

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF

MAGISTRATE O'DRISCOLL AS A

MAGISTRATE OF QUEENSLAND

SOUTHPORT

..DATE 20/03/2007

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 Government of Queensland:

The Honourable Kerry Shine, Attorney-General and Minister
for Justice

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On behalf of the Bar Association of Queensland:

Ms McGhee, Vice-President

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On behalf of the Queensland Law Society and the Gold Coast
District Law Association:

Mr E Skuse

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HIS HONOUR: Thank you. Please be seated.

Good morning, and welcome to this ceremony to swear in
Michael Gerard O'Driscoll as a Magistrate of Queensland.

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Firstly, I would like to acknowledge the traditional owners of
the land on which we gather today. I would like to welcome
the Minister for Justice and Attorney-General. It doesn't
seem that long ago, Mr Attorney, that you helped us welcome
Magistrate Kilmartin to this Court, and now, about seven weeks
later, on what I believe is an historic occasion, because as
far as anyone can recall, this is the first swearing-in of a

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Magistrate in the Southport Courthouse. We're very pleased
you can be with us again.

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I'd also like to welcome Chief Judge Wolfe of the District
Court of Queensland, her Honour Judge Kingham, and once again
I'd like to thank the District Court for their collegiality in
making this Court available to us for this ceremony this
morning. I also acknowledge the Bench of Southport
Magistrates who will be your new colleagues, Magistrate
O'Driscoll.

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It's pleasing to see the former Regional Coordinating
Magistrate, George Wilkie, who was so much a part of this
Court for so long, attending this morning, and I can also see
Magistrate Chilcott, who was previously a member of this
Bench, and has joined us from Redcliffe, and also some other
of our colleagues who are acting Magistrates - Acting
Magistrate Finger, and Acting Magistrate Stark, who works from
Toowoomba.

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I also recognise and acknowledge the presence of the
representative of the Bar Association of Queensland, and the
representative of the Queensland Law Society, as well as,
importantly, Magistrate O'Driscoll's wife, Judy, his sons,
Paul and Scott, and also his siblings, Patricia, Margaret,
Brian and Dennis. And I note that Dennis has travelled all
the way from your home town of Rockhampton to be with us this
morning.

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I could go on forever, so I'll say, generally, I welcome all
of our distinguished guests to this ceremony.

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Magistrate O'Driscoll, would you please stand and accept this
Bible, and would you repeat the Oath of Office.

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OATHS OF ALLEGIANCE AND OF OFFICE ADMINISTERED

HIS HONOUR: Thank you. Magistrate O'Driscoll, welcome to our
Court. Please accept this Bible, which has been suitably
inscribed, as a memento of this special occasion.

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Your Honour, it is, indeed, with much pleasure that I welcome
you to our Court with which you have had a 29 year
association, broken only, I understand, by a short period in
the 1980's when you joined the then State Government Insurance
Office of Queensland.

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I note that you commenced work as a clerk in Rockhampton in
1978, where you would have learnt much from the highly
respect, and may I say legendary, Edward Loane, well-known to
his friends as Ted. I know him well, because I, too, worked
in Rockhampton, although in a different capacity in the late
1970's, although we didn't know each other at that time.

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By 1985, you had arrived in Brisbane, and 16 years ago you
were appointed as the Registrar and Clerk of the Court at

Coolangatta, a position that you still held until about a minute ago.

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In 1996, you were admitted as a barrister, and in the following year you were appointed as an Acting Magistrate. That is a role that you have discharged with distinction over the past decade, culminating in this appointment. In fact, before I really knew you, I met a local solicitor in the precincts of this Court soon after I was appointed, who was praising you, and those who have had contact with you, both as an Acting Magistrate and a Registrar, speak of you for your professionalism and integrity, your impartiality, fairness and balanced approach, your dignity and calm, your courtesy, your respectfulness and consideration, and also the consistency in the manner in which you discharge your duties.

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All of those factors are essential characteristics for the holding of judicial office, and the regard in which you are held is clearly demonstrated by the broad cross-section of people from a variety of walks of life and professions, from prosecutors to defence counsel, solicitors and barristers, former Magistrates, current Magistrates who have journeyed from their Courts to see you today, members of the public, and your family, and Court staff. They are all here today to help you celebrate this very special occasion.

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Of course, for you, it will simply be a matter of changing the sign on the door, and becoming Queensland's 85th Magistrate, and then, for you, I'm sure it will be business as usual, as

you have the experience and the attributes necessary to discharge the functions of Magistrate as part of the team in this busy and demanding Court.

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When I welcomed Magistrate Kilmartin, I spoke of the extensive workload of this Court, and I won't repeat those comments today. But I am gratified that this has been recognised by you, Mr Attorney, in creating the additional position to which Magistrate O'Driscoll has been appointed today. I am advised by Magistrate Kilner, the Regional Coordinating Magistrate here, that this has already had a beneficial effect in reducing hearing times within the Southport Magistrates Court, and at Coolangatta.

