

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

0000/04

IN THE MATTER OF THE SWEARING-IN OF
THE HONOURABLE MAGISTRATES DERMOT
EDWARD KEHOE AND TREVOR IVAN MORGAN
AS MAGISTRATES OF THE MAGISTRATE
COURT OF QUEENSLAND

and

BRISBANE

..DATE 12/07/2004

..DAY 1

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

Also present

1

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

On behalf of the Department of Justice:

10

Ms Rachel Hunter

On behalf of the Bar Association of Queensland:

20

Mr Phillip Hack

On behalf of the Queensland Law Society:

Mr Ron Ashton

30

On behalf of the Gold Coast Law Association

Mr Ted Skuse

40

HIS HONOUR: I would like to welcome you to this ceremony to mark the occasion of the swearing-in of Trevor Ivan Morgan and Dermot Edward Kehoe as Magistrates of Queensland.

I would, firstly, like to acknowledge the traditional owners of the land on - whose land this Court is situated.

50

MARK DYER APPOINTED AS RECORDER

HIS HONOUR: I would like to acknowledge the presence of your

new colleagues, the members of the Queensland Magistracy who are able to be with us today.

1

I am also pleased to welcome the Honourable Attorney-General and Minister for Justice, Rod Welford, Ms Rachel Hunter, the Director General of the Department of Justice, Mr Phillip Hack, representing the bar association of Queensland this morning - this afternoon, Mr Ron Ashton, representing the Queensland Law Society, the vice president of that society, and Mr Ted Skuse who is, at least as of today, I understand, the President of the Gold Coast law association.

10

I would also like to welcome those members of the legal profession who are present and the relatives and friends of the appointees.

I particularly would like to extend a welcome this morning to Mr Brian Kehoe, the father of Dermot. It is very pleasing that you have been able to join us here this morning, particularly as you have previously been a member of this bench.

20

Oral history tells me, although I stand to be corrected, that this is the first occasion that this Court has seen a father and son appointed to the bench of Queensland Magistrates.

I understand that you were a member of this Court in the late 70's and during that time you were the sole small claims Magistrate in Queensland.

30

These days every Magistrate is small claims referee. In your case you had to travel to every Court to carry out the small claims jurisdiction. Welcome again.

Perhaps the other bit of history this morning is that this may well be the last swearing-in ceremony in this building. For those of you who had to enter under the ever growing scaffolding this morning, you might think it is, in fact, time for us to go and to go to the new premises which are being built for us up the road.

40

It also seems that it wasn't that long ago that I was sitting in this Court celebrating the fact that the Magistrates who I was welcoming were bringing our bench up to a full compliment of 81 Magistrates. Well, there's one thing that I have learnt since and that is that that's a luxury that doesn't last very long because shortly after that there were three retirements.

I would like to take the opportunity this morning to acknowledge those Magistrates who have retired because none of them wished to have a formal valedictory ceremony, but each of them through the Magistrates Court service and the Magistracy had served Queensland and the Queensland community long and well. They are Barry McCormack, Christopher Owens and Jim Mould.

50

If I could say something, firstly, about Magistrate Morgan.

He started his career as a teacher and then joined the prosecution branch of the solicitor general's office as it then was. It has now become the Queensland Director of Public Prosecutions. That was in the mid 1970s and we worked together for a short time, both ultimately becoming Crown Prosecutors, but essentially other than passing in corridors of Courts and in cities that we were working we lost contact with each other as we worked in varying parts of regional Queensland.

1

In Trevor's case he went to Mackay and while in Mackay he blazed the trail because he was the first person to start a private practice as barrister in Mackay.

10

Given that the Magistrate's service is one which is regional in its focus, that experience in a regional part of Queensland, I'm sure, will serve Trevor very well for the years ahead.

Whilst he was in Mackay he was also partner in the well respected well established legal firm of Barron and Allen before he returned to the bar, firstly in Mackay and then in Brisbane. Most recently he has been counsel assisting the commission of inquiry into foster care in Queensland.

20

Over a period of 25 years of practice Trevor has worked in both the criminal and the civil jurisdictions.

He brings other skills to the job, as well. He was deputy chair of the Mackay electricity corporation. He has also had an association with the Mackay conservatorium of music and chamber orchestra.

30

He will be continuing his association with regional Queensland because after serving for an initial period of about six months in Brisbane Trevor will be taking up his appointment in Innisfail.

I must say from my own point of view of having started a working career together, as clerks in the prosecutions area of the Justice Department, it's a pleasure to be working with Trevor again as part of the team that is the Queensland Magistracy.

40

Magistrate Kehoe, I didn't know you personally until recently, but your reputation had preceded you. I heard a great deal of you, a great deal of complimentary things about you from the Magistrates who constitute the Court at Southport and I am very pleased to see that George Wilkie, who is our regional coordinating Magistrate based in Southport has been able to make the trip despite what I know is a busy Court and busy Court diary to be with us this morning. He particularly wanted to be here. Such is the respect that you have been held in by the Magistrates in Queensland.

50

You have a wide experience of all areas of the law. That has largely been fostered through many years, almost 30 years, working with Legal Aid, Queensland, for much of that time in

charge of one of the busiest offices of Legal Aid, Queensland, at Southport.

