

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF
MAGISTRATE ALAN JOHN PATRICK COMANS
AND GRAHAM CHARLES LEE AS MAGISTRATES
OF QUEENSLAND

BRISBANE

..DATE 14/08/2006

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

Attorney-General Linda Lavarch

On behalf of the Bar Association of Queensland:

Mr Martin Daubney

On behalf of the Queensland Law Society:

Mr Joe Pinder

On behalf of the Court of Appeal:

Justice Holmes

On behalf of the Department of Justice and Attorney-General:

Ms Rachel Hunter and Mr Jim McGowan

HIS HONOUR: Good morning and welcome to this swearing-in ceremony of Alan John Patrick Comans and Graham Charles Lee as Queensland Magistrates.

I would firstly acknowledge the traditional and spiritual owners of the land on which we gather today. I would like to specifically acknowledge the presence here this morning of the Attorney-General and Minister for Justice, Ms Linda Lavarch, Mr Daubney, President of the Bar Association of Queensland and Mr Pinder, President of the Queensland Law Society.

It is also pleasing to have Justice Holmes from the Queensland Court of Appeal with us this morning and of course your new colleagues, the members of the Queensland Magistracy who are able to be with us today.

I would also like to welcome Ms Rachel Hunter, the Director-General of the Department of Justice and Attorney-General and

the Deputy Director-General, Mr Jim McGowan, and of course all
of you our distinguished guests.

Magistrate Comans, would you please rise and take the Bible in
your right hand and also if you could repeat the Oath of
Office.

AFFIRMATION OF ALLEGIANCE AND OF OFFICE ADMINISTERED

HIS HONOUR: Thank you. Would you please subscribe the Oath
of Office. Congratulations Magistrate Comans, and please
accept the Bible as a memento of this celebration of your
swearing-in this morning.

MR COMANS: Thank you, your Honour.

HIS HONOUR: Now, Magistrate Lee, could I also ask you to take
the Bible in your right hand and take the Oath of Office.

AFFIRMATION OF ALLEGIANCE AND OF OFFICE ADMINISTERED

HIS HONOUR: Would you please subscribe the Oath of Office.
Congratulations and please also accept the Bible as a memento
of this occasion.

I should observe that in addition to the appointments of our
two Magistrates the Attorney-General has also announced the
appointment of Howard Osborne, the senior solicitor from the
Legal Aid Office in Queensland, as a Magistrate to be sworn-in

in Townsville next Monday. I am pleased that he is able to be with us this morning.

These three new appointments bring a wealth of variety and experience to our Bench. This is important because they replace three recently retired Magistrates with some 51 years of collective experience. This is of course part of inevitable change which is important to the evolution of our Court.

Magistrate Comans, I know that you will hit the ground running after some 16 years experience as an acting Magistrate. Indeed, almost as long as some of our retirees. You would have spent at least 50 per cent of that 16 years on the Bench. This has been meritorious service which has been appropriately recognised by this appointment and it gives me great pleasure that you are joining our Bench.

You in fact have had a 35 year association with the Magistrates Court commencing as a clerk in Maryborough in 1971. Along the way you have served at Ipswich, Roma, Brisbane, Bundaberg, Taroom, Innisfail and Petrie. It is pleasing that your wife Julie, your daughter Penny and your sister Christine are able to share this occasion with you and I extend a warm welcome to each of you.

I also wish to recognise your loyal and supportive staff at Petrie. I understand that a number of them are here today and as I have said, that is where you were the Registrar up until

just a short time ago. They have joined us in this celebration, although I suspect that having spent so much time away from Petrie as an acting Magistrate they are also just a little curious to see what you really look like.

The Magistrates in Cairns, and I am pleased to say that the coordinating Magistrate from Cairns, Magistrate Trevor Black, is able to be with us this morning, look enthusiastically forward to you joining them for your initial appointment there of 12 months.

Your appointment demonstrates the continued importance of having a mix of experiences in our Court both from within the ranks of acting Magistrates and from without. And it is from without that we welcome Magistrate Lee.