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Your Honour, your appointment is, in fact, the third appointment of an Acting Magistrate to our Bench in 18 months, the others being Magistrates Chilcott and Comans, so we're working our way steadily through the alphabet. All Acting Magistrates whose names start with "D" will be interested.

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As I've said before, on other ceremonial occasions, I believe that our Bench gains strength from a combination of different backgrounds and experience, including those who come from private practice, and those who come from within the Court, as you do.

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I welcome you, again, and I extend my best wishes to you, and I also extend the best wishes of all of your new colleagues as

Magistrates of this Court for a long and fulfilling judicial career.

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Could I call on you to address the Court, Mr Attorney?

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THE ATTORNEY-GENERAL: Thank you, may it please the Court.

Could I first of all acknowledge the traditional owners of the land in which we are gathered today, to yourself, Chief Magistrate, Judge Marshall Irwin, Chief Judge of the District Court, her Honour Patsy Wolfe, and Judge Kingham, of the District Court, Supervising Magistrate Ron Kilner, current and former Magistrates, Deputy Director of the Department of Justice and Attorney-General, Julie Grantham, Queensland Law Society representative of the Gold Coast, Ted Skuse, Gold Coast Bar Association Vice-President, Kerry McGhee, and members of the family, ladies and gentlemen.

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Magistrate O'Driscoll, can I be the second to congratulate you on your appointment. Like the Chief Magistrate, I'd like to acknowledge the members of your family - your wife Judy, and your sons Paul and Scott, as well as your brothers and sisters and their families, many of whom have travelled long distances to be here today.

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Magistrate O'Driscoll, the pride of your family, in your appointment, is matched by the warm reception by the profession to the announcement of your elevation, and by their attendance here in such numbers today.

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I am reliably advised that one of your well-wishers was seen to cross George Street in Brisbane recently to offer you their congratulations. As a politician who works on George Street, I know it's much more common for people to cross the street for a meeting rather than for a greeting, and that, I think, is indicative of the future that holds for you.

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Chief Magistrate, you can attest to appointments to the Magistracy at Southport, which are much anticipated for the reasons that you've outlined previously. Might I also acknowledge the attendance here today of Peter Lawler, the local Southport Member of the Queensland Parliament, who, with other members, have urged me to create additional Magistrates' positions here at Southport, and I think they and others in the profession here were responsible for a petition being taken up, urging me to appointment you, Mr O'Driscoll as the Magistrate, which is a fairly unprecedented step, I would have thought, in the legal history of Queensland.

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As Attorney-General, I have recommended two appointments to the Magistracy only, and both have been appointed to Southport. With the swearing-in of Magistrate Kilmartin late last year, I referred to the demands on the Southport Magistrates Court. Magistrate O'Driscoll, you are well aware of those demands, because you have served as an Acting Magistrate on the Gold Coast at Coolangatta since 1997. In that capacity, you have performed judicial duties, not only at Coolangatta and here at Southport, but in Brisbane,

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Beaudesert, Inala, Ipswich, Holland Park, Wynnum, Cleveland, Beenleigh, and the Childrens Court at Brisbane.

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I also record that you were admitted as a Barrister at law to the Supreme Court of Queensland in 1996. Magistrate O'Driscoll, you were appointed to the Clerk of the Court's position and Registrar at Coolangatta in 1991, and for six years, before that appointment, you served in the office of the Clerk of the Court in Brisbane, after serving in the Clerk's office at Blackwater.

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I note that you were first employed as an officer of the Court in 1978 as an administrative role in the Clerk of the Court's office in Rockhampton, your home town.

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You, of course, had the advantage of attending St Joseph's Christian Brothers College in Rockhampton. You represented the school in football, cricket and basketball, and you attained the rank of Specialist Sergeant in the School Cadet Corps. St Joseph's, which is now known as The Cathedral College, boasts a number of prominent students, including former Queensland Premier, Vince Gear, and another judicial officer of the highest attainment, the 10th Chief Justice of the High Court of Australia, Sir Gerard Brennan, ACKBE.

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When Sir Gerard was sworn in as Chief Justice in 1995, he said, "The public interest in the judgments of our Courts was a clear and gratifying indication that, in this country, we are governed by the rule of law. The Courts have earned, and

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maintained, public confidence in their unfailing response to every reasonable application to their impartiality and the fearless administration of the law".

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Sir Gerard concluded his remarks by saying, at his swearing-in ceremony, that it highlighted the work of the High Court, but he said, "It must be remembered that the face of justice is more often the face of the Magistrate and the Judge at trial". In your case, with some 29 years' service to the Court, including the last decade as an Acting Magistrate, Magistrate O'Driscoll, you are, and will be, a familiar face of justice at the Southport Magistrates Court.