1

You bring mediation skills to the job. You have been involved in a number of community organisations and your second term as president of the Gold Coast law association has, in fact, been disturbed and brought to an end by this appointment. That's why we're so pleased that Mr Skuse, who is your successor, I understand, can be here this morning and he, particularly, wishes to be involved in this ceremony and to address some remarks to you during the course of the proceedings.

10

You have been a member of the Bond University Advisory board in 1997 you received an Australia Day Achievement Award. I understand that you have some skills on the golf course which, of course, will lead to get a further addition of skills to the multi-skilled organisation that is the Magistrates Court. I'm sure you will find some people amongst us who would like to test their skills against yours.

20

On behalf of the Queensland Magistracy I have much pleasure in welcoming both of you. I know, given the vast amount of experience that you both bring to this bench, that you will hit the ground running, but you will also receive a great deal of support and advice from your new colleagues.

So Magistrate Trevor Morgan would you please stand and take the bible and would you read the affirmation of office?

MR MORGAN: I, Trevor Ivan Morgan, solemnly affirm that I will properly serve her Majesty the Queen Elizabeth the second, her heirs and successors in the office of Magistrate and that I will treat everyone fairly and without bias according to the law.

30

HIS HONOUR: Congratulations, Magistrate Morgan. The Bible of course is a memento suitably ascribed of your appointment to the Magistracy. I just ask you to sign these documents to complete the formalities.

40

Magistrate Kehoe, if you could please also rise and take the bible and if you could repeat the oath of office, please.

MR KEHOE: I, Dermot Edward Kehoe, swear that I will properly served her Majesty Queen Elizabeth the second, 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.

HIS HONOUR: Thank you. Of course you, too, can keep the bible as a memento of this occasion.

50

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

MR WELFORD: May it please the Court, chief Magistrate, deputy Magistrate, other Magistrates here today, my learned colleagues from the Bar Association, the Law Society, the Gold

Coast law association, former Magistrate Kehoe, I do join in welcoming you back to the Court for this very significant occasion.

1

I, firstly, would like to acknowledge the traditional owners of this area and pay our respects to them. I also acknowledge and thank Magistrates McCormack, Owens and Mould for their work

on the Court as they move into retirement and make way for the new Magistrates we are swearing-in today.

10

The appointment of Magistrates is, as in the appointment of all particular offices, a very significant role for the Attorney-General of the State and Executive Council. I am very pleased today to welcome Magistrates Morgan and Kehoe to their new role in this Court.

The two broad features or criteria or appointment to judicial office which I, the attorney, take into account are experience and character.

20

On the experience side it's obviously essential that the Court be constituted by members of competent technical skill in the law, but it's equally important that the appointees have broad experience, both within the law and within the broader community.

I am very pleased to say that both appointees today admirably fulfil those qualities of experience of which of Chief Magistrate has already made mention.

30

In respect of character, it is also important that our Courts be constituted by people of the utmost integrity and decency, people with a sense of compassion, people with a capacity to communicate to all in the community.

This is particularly so in the Magistrates Court where Magistrates regularly need to communicate with members of the lay public who appear in their Courts, sometimes represented, sometimes not.

40

So those characteristics of broad, legal and community experience and high character are features that are fundamental to the selection of suitable appointees to this Court.

Magistrate Morgan has many, many years experience in the law, admitted as a barrister in 1979, worked as a prosecutor at all levels in Mackay and later in Brisbane, has worked as a private barrister, and also as a private solicitor in the solicitor's firm Barron & Allen in Mackay, as I understand.

50

He has worked both for the Crown as a prosecutor and for the public defender and as the Chief Magistrate mentioned, more recently in the commission of inquiry into foster care in Queensland fulfilled the role of counsel assisting, but he's also taken a wide interest in the legal fraternity as well as the community, particularly in Mackay, where he was a

member of the Mackay electricity board, subsequently deputy chair of the Mackay electricity corporation.

1

He has served in various capacities on the Mackay District Law Association and on the advisory committee of the Mackay Conservatorium of Music.

His previous experience, or training at least as a teacher, will stand him in good stead in the role of a Magistrate. As I mentioned, one of the very important capacities which Magistrates must demonstrate is the capacity to communicate compassionately and clearly to members of the public who appear in this Court and this Court, above all, is the place where most lay members of the public will encounter their first experience of the law and our Courts.

10

That experience will very often be a lasting one and it is important for public confidence in the law that that experience is one which members of the public take away as a positive. I am sure Magistrate's Morgan's skills will amply qualify him to perform that role with distinction.

20

Similarly, Magistrate Kehoe has a different but equally extensive experience, both legally and in the community. I welcome Magistrate Kehoe to his new role on the bench in that context.

He has worked both in private legal firms, private practice, and also for many, many years, since 1981 as a senior solicitor with the Legal Aid Office at Southport.

30

I can attest to his dedication and endurance in that role because I, for a short time, worked as a lawyer at Southport and in the Magistrates Court at Southport and in conjunction, indeed dependant to some extent, for my income on legal aid assistance for clients whom I represented in the Southport Magistrates Court for a short period at that time.

