of your experience base as a busy and well-regarded barrister in private practice will have served you

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well to further enhance your obvious suitability for  
appointment to the Bench. On behalf of the Bar I welcome you  
and your husband, Andrew, to Cairns.

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Magistrate Hodgins, you come to the Bench eminently well  
qualified for the task. Over and above having been a  
practising lawyer for many years, your Honour had the  
distinction of being the National Director of Legal Aid and  
you were, as many of us would know, the Chief Executive  
Officer of Legal Aid Queensland. It is perhaps less well-known  
that many of the initiatives of Legal Aid Queensland under  
your stewardship were later followed by other States, and that  
you were a strong supporter of the funding of indigenous  
defendants in the higher Courts, a matter close to the heart  
of practitioners and the Bench in this part of Queensland.

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Your Honour's blend of experience both as a practitioner in the law and as a manager of people in the law has well-qualified your Honour for appointment as a Magistrate. I'm informed by your former colleagues at Legal Aid - and perhaps this is a tall story, that your Honour has a keen interest in fishing, not, with respect, quite matched by your success at actually catching fish. If fishing and tall stories about fishing pique your Honour's interest then you've certainly come to the right region for both.

On behalf of the bar, I welcome you and your wife, Caroline, to Cairns. May it please the Court.

HIS HONOUR: Thank you, Mr Henry. Yes, Ms Wright, would you like to address the Court? Ms Price?

MS PRICE: May it please the Court. Good morning, your Honours. The Cairns legal and wider community and in particular, my colleagues at Legal Aid Queensland welcome Magistrates McGinness and Hodgins to Cairns.

There is a common factor between you both, that is, a close and lengthy association with Legal Aid Queensland. Magistrate McGinness has almost a 20 year career in the law. Thirteen years of - 13 of those years was spent in the Office of the Public Defender and as a public defender of Legal Aid



Queensland. Magistrate Hodgins, you also have a distinguished  
history of Legal Aid Queensland, some 26 years in fact.

Sixteen of those years as chief - chief executive officer.

The common thread between you is a dedicated commitment to  
disadvantaged Queenslanders and the pursuit of justice.

I have known his Honour for the better part of 10 years in his  
role as chief executive officer of Legal Aid Queensland and  
although I welcome him to his new appointment today with both  
pride and happiness, I have to admit that it is going to take  
a little while to adjusting to seeing you on the other side of  
the Bench, as opposed to the 3rd floor of the Brisbane office.

Good law can only exist when we have good lawyers, Magistrates  
and Judges. This is something that the United States  
politician and Chief Justice Earl Warren, happily explained in  
his words, "It is the spirit and not the form of the law that  
keeps justice alive."

Both Magistrates McGinness and Hodgins have the qualities  
which realise this is a true statement. I and every other  
person who has known his Honour during his nearly 30 years of  
legal - in the legal aid arena, can attest that our law and  
justice as a whole will benefit from a Magistrate with his  
professional and life - life experience and legal knowledge.

Today I welcome Magistrates who have dedicated most of their professional lives to ensuring our socially and financial disadvantaged are provided with a real voice in our justice system.

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Legal Aid Queensland's mission statement is to enhance access to justice and his Honour has worked tirelessly to prevent these words ending up as a cliché mission statement rolled out for annual reports and meaninglessly framed on a boardroom wall. His Honour has challenged us all at Legal Aid to realise our mission statement in very real terms. His Honour knows probably better than most, that the reality and humanity behind access to justice are knowledge that will no doubt prove valuable in his new role. For me, his Honour has always personified the Winston Churchill quote: "You make a living by what you get, you make a life by what you give."

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Magistrate McGinness, since it was announced that you were to be appointed to the Cairns Magistrates Court I have heard nothing but positive and in fact, glowing comments about your qualities as a person and as a member of the Queensland Magistracy. Not only have we been provided with a very well regarded Magistrate, but one that also - ensures gender balance in the Magistrates Court at Cairns.

