

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF  
MAGISTRATE CHRISTOPHER JAMES CALLAGHAN  
AS A MAGISTRATE OF QUEENSLAND

J

BRISBANE

..DATE 03/12/2007

..DAY 1

Also present:

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

On behalf of the Bar Association of Queensland:

Mr Hugh Fraser SC, President of the Bar Association

On behalf of the Queensland Law Society:

Ms Megan Mahon

HIS HONOUR: Thank you. Please be seated. Good afternoon,  
your Honours and distinguished guests. Welcome to this  
ceremony of the swearing-in of Christopher James Callaghan as  
a Magistrate of Queensland.

I'd like to firstly acknowledge the traditional owners of the  
land on which we gather today, and I also acknowledge the  
presence at the Bar table of the Honourable Kerry Shine MP,  
the Attorney-General and Minister for Justice and Minister  
Assisting the Premier in Western Queensland; Mr Fraser, Senior  
Counsel, President of the Bar Association of Queensland -  
congratulations on your election for the next 12 months, Mr  
Fraser - and also Ms Mahon, the President of the Queensland  
Law Society.

I'd also like to especially welcome Chris's family to the  
Court today, his wife Kerrie, his children Rory, Max, Grace,  
and Yvette, his mother Joan, and his siblings Dan, Carmel,  
Katie, and of course Bernadette, who herself has been a  
Queensland Magistrate since 2002.

As I said at the recent swearing in ceremony for  
Magistrate Baldwin, you were just pipped at the post by a  
couple of weeks in becoming the first brother and sister  
judicial officers in Queensland history, but I am sure that's  
not something that will particularly concern you.

I'd also like to acknowledge all of the Queensland Magistrates  
who are available to be with us today, and I also acknowledge  
Justice Jerrard, Judge Martin and Deputy President Hack.  
Thank you for attending this ceremony and, of course, I will  
welcome all of you, our distinguished guests, to this  
ceremony.

Magistrate Callaghan, I invite you to stand and to take the  
oath of office. If you could repeat the oath.

OATH OF OFFICE ADMINISTERED

HIS HONOUR: Can I ask you to subscribe to the oath.

Magistrate Callaghan, welcome to the Bench of the Queensland Magistrates Court.

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MR CALLAGHAN: Thank you.

HIS HONOUR: I would also like to present you with the Bible on which you swore the oath today as a permanent memento of the special occasion.

Magistrate Callaghan is setting out today on a judicial career which will see him sit for the first 12 months at least in Brisbane. I know that he will receive great support and assistance from his new colleagues in the Queensland Magistracy. He brings to this Court vast experience, having practised in a wide range of areas since his admission to practice about 27 years ago. For much of that time, he has managed his own legal practice.

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Coincidentally, 27 years is about the same time as Magistrate Quinlan, whose position he takes on the Bench, sat as a Magistrate in this Court.

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I take this opportunity to again publicly acknowledge the significant contribution that Magistrate Quinlan and the two other recently retired Magistrates, Magistrate Ken Taylor and Magistrate Cridland, have made to the system of justice in Queensland during their long service as Magistrates.

Magistrate Callaghan also brings to our Court 16 years of specialisation as a criminal barrister and solicitor, and given that the criminal jurisdiction is over 80 per cent of the workload of this Court, that experience will be very important to his day-to-day work in this Court.

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For the past four years he has been the principal of Callaghan Lawyers, but as I am sure many of you, if not all of you, are aware, he has also made a significant contribution to the community. As stated in the Legal Aid Queensland annual report for the last financial year, throughout his legal career he had been an advocate passionately committed to ensuring access to the legal system for all people, particularly those from disadvantaged backgrounds, and that resonates very much with the approach that this Court attempts to take in the discharge of its daily functions.

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He was mentioned in the Legal Aid annual report because up until now he has been a member of the Board of Legal Aid Queensland, and also to again demonstrate his interest for those who are perhaps less fortunate than the others in the community he has worked on the management committee of the Caxton Legal Centre, he has undertaken pro bono work, not only there but also on behalf of Prisoners Legal Service, Sisters Inside, and in addition to that, covering all bases, he's been a committee member of the Bar Association of Queensland, and also at the time of his elevation a member of the Criminal Law Committee of the Queensland Law Society, and he was also a member of the Court Partners Group with which

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our Court liaised about initiatives that we were considering implementing in our Court.

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I know, Magistrate Callaghan, that you will bring to this Court the essential judicial qualities of independence, impartiality, integrity, courtesy, equality, competence and diligence, and importantly common sense, empathy, understanding, compassion, humanity and humility.