But like Magistrate Comans he brings a significant adjudicative experience to our Bench. This experience comes from roles such as the State Director of the Social Securities Appeals Tribunal and a senior member of the Misconduct Tribunal. You have also practiced as a mediator since 1990 working in this capacity with the Queensland Building Tribunal, Legal Aid Queensland, the Retail Shop Leases Tribunal and the Bar Association Dispute Resolution Scheme to name but a few.

You have also been an arbitrator and a mediator to the New South Wales Workers' Compensation Commission.

I can see some experience there that will be relevant to our

Small Claims Tribunal which will be very helpful at our
extremely busy Southport Court where you have been appointed
for your first 12 months.

Southport, with some 2322 small claims in 2005-2006 is second
only to Brisbane in the volume of work in that jurisdiction.
The total number of civil claims there was 7527 in that
financial year. Therefore, you will see that you will be very
busy.

Before you commenced private practice as a barrister 20 years
ago you were a radiographer. Although the previous
appointment to Southport was Magistrate Brassington who had
formerly been a nurse, this should not be taken to be
indicative of some new appointment criteria for that Court.

You continue a family judicial tradition with your father,
Bill, having been a distinguished Supreme Court Judge. It is
pleasing to be able to welcome him here today as well as your
mother Iris, your wife Deborah, your children as well as your
siblings.

I observe in closing that you have also shown a thirst for
continued learning having attained a Masters of Law and Arts
Degree, your thesis on the Childrens Courts in Queensland will
also be relevant to your new career. You have also tutored
and lectured in law at the three Brisbane universities.

I know that each of you will be warmly welcomed by your new

colleagues and you will be supported by them in your new roles
and once again I wish you all the best for your future in
those roles and congratulate you on your well-deserved
appointments. I now call on the Attorney-General of
Queensland to address the Court.

MS LAVARCH: Thank you. At the outset may I acknowledge the
traditional owners of the land on which we gather here this
morning. I would like to acknowledge the Chief Magistrate,
Judge Marshall Irwin, Justice Holmes from the Queensland Court
of Appeal, Rachel Hunter Director-General and Jim McGowan
Deputy Director-General respectively of the Department of
Justice and Attorney-General, Joe Pinder President of the
Queensland Law Society, Martin Daubney President of the Bar
Association of Queensland, Magistrates, legal practitioners,
family and friends of Magistrates Lee and Comans, ladies and
gentlemen.

A swearing-in ceremony to mark the appointment of a new
Magistrate is an important and joyous occasion. It marks a
significant milestone in the professional life of the new
Magistrate and a small but important step in the evolution of
the institution which the Magistrate has joined.

Today, your Honours, in the presence of your family and
friends and your professional colleagues we welcome you to the
Magistrate Court of Queensland.

To paraphrase one of the greatest English classic novels,
"Families give us the best of times. Families give us the
worst of times." There is a strong family theme here today
but, of course, I only speak of the best of times. Running
through today's swearing-in ceremony for both Magistrates Lee
and Comans we can see the family theme.

Graham, you, of course, continue a family tradition with your
father having been a distinguished Supreme Court Judge. May I
just say I hope you do not feel the same way my son did when I
was sworn in as Attorney-General and he said, "Goodness, Mum,
does that mean we are type cast."

Alan, you in many ways are already part of the Magistrates
Court family having spent your entire career in service to the
Courts. The Magistrates Court itself can be usefully likened
to a family. It is in a family, for example, where many
people first learn the notions of justice and fairness. It is
these precepts that a Magistrate must apply each day.

Families, however, can also give us insights into the
vicissitudes of life. For not all are happy and not all are
functional. Magistrates therefore need the wisdom to step
outside their own experiences and understand what has shaped a
particular individual.

Clearly, being a Magistrate is no ordinary job and the people who are appointed to the bench must be outstanding individuals. Magistrates Comans and Lee, you are both outstanding individuals and well deserving of such appointment.

Graham, you bring to the Magistrates Court considerable maturity and life experience. Part of the reason for this is your varied academic and professional career but you also have a strong and commendable commitment to those who are less fortunate. Graham's first degree was in radiography but later, I understand, under the influence and guidance of your parents, you undertook a law degree and the law has claimed you ever since.

