

## TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

HINE, Deputy Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF  
MARSHALL PHILLIP IRWIN AS CHIEF  
MAGISTRATE

..DATE 15/09/2003

**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.

On behalf of the Government of Queensland:

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The Honourable Rod Welford, Attorney-General and Minister  
for Justice

On behalf of the Bar Association of Queensland:

Mr G Martin SC

On behalf of the Queensland Law Society:

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Mr G Ferguson (President, Queensland Law Society)

PETER WILLIAM FORDYCE APPOINTED AS RECORDER

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BENCH: Welcome to the ceremony which marks the occasion of  
the swearing-in as Chief Magistrate of Judge Marshall Phillip  
Irwin. I welcome and acknowledge the President of the Court  
of Appeal, Justice McMurdo and her Honour Chief Judge Patsy  
Wolfe and retired Chief Judge Pat Shanahan. You honour us by  
your presence.

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I also acknowledge the presence of the Attorney-General and  
Minister for Justice, Mr Rod Welford. Also Judge Carmody of  
the Family Court, I am advised is here; I welcome you.  
Another Justice of the District Court, I am advised, Judge  
Hoath. I welcome all the Magistrates from particularly,  
mainly from the Brisbane bench, but also the coordinating  
Magistrates from all around Queensland.

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I acknowledge Mr Glenn Martin, president of the Bar  
Association, Mr Glenn Ferguson, president of the Queensland

Law Society representing the members of the profession and Dr  
Ken Levy, the Director-General Department of Justice. And  
also the relatives and friends of the appointee.

I shall leave it to other speakers to expand on the  
achievements of Judge Irwin. I would just like to say,  
though, that every Magistrate that I have spoken to has  
welcomed the appointment of such an eminent lawyer and a  
person as Judge Irwin to the position of the Chief Magistrate  
of Queensland and I congratulate the Attorney-General and the  
Government on the very astute appointment of Judge Irwin.  
Chief Magistrate, stand please. Take the Bible in your right  
hand and would you read that oath of office.

THE CHIEF MAGISTRATE: I, Marshall Phillip Irwin, swear that I  
will properly serve her Majesty, Queen Elizabeth II, her heirs  
and successors in the office of Magistrate and that I will  
treat everyone fairly and without bias according to law, so  
help me God.

BENCH: Thank you, Chief Magistrate, congratulations and I  
present this Bible to you as a memento of the occasion.

THE CHIEF MAGISTRATE: Thank you.

BENCH: I'll now ask the Attorney to address the Court.

ATTORNEY GENERAL: Acting Chief Magistrate Hine, Judge,  
President of the Court of Appeal, Chief Judge, former Chief  
Judge, Federal Court Judges, Magistrates, members of the Bar  
and other colleagues and associates and family of the new  
Chief Magistrate. It is my very great pleasure to welcome the  
Chief Magistrate to his new position.

As it might be trite to say, I suppose, the choice of the head  
of any Court is a very difficult task for any first law  
officer. Identifying the very best people for the job is  
difficult because the very best people are always in short  
supply. I am very pleased and proud to be here today as  
Attorney-General to be able to welcome our new Chief  
Magistrate, Judge Irwin, to the Magistrates Court.

Everyone knows that in recent times it has been difficult. A  
difficult time for the Magistrates Court. The circumstances  
that gave rise to the need for a new Chief Magistrate have  
been a difficult time not just for members of the Court in the  
performance of their duties but also for the institutions of  
law themselves in their need to command the respect of the  
community and the broader public for the very important role  
that our Court system provides to our State to maintain the  
social cohesion and social stability that the law underpins.

The Magistrates Court, of course, is a Court which is the  
foundation of that stability. It is the Court with which most  
people who come into contact with the law will have some  
contact and it is the Court that serves more locations than

any other Court in the State. It is a Court that delivers  
grass roots justice. It is the Court which makes the most use  
of indigenous support and advice. And in that respect, I  
acknowledge the tradition not only of this area and the other  
areas where the Magistrates Court presides.

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This is a significant occasion. Not just because it heralds  
the appointment of a new Chief Magistrate but for the first  
time a Chief Magistrate who holds a commission as a Judge of  
the District Court. It is certainly a new instance of this in  
Queensland. It is not a novel proposition entirely as a  
similar circumstance has occurred in New South Wales but I  
think it brings to the position of Chief Magistrate an  
appropriate level of recognition and authority which the Chief  
Magistrate of the State's biggest Court deserves to hold.