Before I call upon the Attorney-General to address the Court, I'd also like to add this in relation to what has happened in this Court during the last 12 months, as this is probably the last occasion this year that the Court will sit in a public session such as this. During the year, there have been two new Magistrate positions created in the Court, one at Southport and one at Cairns. As a result, there are now 86 Magistrates in Queensland and as a result of the appointment of Magistrate Callaghan today and more recently of Magistrates Baldwin and Wadley, we finish this year with 85 Magistrates.

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The reason for the vacancy is that Magistrate Cassidy was transferred or appointed to the Federal Magistrates Court recently, and I acknowledge her contribution to the Court over the past two years, both in Brisbane and in Cairns. It was a very well deserved appointment to that Court, and we are very pleased for her.

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The Court is in the process of converting that position to that of a Coroner to be stationed in Cairns and, indeed, only last week it was announced that there would be an additional Coroner's position created in Brisbane from the beginning of next year. So that will mean there will be an increase from two to four Coroners in Queensland by the beginning of next year.

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In addition, due to legislative amendments, for the first time retired Magistrates have been appointed back to this Court as Acting Magistrates. There are currently five retired Magistrates who have been appointed in this capacity and the first presided last week, and in a day of swearing-ins I had the pleasure of more informally swearing in Acting Magistrate Quinlan as he now is, who must have had the shortest retirement in Queensland's history of the judiciary.

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In addition to that, from the beginning of next year there will be four judicial Registrar positions in this Court in Brisbane, Beenleigh, Southport and Townsville, and that will mean that Magistrates will have more time to devote to the more complex work of this Court and, in particular, trial work so as to provide earlier hearing dates than might otherwise have been available.

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So, Magistrate Callaghan, you join what I hope you will find is an evolving Court and also a dynamic Court, and I'd like to thank the Attorney-General for his support in those developments that I have just referred to.

I now invite you to address the Court, Mr Attorney.

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THE ATTORNEY-GENERAL: May it please the Court, Chief Magistrate Judge Marshall Irwin, thank you for your remarks. Deputy Chief Magistrate, Brian Hine, and other Magistrates who are in the Court precinct today, Judge Jerrard of the Court of Appeal, Judge Martin of the District Court, and Deputy President Phil Hack of the AAT, Mr Hugh Fraser representing the Bar Association of Queensland, and Ms Megan Mahon representing the Queensland Law Society, it does indeed give me a great deal of pleasure to welcome Magistrate Chris Callaghan to the ranks of the Magistracy.

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Appointments to the Magistrates Court are significant appointments, particularly in the criminal justice system. It is the Court to which the greatest majority of people who come before the Courts of Queensland will have contact. In fact, as the Chief Magistrate himself has observed before, the Magistrate Court is the place where most members of the community form their first impressions of and their perceptions of the Queensland criminal justice system.

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The role of a Magistrate is diverse and the range of matters that come before a Magistrate on any given day can range from complex civil or industrial disputes to straightforward criminal matters.

In a speech you gave, Chief Magistrate, to the students of the Bar Practice Course in 2004, you gave the following examples to illustrate the point. To quote you:

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"In the short time I have been on the Court, I have had the experience of having complex litigation with senior counsel, appearing on one end of the scale, and on the other presiding over cases where people have been assaulted by water melons, a police officer who was assaulted by having a dog thrown at him, and somebody else whose choice of weapon was not a mallet, but a mullet."

It is to this Court that we welcome you, Magistrate Callaghan.

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May I also recognise your wife Kerrie and children, Rory, Max, Grace and Yvette, who have joined us today to mark this significant milestone in your career.

Your mother Joan and brother Daniel, and sisters Carmel, Katie and Bernadette, are also with us and they are most welcome also.

It's worth noting, of course, that today you joined your sister Bernadette on the Bench and, as the Chief Magistrate indicated, you have been beaten by a whisker for the distinction of being the first brother and sister to serve together on a Magistrates Court Bench, that distinction, of course, going to Magistrates Baldwin and Dwyer when Magistrate Baldwin was sworn in only last month.

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Magistrate Callaghan, you join the ranks of the Magistracy with a solid background in the criminal law. You were educated at Brisbane at the Marist College at Ashgrove, and then articled with Pat Nolan, your cousin, I think, at Gilshenan & Luton. After being admitted as a solicitor in 1980, you practised as both a barrister and a solicitor until the present time, most recently as a principal of your own firm, Callaghan Lawyers.

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The emphasis of your practice has always been the criminal law, although early in your career, I am told, there was a case in which you were representing a hotel owner on Thursday Island which may have contributed to that decision. Your client, I am told, had granted a lease with an option to purchase the hotel licensee. Because of an alleged breach of the lease by the lessee, you were seeking to evict the licensee from the hotel. Upon entering the premises, you were met by the hostile hotelier who promptly pulled a shotgun on you. When police arrived they confiscated the gun, only to show that there was, in fact, a shot in the breach. I understand that the icing on the cake was that the client refused to pay the bill and you had to serve for him. From then on, you made the decision to stick to good, clean crime.