Whilst studying you worked for the Public Trustee and later as an Associate to Justice Derrington of the Supreme Court.

Graham, you went to the Bar in 1986 and have practised in a wide range of jurisdictions in both commonwealth and state law these past 20 years. Your quasi judicial experience as a member of a number of tribunals, including the Social Security Appeals Tribunal, will hold you in good stead in your new role as a Magistrate and I do hope that the Chief Magistrate's explaining of how many matters are before the Southport Court and Small Claims in civil jurisdiction has not deterred you at all from your acceptance. You have been extensively involved

in professional associations and were the legal official
visitor at both Sir David Longland Correctional Centre and at
two hospitals pursuant to the Mental Health Act.

Graham, your family have also passed onto me details of an
early but presumably formative career experience. I am told
that when you were three years old you won a competition for
the most beautiful baby. This experience will undoubtedly
come in handy when you are the focal point on the bench.

Magistrate Comans - Alan, your first job was as a clerk in the
Magistrates Court in Maryborough in 1971. In various roles
since then you have worked across the state, including
Ipswich, Roma, Taroom, Innisfail, Petrie and Brisbane. In
1987 you were appointed as Registrar for the Magistrates and
District Court at Innisfail. You were subsequently appointed
as an Acting Magistrate. You have admirably undertaken the
role of Acting Magistrate for substantial periods of time
since then, handling a full range of matters, including
consumer claims, tenancy disputes, family law and domestic
violence matters.

Alan, I am advised that your appointment has been welcomed
from Cape to Coolangatta. Your colleagues in the Court, your
extended family, are delighted. This obviously reflects the
high regard in which you are held. For my part, however, I

note that until your appointment you were the registrar at the
Petrie Magistrates Court in my own electorate of Kurwongbah.
As Attorney-General, I hope the people of Queensland and, of
course, the people of Pine Rivers, will appreciate my
sacrifice in giving you up for greater good.

Finally, I welcome both of you to the family of the
Magistrates Court. You will bring to the Court wisdom,
integrity, learning and the commitment to justice. I started
this speech paraphrasing Dickens on family life. In his time,
of course, Dickens was hugely popular. That is why I do not
think he would mind too much if I quote from another medium of
popular culture. I would like to quote from Colonel Potter in
the TV show, MASH. He said, "I do not care how poor a man is,
if he has family, he is rich." May it please the Court.

HIS HONOUR: Thank you for those words, Attorney-General. And
now I will invite Mr Daubney, Senior Counsel, president of the
Bar Association to address the Court and I welcome you,
particularly, in your new role because I believe this will be
the first time you will have attended one of our ceremonies in
that role.

MR DAUBNEY: Thank you, your Honour. May it please the Court.
On behalf of the barristers of Queensland, I extend sincere
congratulations to each of His Honour, Magistrate Lee, and His

Honour, Magistrate Comans, on their appointment to judicial office in this Court.

Your Honour, Magistrate Lee, the Court will, if I may say, be significantly enhanced by your presence. Your Honour brings to this role 20 years of experience as a barrister and your courtroom experience, commencing with your associateship to the Honourable, Mr Justice Derrington, serves as a valuable basis for the discharge of the judicial duties you have now undertaken. Your academic qualifications, including a Masters of Law with the University of Queensland, speak for themselves and your Honour brings to this role extensive adjudicative experience from your membership of numerous tribunals, including the Social Security Appeals Tribunal and the Misconduct Tribunal and the numerous other tribunals and alternative dispute resolution forums mentioned by His Honour, The Chief Magistrate.

Your Honour enjoys the added benefit of broader vocational experience, having initially studied, qualified and worked as a radiographer. That might explain both why your Honour can see so clearly through opaque arguments advanced by counsel and also by, when the lights are dim, your Honour tends to glow in the dark.