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In relation to the new Chief Magistrate himself, I can say he  
has an outstanding background for this position. He is a  
person who has worked in the law at all levels; he has worked  
as a lawyer, prosecutor, barrister. Has worked in  
prosecutions at all levels, at all Courts. He has gone on to  
work in the Fitzgerald Commission in Queensland, the Criminal  
Justice Commission in its formation and more latterly the  
National Crime Authority.

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In all those respects, Judge Irwin brings to the role of Chief  
Magistrate a vast experience of both the law and  
administration of the law and in that respect he brings to the  
position of Chief Magistrate all the requisite qualities and

skills that I think any community could reasonably expect of  
their Chief Magistrate. But he brings more than the specific  
technical experience and skills, he brings qualities of  
character and a personality of fairness, humanity, the  
appropriate judicial restraint that I think will be a role  
model for this Court and other judicial offices as well.

And in the months and years ahead, I am sure we will see that  
the Magistrates Court will continue to expand its jurisdiction  
in areas that are of enormous significance to the public of  
Queensland and discharge it's functions with the honour and  
fairness and consistency that the public expect of its most  
public Court. Judge Irwin, welcome. I welcome you to this  
position.

It is in some respects an historic appointment and your  
appointment, I believe, is welcomed not only by the Government  
and the people of Queensland but by the legal profession at  
large. May it please the Court.

BENCH: Thank you, Mr Attorney. Mr Martin?

MR MARTIN: May it please the Court. In many respects, the  
Magistrates Court is the most important Court in Queensland.  
It has the most members, it deals with the most matters and  
for many people it is the only Court with which they will ever  
have any dealings.

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Its central role in the legal system is one which must be  
valued and which must be afforded appropriate dignity and  
respect. Your Worships appointment will contribute in no  
small measure to the retention of that dignity and respect.  
Your experience and permanent commissions of inquiry has given  
you a valuable insight into the structure and conduct of many  
of this States parliamentary, legal and political  
institutions, knowledge that will prove useful as you wade  
through the difficulties involved in managing any large  
Statewide body.

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The details of your career have been well ventilated by the  
Attorney and I will not repeat them. I suspect that your  
Worship finds these matters slightly embarrassing, knowing  
your own personality. What I do want to say can be said  
briefly. I am particularly pleased to be able to say today  
with no degree of exaggeration, which is an unusual thing at  
this type of ceremony, that your appointment has been greeted  
with universal approval by the Bar, your talents and  
attributes are well known to all who have worked with or  
against you and I can say that the bar has complete confidence  
in you and the Court which you now lead. May it please the  
Court.

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MR FERGUSON: May it please the Court. In my media statement I said that our new Chief Magistrate was the most distinguished Queenslander to command a universal respect in the legal profession and that the Government could not have made a better choice. It was demonstrably a selection made on merit.

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His Worship brings to the position of Chief Magistrate a keen legal mind and a reputation for fairness and justice born of his remarkably diverse career. From his graduation in 1976 and his admission as a barrister, he was clearly marked for a distinguished career. And what a career it has been. Having been a leading barrister in private practice, the deputy director of prosecutions, a member of the National Crime Authority and general counsel for the Criminal Justice Commission, among other things.

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Your Worship has certainly the experience to perceive challenges from many perspectives. Your experiences range from being a very hands-on prosecutor, that of the legal academic as co-author of the leading text, Carters Criminal Law of Queensland. Beyond your undoubted skills as a lawyer, I believe that your Worship will restore the dignity of and deserved respect for the Magistracy.

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The Law Society certainly welcomes this announcement with genuine enthusiasm. I am sure your term will be characterised by the principles of fairness, decency, practicality and



honour. The Law Society, on behalf of every Queensland  
solicitor, warmly welcomes your appointment to the position of  
Chief Magistrate. May it please the Court.

BENCH: I will now ask the appointee to address the Court.

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THE CHIEF MAGISTRATE: Thank you, Mr Hine. Justice McMurdo,  
President of the Court of Appeal, her Honour Judge Wolfe,  
Chief Judge of the District Court, Judge Shanahan, the former  
Chief Judge of the District Court, Justice Carmody of the  
Family Court, Mr Bowman, Federal Magistrate, Mr Attorney, Mr  
Martin, Mr Ferguson, my fellow members of the District Court  
who are present, fellow Magistrates, colleagues and friends.

I sincerely thank each of you this morning for your kind  
remarks. There have been times over the past few days when I  
have heard such statements and I have attempted to look around  
me to see who is being spoken about. However, after careful  
consideration and as my first judicial decision, I have  
decided to accept those remarks as credible evidence.

They have been typical of the generosity of spirit, the  
expressions of goodwill and the sincere offers of support that  
I have received since the announcement of my appointment. I  
have not had the opportunity to thank everybody who has sent  
me messages of support and congratulation. I take this  
opportunity to do so publicly.