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Your Honour was instrumental in the Caxton Street Legal Service in its formation, the early stages, and was involved in that service in the early days when it was situated in Caxton Street in what is now the Velvet Cigar Bar. You have also performed pro bono work for the Prisoners' Legal Service and Sisters Inside.

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Your contribution to the legal profession has indeed been notable. Your Honour has acted on the board of Legal Aid Queensland, Criminal Law Committee of the Queensland Law Society, the committee of the Bar Association of Queensland, Caxton Legal Centre Committee of Management, the Southern District Committee of the Legal Aid Office, and the Legal Aid Liaison Committee of the Queensland Law Society.

Your community involvement has extended to being involved with your children's schools and sporting organisations, including Vice President of Ashgrove GPS Junior Rugby Club.

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Magistrate Callaghan, you have come to the Bench as an exceptionally well qualified and entirely experienced lawyer. Your extensive legal experience and as importantly your life experience will, I am absolutely confident, form the basis for competent and conscientious service as a Magistrate.

The administration of justice in this State is dependent on people such as yourself being prepared to take on the responsibility that necessarily accompanies your appointment as a Magistrate.

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On behalf of the people of Queensland, may I extend my thanks for your willingness to undertake this role and may I offer you my best wishes for a long and very successful career on the Magistrates Court Bench.

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HIS HONOUR: Thank you, Mr Attorney. I now invite you to address the Court, Mr Fraser.

MR FRASER: May it please the Court, on behalf of the Bar Association of Queensland it is my pleasure to congratulate your Honour Magistrate Callaghan on your appointment to this Court.

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Your personal qualities and other qualifications for office have been mentioned in detail by the Chief Magistrate and the Attorney-General, so it is not necessary for me to repeat them. I endorse them.

There are, however, two particular features of your curriculum vitae that I should particularly mention. First, your very lengthy experience as a practising litigator includes five years at the private Bar in a variety of jurisdictions. Perhaps I can't claim you as one of ours in view of your much longer experience as a solicitor, but I am confident that your significant stint in practice as a barrister will prove valuable to you in your demanding cases on the bench.

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Secondly, as one example of your many contributions to public service you served for some three years on the committee of the Bar Association in the early '90s. This was a particularly interesting time for the Bar. I use the word "interesting" in the same sense that it is used in the Chinese curse, "May you live in interesting times."

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We at the Bar have a long memory for those who serve the public by voluntary work on our committee or counsel, as it is now called, reflecting the dedication to the community involved in that task. We thank you.

In light of your evident qualifications for this new role the Bar very much welcomes your Honour's appointment to this busy and important Court. We wish you an enjoyable and fulfilling career. May it please the Court.

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HIS HONOUR: Thank you, Mr Fraser. Ms Mahon, I invite you to address the Court.

MS MAHON: May it please the Court, it is a great pleasure that I represent the solicitors from Queensland in the swearing in of one of our distinguished own judicial officers. I will make the claim.

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Your Honour, you have many friends in our profession and are recognised as a criminal lawyer whose skill, experience and expertise in this area over some 15 years at least ideally equips you for this jurisdiction. In fact, your appointment to the Magistracy is a loss for our criminal law section of the Queensland Law Society which while unanimously welcoming your appointment regrets your departure. Chair of the section

Mr Sean Reidy is unable to be here today, but certainly shares in that regret and has asked me to pass on his best wishes as well.

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Your Honour was admitted in 1980 and over the long period since had risen to the very top of our profession initially in general practice and, as I have mentioned in recent times, particularly in criminal law.

Until your appointment you were a principal, as we have heard, of Callaghan Lawyers and not only managed a successful and busy city based practice, but appeared in all Queensland jurisdictions.

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There was a time back in the 1990s when your Honour practised as a barrister, as Mr Fraser has alluded to, so there is nothing that you don't know about the skills of advocacy, particularly since you have always been a very hands-on litigation practitioner.

Your Honour, your career path has always showed a strong work ethic and a determination to achieve. I have noted, for example, that scarcely a year after admission you became the principal of your own firm. In addition to this challenge, as has been mentioned, you have tirelessly given of your time to Legal Aid and many other community organisations.

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Demonstrably, your Honour, you were not one to shirk the toughest charge of all, forming your own firm and going into a highly competitive market to seek and achieve a long career that has won you many friends.

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You begin this next phase in your professional career with the good wishes of your many friends and colleagues and it is my special pleasure to wish you a very well-deserved success. May it please the Court.