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It is with great pleasure I welcome both Magistrates McGinness  
and Hodgins and their respective spouses, Andrew and Caroline,  
to their new home, which luckily enough for them, happens to  
be one of the most beautiful places in the world. May it  
please the Court.

BENCH: Thank you, Ms Price. I should also record apologies  
from Mr Davis, the president of the Queensland Law Society and  
Mr Pinder who is out of the town at the present time, the  
vice-president of the Law Society, but I do invite you, Ms  
Wilson, to address the Court.

MS WILSON: Good morning, your Honour. May it please the  
Court. It is an absolute privilege and honour this morning as  
president of the Far North Queensland Law Association to  
welcome your Honour's Magistrates McGinness and Hodgins to our  
local profession. You have indeed found yourself in one of  
the most beautiful places in Australia, if not the world.

We are a paradox; indeed, apart from our natural beauty, we  
unfortunately by many accounts also suffer much social  
dysfunction. It is therefore going to be an enormous  
challenge to preside in our community. We are, however,  
delighted that you have accepted the invitation; "To whom  
much is given", as they say, "much is expected."

You will be challenged and you may be heartbroken. You will see our youth in detention, you will see our indigenous disproportionately represented in Court 1. You will see the lack of support services in our Cape communities and you will be dealing with families at inquests.

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You will dispense with justice amongst a backdrop and against a backdrop of cultural and linguistic diversity. You will travel to some of the most remote and the most beautiful of locations and do not be concerned that you will not be challenged here or that the law will not be yours for it is in this very Court that many of our High Court appeals have started.

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Our most recent of course, is the - is the case of Power, a Police Powers and Responsibilities matter that ultimately was overturned on - at - on appeal in the High Court, but is one those amazing legal anomalies whereby more judicial officers in fact, agreed with the Magistrate at first instance, then were agin them.

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We are indeed, proud that you have chosen to uphold the highest ideals of the profession and of the rule of law. We take some ownership in your appointment and our profession wishes you well; may you prosper personally and

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professionally whilst you are in Cairns, living and working  
amongst our profession. Good morning.

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HIS HONOUR: Thank you, Ms Wilson. And Magistrate McGinness,  
I'll give you the opportunity to reply.

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MS MCGINNESS: Thank you. Your Honours, Justice Jones and  
Justice Carmody and Judge Hoath, Judge Irwin, the Chief  
Magistrate and new colleagues, member of the legal profession,  
my friends and family, thank you all for your very warm  
welcome today and for your efforts to turn up to help  
celebrate our coming to Cairns. Everyone has already been so  
helpful and so supportive that I already feel settled in my  
new home.

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Thank you, Jim Henry, Nerida Wilson and Trish Price for your  
very kind words of welcome. My husband, Andrew, and I are  
very excited to be here and look forward to our apprenticeship  
as new Cairns locals over the coming years.

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It was a great honour for me to be appointed to this position  
last year. I look forward to approaching my duties here with  
hard work and integrity, with commonsense and also with  
compassion. The importance of the Magistrates Court continues  
to grow as it's jurisdiction expands. Justice to the  
community at this grass roots level is in my opinion, just as

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important as justice in the superior courts of Queensland and  
Australia.

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In the few days that I have sat here as a Magistrate I have  
already witnessed the helpfulness and professionalism of the  
police, the legal profession, the Department of Corrective  
Services and also of the Court staff with whom I have been  
working.

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Finally, I look forward to the challenge of administering  
justice in the Aboriginal and Islanders communities both here  
in Cairns and on circuit. Hopefully, my work will - working  
with them will be beneficial to these communities, I know that  
I will find it challenging, but very rewarding personally.  
Thank you all again for attending today.

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HIS HONOUR: Thank you, Magistrate McGinness and I'll now ask  
Magistrate Hodgins to respond.