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I wish you well, may it please the Court.

HIS HONOUR: Thank you, Mr Attorney. And I'd also like to recognise the presence here of Mr Lawler today, the Court Administrator, Mr Marschke, and the Regional Services Managers who have come from far and wide around Queensland to join us in this standing room only occasion today. Undoubtedly the next project in Southport will be the courtroom extension project.

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Could I invite Ms McGhee to speak on behalf of the Bar Association of Queensland and the local Bar.

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MS MCGHEE: Thank you, your Honour.

On behalf of both the Queensland Bar Association, and the Gold Coast Bar Association, I congratulate your Honour on your appointment as Magistrate.

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Your Honour is, of course, well known to the Members of the Gold Coast Bar Association in your capacity as Registrar and Clerk of the Court at Coolangatta, and on numerous occasions upon which you have acted as Magistrate in the Southport Court and Coolangatta Court, in particular, since 1997, a period of some 10 years.

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Your Honour's appointment is particularly welcomed by the local Bar Association for two reasons.

Firstly, as has been well documented and well commented upon in recent times, the Southport Magistrates Court can properly be described as the busiest Court in the State, disposing of more matters per Magistrate than any other Court in Queensland. The sheer volume of matters dealt with by this Court, compared with the number of Magistrates who are allocated to preside here, or to sit here, places a considerable burden on the Magistrates who do sit here, and on all the persons who appear before the Court. As your appointment is one which will increase the number of Southport-based Magistrates, the local Bar Association is confident that your Honour's appointment will ease the burden on the current Magistrates sitting at Southport, and as a corollary on all of those who appear before it.

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Secondly, in the capacity of Acting Magistrate, your Honour has exhibited courtesy to all of those who appear before you, and not just members of the legal profession. In addition, you have demonstrated common sense in the exercise of your judicial functions.

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The Magistrates Court is, of course, the most public face of the judicial system, being the Court with which members of the public are most likely to have contact. As Acting Magistrate, your Honour has conducted himself with a professionalism such that your Honour's appointment can only engender confidence in the administration of justice in Queensland, and the judicial system.

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HIS HONOUR: Thank you, Ms McGhee. Mr Skuse, can I now call upon you to speak on behalf of the Queensland Law Society and the local Law Association, with your normal well-anticipated remarks.

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MR SKUSE: May it please the Court and please your Honours. It's my very great pleasure today to represent the President of the Queensland Law Society, Mr Joe Pinder, who, regrettably, is unable to attend due to commitments in Cairns, but he sends his personal congratulations and best wishes, and, of course, those of our entire profession to you, your Honour, Michael O'Driscoll.

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Additionally, in my position, as President of the Gold Coast District Law Associate, we warmly welcome you. We may not

leave ourselves open to factual challenge if we say that your Honour has served the longest apprenticeship ever in the State to the Magistracy. As we have heard, your Honour sat as far back as 1981 as a Justice of the Peace, constituting the Magistrates Court, and since 1997, your Honour has sat as an Acting Magistrate.

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Secondly, this is possibly the largest crowd that has been drawn to such a function to my knowledge, at least here, so you are to be congratulated on establishing two records.

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It can be said that you have an established track record already, and that regular Court attendees of our profession, the Bar, ought to know what to expect. Your Honour's appointment can only aid our community, but with your vast experience you'll be a great help and support to existing members of the Bench. This appointment is an attestation to your Honour's skills and abilities, and, most importantly, your profound experience.

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We thank the Honourable, the Attorney-General, Kerry Shine, for yet another excellent appointment. I'm very pleased, on behalf of all the solicitors in Queensland, to officially welcome you.

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HIS HONOUR: Thank you, Mr Skuse, and I see hiding down the back Acting Magistrate Duroux, from Holland Park, has also come to participate in this occasion.

Well, your Honour, you have delivered many decisions, ex tempore and otherwise, from the Bench as an Acting Magistrate. This is your first opportunity to speak from the Bench as a Magistrate. I invite you to respond.

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MAGISTRATE O'DRISCOLL: Thank you, Judge Irwin, Chief Magistrate for the State of Queensland.

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I would like to thank the Honourable Mr Kerry Shine, Minister for Justice and Attorney-General, for his ability to attend today here in Southport, his comments and his speech, and for my appointment as Magistrate.

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I appreciate the kind words from Ms McGhee on behalf of the Members of the Bar Association of Queensland, and Mr Skuse, on behalf of Members of the Queensland Law Society. I acknowledge the large number of solicitors and barristers in attendance here today at this swearing-in ceremony.