May I digress to acknowledge the presence here today of your Honour's family: your parents, the Honourable Bill Lee QC, retired Judge of the Supreme Court and Mrs Iris Lee, your brother, David, formerly a member of the staff of this Court, your sister, Carol, recently made a partner in the firm of which she serves, and your brother, Dr Stephen, who is also a barrister, and, of course, your wife, Debbie and your children, Matthew, Phillip and Elizabeth. Yours is the latest in the very significant line of contribution which the Lee family has made to the administration of justice in this state. We are pleased to share in their pride for you on this special occasion.

Your Honour, Magistrate Comans, has achieved this office by what might be described as the old fashioned route. Your Honour has served in the Court for many years with great distinguishing. Again, the experience you gained from years of service in and around courtrooms all across the state equips you admirably for this permanent appointment to Magistratral office. Of course, the fact that your Honour has been an Acting Magistrate for many years also lends you a considerable advantage. You are no stranger to the role and are, if I may say, universally well regarded for your knowledge, integrity and fairness. We also share in the pride your family feels for you on this significant event in your professional life, knowing that no achievement comes without

sacrifice, understanding and support from those nearest and
dearest.

The Court you both joined is the powerhouse of dispute
resolution in this state. It is the Court in which the
majority of litigants in both civil and criminal matters will
have contact. The proper discharge of this Court's
adjudicative function requires Magistrates who are not merely
learned in the law, as your Honours both are, but have a
practical and common sense approach to the law's application
and extensive practical experience in litigation and dispute
resolution. Each of you is equipped for that role.

Today marks the commencement of what we hope will be long and
satisfying changes in your Honours lives of service of and for
the people of Queensland. Like every judicial officer in
Queensland your Honours will have the support and assistance
of members of the Queensland Bar in carrying out your new and
important roles.

On behalf of the Bar Counsel and members of the Queensland
Bar, may I extend to each of your Honours our very best wishes
for fulfilling, challenging and happy times on the bench. May
it please the Court.

HIS HONOUR: Thank you, Mr Daubney, and now I will call on Mr Pinder, and also congratulations on your recent appointment as President of the Queensland Law Society. It is again pleasing to have you with us on the first occasion you have addressed the Court in this capacity.

MR PINDER: Thank you. Your Honour, Chief Magistrate, your Honours, Attorney General Linda Lavarch, and importantly our new Magistrates, their Honours Lee and Comans. The swearing in of a new Magistrate is always an important event, not just for the judiciary itself but for the community which is so well served by the administration of justice in Queensland, and when we have the happy event of swearing in two Magistrates, there is double the celebration. It is an honour to represent the Queensland Law Society and the solicitors of Queensland here this morning at this ceremony.

His Honour Magistrate Comans has been Acting Magistrate for a remarkable 16 years, so while it could be said that his appointment formalises his status as Magistrate, it is more than that; it is recognition that over the past decade and a-half his Honour has performed his duties with skill, perception, experience and balance. As the Attorney General noted in her announcement, his Honour is well placed to become a Magistrate and certainly there will be no steep learning curve for him.

His Honour Magistrate Lee has been appointed to Southport. He comes to the Magistracy after a distinguished career not just

in the law but in public service, having served on a range of boards and tribunals over many years.

We are fortunate indeed to get two such well qualified and experienced legal practitioners as Magistrates. Apart from their acknowledged legal expertise, they share in their own way proud records of community service and their different backgrounds again illustrate the diversity of talent that the Queensland Magistracy can boast.

On behalf of the Queensland Law Society and Queensland's almost 7,000 solicitors and personally, I congratulate you both and wish you long and happy careers. Thank you.

HIS HONOUR: Thank you, Mr Pinder. Now, your Honour, Magistrate Comans, I invite you to reply.

MR COMANS: Thank you, your Honour. Madam Attorney General, Mr Daubney, Mr Pinder, your Honour the Chief Magistrate, Deputy Chief Magistrate, fellow Magistrates, members of the higher Courts present, other members of the legal profession, my family, friends and colleagues from the Magistrates Court, I am humbled and gratified by the many kind words that I have heard here today and all the best wishes which I have received since the announcement of my appointment to this Bench last Thursday.