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MR HODGINS: Chief Magistrate, Justice Jones, Justice Carmody,  
Judge Hoath, the Court, noting Magistrate Trevor Black, fellow  
Magistrates, Mr Henry, Ms Wilson, Ms Price, members of the  
legal profession, ladies and gentlemen. I first acknowledge  
the traditional owners of the land on which we gather and pay  
them my respects. Thank you very much for your attendance  
today on what is an important occasion for me. I'm very much  
appreciative of the well wishes I have received since my  
appointment as a Magistrate and such support is very  
heartening.

For over two and a half decades I have travelled regularly to  
Cairns in my former legal aid role and have always enjoyed my  
Cairns visits. It is now a wonderful opportunity for my wife  
and myself to now live in the Cairns community. Our four  
children have flown the nest, so us baby boomers can now  
concentrate on what we want to do.

My earlier career covered a broad range of legal work in all  
areas of the law. In 1974 I went to, what may be considered  
from the Cairns perspective, an extreme by working in Canberra  
for over two and a-half years. It did help me gain an  
understanding of what bureaucracy is truly about and very  
helpful in my subsequent legal aid role of chasing funding  
from the Commonwealth Government.

The chase wasn't always successful and I would have liked to  
have obtained more, but did have some success over the years  
particularly in the last legal aid funding round when we

achieved the result in Queensland of getting more legal aid  
funding in Queensland than Victoria. I did cause some tension  
with my interstate colleagues.

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For the last 16 years I've been the chief executive officer of  
Legal Aid Queensland. My drive throughout my Legal Aid career  
was to try and ensure that disadvantaged received a fair  
hearing in the legal system. One angle that I particularly  
focused on that was to ensure that the legal aid system was an  
efficient system and delivered a quality service. I believe  
that aim was achieved and the public of Queensland now have,  
through the private legal profession and the salaried legal  
service, a level of legal aid service in Queensland that is  
unmatched in Australia. This brings me to Mr Henry for his  
welcoming remarks. The role of the Bar in the legal system is  
so important. Our civil rights should never be diminished and  
members of the Bar at the front line in protecting our rights.  
I do appreciate the expression of support.

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I thank Ms Wilson for her remarks. When I was in legal aid  
there were difficult times with - with funding cuts leading to  
reduction of services. Throughout the difficult times,  
particularly in the early nineties, the solicitors of  
Queensland did - who did legal aid work never abandoned the  
legal aid system. I therefore have a great admiration for the  
work of the private legal profession in legal aid work and  
thank them very much for that support and thank very much  
today the continuation of that support.

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I'm particularly grateful that a respected former work  
colleague, Trish Price, was able to speak this morning. I'm  
even more grateful that Trish was able to say some nice things  
about me. As I've said, I have a great respect for members of  
the legal profession who do legal aid work. It would not be  
unexpected for me to say that building up an internal legal  
aid practice of expertise, commitment and dedication was very  
satisfying.

The regional legal aid offices I always enjoyed visiting is in  
the front line of service delivery. Each regional legal aid  
office had its own nuances and personalities that acknowledge  
the high quality legal service they provide. I extend best  
wishes to the Cairns legal aid office as Legal Aid Queensland  
enters a new era under different stewardship.

I'm pleased my wife, Caroline, was able to attend today and  
thank her for her positive commitment on our new and exciting  
venture. I do remain concerned, though, of the advice given to  
her by senior counsel Steven Keim, that it was Caroline's duty  
to treat me with even less respect to counterbalance all the  
bowing and scraping I will receive at work.

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

HIS HONOUR: Thank you, John. And, ladies and gentlemen, I  
also thank you for your attendance today. I believe that it is  
important to introduce new Magistrates to this region and  
other regions of Queensland, to the local community and to the  
local legal profession. I thank you for your continued support  
for these ceremonial occasions when we do have them in this  
Court. I hope that those of you who are able - given Court

commitments this morning, are able to join - join us and our  
new colleagues on the Cairns bench for morning tea in the jury  
assembly area in this building.

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I direct that these proceedings be recorded. Court is  
adjourned.

THE COURT ADJOURNED

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