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At this special ceremony, I further acknowledge Mr Peter Lawler, Member for Southport, their Honours of the District Court, Chief Judge Wolfe and Judge Kingham, fellow Southport Magistrates, Magistrates from other centres, retired Magistrates, Acting Magistrates Duroux, Finger and Stark, the Deans of the Bond and Griffith University Schools of Law, the Deputy Director-General of the Department of Justice, Ms Julie Grantham, the Court Administrator, Mr Paul Marskey, Magistrates Court Regional Service Managers, Crown and Police Prosecutors, Registry staff, friends, and dear family members.

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I'd like to especially thank my wife, Judy, and my sons, Paul and Scott. Judy is the centre of my world, and I acknowledge her support and confidence in my ability to realise my lifetime goal of an appointment as a Magistrate.

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I would like to thank my brothers and sisters in attending today - my brother Dennis, who has travelled from Rockhampton; my sister, Patricia, and her husband, Noel Walls; my sister Margaret and her husband Trevor Betts and son Graham; my brother, Brian, and his wife, Faye, and daughter, Marita. I am confident in saying my parents, Andy and Flo, would be immensely proud of my appointment.

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My appointment as a Magistrate in Queensland is an honour and a privilege, and, fortunately, my appointment is to Southport for a period of 12 months, the Gold Coast being the second largest city in Queensland, and is one of the busiest Courts in Queensland. I welcome this special opportunity to continue to serve the Queensland community as a Magistrate in Southport, and I undertake to perform my judicial duties to the very best of my ability.

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I would like to thank each and every person who has, for a great number of years, supported my goal in seeking permanent appointment as a Magistrate. It is truly humbling to me to have received such unprecedented support from my colleagues, and from members of the legal profession, the prosecution, and service providers. I am confident in suggesting it was this

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positive support that has drawn my abilities as an Acting Magistrate to the attention of the Chief Magistrate and the Attorney-General.

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I was born and raised in Rockhampton, and I retain very fond memories of my youth, and of my friends from that time. I was recently informed by retired Magistrate, Brian Williams, of the number of Magistrates who have come from Rockhampton, and I am proud to join retired Magistrates, Trevor Anders, Lyle Dooley and Brian Williams in that group.

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I am fortunate to have experienced growing up in Rockhampton, and I have retained lifelong friends from both my school days, and my first contact with the office of the Clerk of the Court, Rockhampton, when I started as the postage clerk in 1978.

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I can still recall occasions from 1981, when I was required to conduct Court as a Justice of the Peace in the absence of the Magistrate, and of my proud parents cutting out newspaper articles from the Rockhampton Morning Bulletin, which may have mentioned my name in respect to Court proceedings, which were then sent on to family members around the State.

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I was recently asked what drew me to the law, and my standard answer has always been a desire to improve myself, and to perform my duties as Clerk of the Court and Registrar. However, upon reflection at this time, I consider that, in addition to that response, I was called to the law, and

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ultimately this position as a Magistrate, by the valued mentoring I received during my 29 years in the Courts, perhaps a long apprenticeship from the time of conducting Court in 1981, to a period of six years in Brisbane, when I served as a Magistrate's Clerk to a number of learned Magistrates who, without wishing to name them, instilled a sense of love of the law, professionalism, and respect of the Courts.

After being admitted as a Barrister at law, I was fortunate to be appointed as an Acting Magistrate, and I performed these judicial duties in a number of centres, including Mt Isa and Cloncurry, but predominantly here in Southport. In my time as an Acting Magistrate, I must thank retired Magistrate George Wilkie, who, without doubt, had confidence in my personal ability and skills, and remained supportive and encouraging in my desire to be permanently appointed as a Magistrate. Also, Dr Ron Kilner, Regional Coordinating Magistrate, Southport, who has continued to be positive and encouraging in seeking my appointment to the Bench.

I thank you for your confidence in my skills and abilities. I undertake to continue to perform my judicial duties with professionalism and respect for all persons who appear before me on the Gold Coast, or elsewhere in the State of Queensland.

I thank Judge Irwin for permitting this swearing-in ceremony to be conducted here in Southport. I know this opportunity is special, and gives the Gold Coast legal and Court communities an opportunity to attend. It is very special, of course, to

me to be sworn in as the 85th Magistrate in the State of
Queensland in front of such a large, local, welcoming gallery.
I know a number of my friends and family members would have
attended today, but because of their commitments they were
unable to attend, and I know their thoughts and best wishes
are with me here today.

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In conclusion, I wish to again thank my beautiful wife, Judy.
You've always been a source of common sense and calmness and I
love you dearly. I thank everyone for being part of this
ceremony here today. Thank you.

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HIS HONOUR: Congratulations. For those of you who are able,
depending on your commitments this morning, I'd like to invite
you to join Magistrate O'Driscoll, myself, and the other
Magistrates, for morning tea in the Magistrates' Conference
Room on Level 2 of this building. I direct that these
proceedings be recorded, and Court is adjourned. Thank you.

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