As you know, I have arrived at this point after working my entire career in the Magistrates Court, as a clerk, a clerk of

the Court, a registrar and an Acting Magistrate. I have come through a system which is now expending a lot of effort on training, technology and staff, but which did rely heavily on officers educating themselves part-time and by on the job training.

Throughout my career in the Registry, I have received great support from within the Magistrates Court from colleagues and supervisors. I am particularly grateful for the support and encouragement given to me as an Acting Magistrate by all the Chief Magistrates and Deputy Chief Magistrates who have led this Court since the early nineties, and also from other Magistrates, some of whom I have worked directly with and some I have not. I am honoured by the support from the present administration.

I have found so far that the work of a Magistrate is a fairly solitary occupation. Consequently, I am greatly encouraged by the support that has been shown to me now by others and by the very fact of my appointment by the Attorney General. As an addendum to the last statement, I must say that I have always had great support from fellow Acting Magistrates.

I turn now to the people closer to home. Firstly, the staff, both past and present, of the Petrie Magistrates Court. I thank them all for their solidarity, effort and friendship over the past 15-odd year. They have cheerfully accommodated my absences and worked on regardless. As I did, they regarded it as just part of the job.

I must now, of course, acknowledge my own family. My connection with the law goes further than my career in the Magistrates Court. My father, J T Comans, a lovely man, himself a lawyer, a barrister in Sydney before World War II, and a sole practitioner in Maryborough for some 40 years thereafter. I arrived late in his life and was not encouraged into practice but manoeuvred into the Public Service by my mother, who thought it would suit me better. Dad nearly always defended and ran many a case in the Magistrates Court himself. In fact, on numerous occasions, I took the depositions on typewriter. So I hope he would approve of this appointment. And my mother, who ran the office, had personality to burn, unfortunately a trait I have not inherited, but I thankfully have some of her patience and even temperament. I am grateful to them both.

My sister, Christine Comans, whom I admire for her academic and personal achievements, is here today, and I thank her for the support and encouragement she has shown me.

I say thank you to my two daughters, Penny and Emma. They never grumbled when we had to shift to another part of the State for some promotion or other. I always thought they enjoyed going to new places every few years, but later in life they told me, "Dad, it was tough."

Finally, and most of all, I must say "thank you" to my wife Julie. She has been with me from day one, moving house, settling into new towns, new schools for kids, and left alone

when I had to go back to the office to study. She did it all
and I thank you, Julie, for your love and support.

I do now look forward to making a contribution to the
Magistracy and to the communities that I serve as a
Magistrate. Thank you.

HIS HONOUR: Thank you, your Honour. And in introducing
Magistrate Lee, I note that one of his recent appointments has
been to the Mental Health Review Tribunal. So it is very
pleasing to see the President, Mr Thomas, with us this morning
as well. Your Honour, would you like to address the Court.

MR LEE: Thank you. Your Honour Judge Irwin, Deputy Chief
Magistrate, Attorney, Justice Holmes, Mr Daubney, Mr Pinder,
colleagues, members of the profession, ladies and gentlemen, I
am grateful for your attendance here today and humbled by your
presence. I am particularly honoured today by the presence of
a number of members of Chambers who I have shared with over
the years and years of Court, Justice Holmes and Mr Crowley
QC.

I thank you, Judge Irwin, you, Attorney, you, Mr Daubney, and
you, Mr Pinder, for your encouragement and kind words today,
which I suspect are more generous than deserved. I assure you
all that I will do my very best in this important role and I
hope that I will justify the confidence you have shown in me
today.

As referred to by previous speakers, I was very fortunate to be born into a professional family where I and my three siblings were encouraged by our parents, and particularly my mother, to not only work hard and try our best but, above all, to show respect, empathy and consideration for others, an example they both set for us all. I thank my parents for their guidance, support and encouragement over the years and, again, particularly my mother, who always saw the value in continuing education.

I am very pleased that my parents have been able to attend today, as well as my three siblings, David, Carol and Stephen, two of whom are legal practitioners, and I am also gratified that my uncle, Mr Ted Lee, a retired solicitor and former partner of Minters, was able to be present.