I have been particularly gratified by the warmth of the  
welcome that I have received from my new colleagues on both  
the District and the Magistrates Courts. This has provided me  
with a positive reinforcement in discharging the important  
functions of Chief Magistrate. It fills me with optimism and  
enthusiasm as, together with my fellow Magistrates, we  
approach the opportunities for the future.

The speakers this morning have traced, to some extent, the long and winding road of my career. Since the President of the Court of Appeal and myself were admitted on the same day as barristers. In one sense, it has been a circular path because a quarter of a century ago I started work as a Crown prosecutor in this very building.

Along that road I have had the good fortune to come under the influence of some outstanding people. People who have been patient enough to share with me and give me the benefit of their knowledge and experience. Without attempting to be exhaustive, I wish to acknowledge some of those today. I came under the influence of the late Lloyd Martin QC, then the Chief Crown prosecutor, from whom I learnt the value of thorough preparation.

As a young prosecutor and throughout my career I have sought to model myself on Tom Wakefield, whom many of you would know, a skilled prosecutor and a person of manifest fairness. Early in my career I was given an opportunity to manage a regional office of what has become the DPP as a central Crown prosecutor in Rockhampton. Here, I was fortunate enough to come under the influence of Judge Pat Shanahan and Justice Demack.

I was the beneficiary of Judge Shanahan's practical and commonsense approach to the law. I am obviously not the only person that has benefited from his mentoring because Justice Ambrose made similar remarks at his valedictory ceremony last

week and I am very pleased that his Honour has been able to  
come here today. The road then lead me to Townsville where I  
came under the influence of Justice Kneipp in the Supreme  
Court. I mention that service in regional areas because that  
experience and the experience of going on circuit gives me at  
least some understanding of the work of Magistrates in this  
geographically large and decentralised State where in excess  
of 70 Magistrates sit in over 100 Courts extending as far  
north as Badu Island in the Torres Strait.

It was in Townsville that perhaps the most important event of  
my life occurred because there I met my partner, Louise. Not  
only has she been another person who has been eminently  
patient with me but she has opened my eyes to so many things  
and allowed me to see things and to understand things that  
otherwise I would not have seen and understood. I would not  
be sitting here today without her love, her support and her  
insight.

Unfortunately, my parents have not lived to see this day. I  
know how proud they would have been but I am particularly  
happy that my father's sister can be here to share this moment  
with me. Returning to my journey, I have also had the good  
fortune to work with people of a standing of Des Sturgess, the  
first director of prosecution to this State, Sir Max Bingham  
QC, to whom I owe much, and more recently with Gary Crooke QC,  
to whom this country owes much.

I have also been able to professionally work with and on occasions against a number of my new colleagues and also to appear before them. This has emphasised their professionalism and work ethic in the exercise of such a broad jurisdiction. As has been said, as the Attorney emphasised this morning and so too, Mr Martin, the Magistrates Court is very much the peoples Court. More than 90 per cent of the people who appear before a Court in Queensland appear before it.

There is no doubt, as the Attorney has observed, that the past twelve months must have been a difficult time for this Court. However, my contact with my colleagues to date has convinced me that it has gained strength throughout the period because of the stewardship of Brian Hine as Acting Chief Magistrate and his deputy, Donna McCallum. I wish to publicly recognise their contributions and also the assistance which I know they have been given by their colleagues.

Their work has smoothed the way for my assumption of this role and it adds to my optimism for the future. And I am proud to now be a part of this team of Magistrates who daily administer justice on behalf of all Queenslanders. I believe that the fact that I hold this appointment as a District Court Judge properly reflects the importance of the Magistracy in this State.

I come to this position with an open mind. I appreciate that I have much information to assimilate in order to make the decisions that will be required. I undertake to make those

decisions in a considered way and in consultation with my  
colleagues. As part of this consultation, I will contact each  
of my colleagues throughout Queensland as soon as possible and  
as soon as the opportunity allows, visit them throughout  
Queensland in order to gain first hand knowledge of the issues  
confronting them. Before commencing this speech one of my  
experienced colleagues advised me to be brief. I believe I  
have been, at least in the context of a recent criminal trial  
where I addressed the jury for two days.

It is time to take that good advice. In conclusion, I  
undertake to do my utmost to fulfil the faith that has been  
placed in me by making this appointment. From this moment,  
the work begins. Thank you for your kind remarks and for your  
attendance here this morning.

BENCH: Thank you, Judge. Everyone is invited to morning tea  
on the 14th floor. The invitation said the 7th but we've  
changed it to the 14th because of the numbers here so you're  
all welcome to come up. Thank you, close the Court

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