HIS HONOUR: Thank you, Ms Mahon. Now, your Honour Magistrate Callaghan, I give you this opportunity to deliver your first statement from the bench.

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MR CALLAGHAN: Firstly I would like to acknowledge the traditional owners of this land upon which we gather this afternoon. Mr Attorney, Chief Magistrate, your Honours over there, other Magistrates, Madam president, Mr President of the Bar Association, the colleagues that I can see and ladies and gentlemen, thank you for your kind words, everybody, you have been very generous with that.

It really is both an honour and a privilege to be asked to serve on this Court. It is an honour because it is a very important Court in this State's system of justice.

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As the Attorney has said recently, the Court deals with something like 95 per cent of the State's criminal matters and whilst the District and Supreme Courts deal with the ultimate trials and sentences on the more serious matters, this Court deals in hundreds of matters each day where lives of accused persons and their families and of complainants and their



families are greatly affected by decisions of our Magistrates in decisions such as whether or not an accused gets bail or whether a family is banished from a tenancy or whether a provider for a family can keep his driver's licence or where children are to live where they become the subject of protection orders and the like, all extremely important real decisions.

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It also makes decisions on matters that are destined for the higher Courts, whether or not certain pieces of evidence are admissible against an accused or whether or not there's sufficient evidence to place an accused person on trial. These are very important steps in the process and I look forward to being a part of that process.

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The decisions that this Court makes in those particular matters are of great benefit to the office of the Director of Public Prosecutions when it is called upon to exercise a discretion on whether or not to prosecute a matter.

This Court also conducts a supervision, if you like, of the discovery and interlocutory process in the criminal justice system.

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Any restriction of the committal process in my view would be to the detriment of the State's criminal justice system as a whole and, indeed, I think there is really a good case to increase the discretion in Magistrates disposing of matters.

Whilst on the topic of jurisdiction of the Court, I have seen recently there have been calls for the child protection matters to be removed from the Court which I understand the Attorney has rightfully, in my view, rejected. The persons on this bench are the best suited to deal with such extremely important matters. We are lawyers with vast experience in gathering and distilling important facts, in exercising judgment as to their importance and then applying those facts to the applicable law with a fiercely independent mind, and these are precisely the qualities that are needed to decide on these extremely important matters.

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It is a privilege to be asked to serve on this Court because under the leadership of our current Chief Magistrate and his predecessor who have been greatly supported by our current Attorney and his recent predecessors, this Court has adapted to the changing needs of our society with innovations such as the drug Court, the Murray Court, the special circumstances Court, the alcohol Court in Townsville. All of these are Courts which reflect the concept that it is not only the criminally minded who find themselves in the criminal justice system, but persons who have health issues through drug or alcohol addiction or through the fact that their family hasn't been able to look after them properly or because merely they have been born Aboriginal. This Court does and is adapting to the changing needs of our society and both are to be commended for these advancements, and I am sure that is an indication of the future of the Court as well. In other words, I think it is a good path for the Court to go down.

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I listened to the Chief Magistrate in an address at the Law Symposium back in 2004 as to his vision for the Court. He was only a new Chief Magistrate then and I recall commenting to him a short time after that speech that I thought his vision could only be for the benefit of the Court and the administration of justice. His vision has mostly been fulfilled and I commend him and those who have supported him such as the Attorney and his department. They have made the Court not only a Court which has adapted to our society's needs, but a Court that is more judicial in its output, more judicial in its outlook and is also seen by the public and lawyers alike to be more judicial and for that I commend them. It is a privilege to join the Court and to help in any way I can to keep this momentum going.

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Finally I have a number of people to thank. Firstly, my mother and my father. Unfortunately, my father can't be with us today, he's sick, but to Mum I say thank you. To my brothers and sisters, especially Bernadette whose support in my career has been invaluable. To my former partners and staff, I thank them for their help, support, input, assistance throughout. To my other colleagues in the profession and on the Bench who have given their great support and advice to me throughout these very long 27 years, to my wife Kerrie and my kids, I hope you heard those words that everybody said about me before, and lastly I would like to thank you all for coming to witness these proceedings.

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I will serve on this Court with compassion and fairness and above all in accordance with the rule of law without which we would be a society in disarray. Thank you all.

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HIS HONOUR: Thank you, your Honour, and again welcome to our Court.

Just before I close, I would like to also recognise the presence here today of the Director General of the Department of Justice and Attorney-General, Ms Julie Grantham; the Assistant Director-General, Ms Ulla Zeller; and also the Court Administrator Mr Paul Marschke; and I note in the audience a number of our acting magistrates as well. Thank you for your attendance.

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I hope that you will be able to join us and our new colleague for refreshments in our conference room on level nine.

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