I also thank my wife Deborah for her support with what was an exacting career at the Bar and the various tribunals on which I have served over the years. I also acknowledge her support in raising three children, that is Philip, Matthew and Elizabeth, through the trials and tribulations of childhood through to adulthood. Thank you.

A huge part of my practice at the Bar, particularly in earlier years, involved constant appearances in the Magistrates Court and the Children's Court. It was during these early times that I began to realise what an important role this Court plays in the administration of justice. I see the Magistrates Court as a people's court and very important to the litigating

public. This Court exercises a wide range of jurisdictions in
civil, criminal and other matters, and in doing so, conducts
the major volume of litigation in this State.

Difficult and similar and questions of law often arise in this
Court, just as other Courts, the major difference being the
monetary limits in civil jurisdiction and the size of
penalties in the criminal jurisdiction. I am confident that
the role will be challenging and satisfying.

One matter of concern to all judicial officers, of course, is
the high cost of litigation. In recent years, alternative
dispute resolution has gone some way in addressing this.

One matter of concern to all judicial officers, of course, is the high cost of litigation. In recent years, alternative dispute resolution has gone some way in addressing this. As I see if it the parties cannot resolve the matter and it has to be adjudicated then it is essential to get to the heart of the matter as quickly as possible offering a fair hearing to everyone and giving an expeditious decision where it is possible.

I hope my experience in giving decisions in the various Tribunals on which I have sat over the years will assist me in this regard. I should make particular mention of two Tribunals on which I have sat over a number of years and which have been referred - one of which has been referred to today. Firstly there is a Commonwealth Social Security Appeals Tribunal, commonly called the SSAT and the Retail Shop Leases Tribunal which is a Queensland State Tribunal.

I have been with SSAT since 1997 as a part-time legal member up until my appointment to this Court. Between 2000 and 2002 I served as a full-time state director and I am pleased to see some members and former members of that Tribunal here today. The complexity of the matters coming before that Tribunal is often misunderstood or innocently understated. Apart from complex legislation which many commentators say is at least as difficult as taxation law, if not more, there is a wide range of matters, for example, determining whether a man and woman living are the same roof are living as independent people or as in a marriage-like relationship. Two cases where,

considering the law of equity, in whether there are constructed trusts in determining assets and income for recipients.

I would like to extend my thanks to all members and former members and the staff of the SSAT who have supported me over the years and encouraged me over the years, particularly during the time that I served as director.

I also extend similar remarks to the Tribunal members and staff of the Retail Shop Leases Tribunal on which I have served, firstly as a mediator, then as chair for a number of years. I note in passing that I am the third director of the SSAT to be appointed to this Court. The other two are their Honours Michael Halliday and Jim Herlihy. I am very conscious of the enormous responsibility which this appointment entails. I welcome any support offered from my colleagues, the Bar and solicitors in this regard. I am grateful that this support has been assured.

I regard an independent profession as vital to the administration of justice and the assistance it always gives to the Court in its attempt to achieve justice according to law. Whilst I naturally have some regrets in leaving the Bar and membership of my various Tribunals on which I have served I am nevertheless looking forward to this new challenge with anticipation.

Ladies and gentlemen, once again thank you so much for attending today and it is greatly appreciated.

HIS HONOUR: Thank you, your Honour. It is always pleasing to look out from the Bench and see the courtroom full. It is also pleasing to see such a wide cross-section of people here today from the prosecution, from the defence Bar, from the solicitors, from Legal Aid Queensland. I see Mr Quinliven in the back of the Court, Mr Shadbolt from the Aboriginal and Torres Strait Islanders Legal Service and Inspector Loeffler-White, the head of the Police Prosecution Section. It is wonderful to see such a cross-section, as I said, here this morning.

I hope that as many of you as possible will be able to now join us and our two new colleagues for morning tea on level 9 on this building. I direct that these proceedings be recorded by a mechanical device and that Sandra Cochran be the recorder and Court is now adjourned.