I emphasise, of course, be it only to accentuate the extraordinary endurance that Magistrate Kehoe must have had to work in the legal aid field representing many distressed and trauma affected members of the public who legal aid needed to represent in the Southport Magistrates Court over many, many years.

40

He is a person who has done that in a way that shows great compassion and empathy for people who, when appearing in Court, are often in their time of greatest need for assistance, counsel and advice. But he has done more in that he has also shown a strong interest in mediation, cultural awareness with Aboriginal and Torres Strait Islander people and in a range of community groups in which his legal experience has been valuably received, not least of all in his role as president of the Gold Coast Law Association, and on various committees of the Queensland Law Society, including the Law Society magazine.

50

I am very pleased, Chief Magistrate, to join you in welcoming

our two new Magistrates on this occasion. As I say, the appointment of Magistrate is a difficult role, a role that requires attention to issues of diversity and also a mix of people on a Court with a blend of skills that will ensure this Court is able to function effectively now and in the future.

1

I am very pleased also to indicate to our new appointees that they will very soon be enjoying luxurious accommodation in the new Magistrates Court on the corner of Turbot and George Street. They will, by virtue of their appointment today, benefit greatly, I think, from an experience which their successors may not enjoy, namely, the experience of being upgraded into there.

10

Those who come after them and are appointed in future years may not appreciate as fully the wonderful benefit that comes with being able to be duly accommodated in a new Court facility that is soon to be opened towards the end of this year.

20

So I wish both Magistrate Morgan and Magistrate Kehoe well for their long and successful careers as members of the Magistracy and on behalf of the executive Government and the people of Queensland we wish you our very best and all the support of executive Government in fulfilling your role in the future. May it please the Court.

HIS HONOUR: Thank you. Mr Hack, I will now invite you to address the Court.

30

MR HACK: Your Honour the Chief Magistrate, members of Magistracy, Mr Attorney, members of the profession, ladies and gentlemen, in the unavoidable absence of our president, on behalf of the bar association of Queensland I have the honour of representing the bar in these proceedings.

The brief that I received from the Chief Magistrate invited me to say a few words and I shall exceed that limit only marginally. It is a particular privilege for me to represent the bar today and speak briefly of the attributes of the new Magistrates, Mr Morgan and Mr Kehoe.

40

Their careers have been detailed in the speeches of others, but what I think stands out is that each of them have an incredible amount of experience in legal practice. That wealth of experience in the practice of law will, no doubt, stand them in good stead in this Court with its rather large volume of work.

The experience of those years will enable you both to make the legal and factual judgments that need constantly to be made in the last your role as judicial offices, but it could not be said of either of you that you have led a sheltered life away from, or out of touch with the community at large.

50

Each of you has had a great deal of involvement in community associations. That involvement, no doubt, assisted you in staying in touch with, if I may say the real

people in the real world.

1

To you, Magistrate Morgan, as a member of the bar for a number of years, may I say, particularly, that we have been opponents, we have had briefs that have put us against each other and, in essence, together. We have been members of the bar counsel together for a number of years and we have, may I also say, enjoyed a number of dinners when we circuited in Mackay.

10

On an entirely personal note and reference to that capacity, I assume that the six months in Brisbane will ensure that the restaurants in Innisfail may properly stock their cellars in anticipation of your arrival.

Unfortunately, Mr Kehoe, I have no personal insights to offer into your career, but I am assuming that those who follow me will be able to add a more personal touch.

To both of you I have no doubt that each of you will bring both legal knowledge and skill in large measure together with much commonsense to the important task lying ahead of you in making judgments that affect the lives of people.

20

To both of you I extend the best wishes of the bar and assure you both of the support of its members in the important work that you will perform.

May it please the Court.

30

HIS HONOUR: Thank you, Mr Hack. Mr Ashton, would you like to address the Court?

MR ASHTON: May it please the Court. I respectfully join in the recognition of the traditional owners of the land on which we meet and the warm good wishes to former Magistrate Kehoe and to the retiring Magistrates.

If I may say so respectfully, your Worship, Magistrate Morgan, your suitability for this appointment leaps out in two respects, particularly. They both speak, if I may say so, of the two qualities to which the attorney has referred. First, your Worship's courage and dedication to hard work, although it must have been indispensable, indispensable in metaphorical leaps, really, into the relative unknown necessary for your Worship's journey from student teacher all the way to this bench on this day.

40

Secondly, connected to the first, of course, your Worships great amount of experience across all of the facets of the practice as we've heard from previous speakers. From the public sector in your role in prosecutions to the private practice at the bar, to partnership in a prominent and respected firm of solicitors Barron & Allen in Mackay and into this comprehensive career scope you have managed to somehow to find the time to give service of the arts, the conservatorium of music, service to business with the electricity board, later the corporation and service to your

50

profession through the Council of the bar association, and may I especially acknowledge on behalf of the solicitors of Queensland with the Mackay district law association.

1

Your Worship has achieved in training and in experience and service that description which we ageing lawyers mostly too only see in physical form, that is well rounded.

It's to be anticipated that your Worship will bring wisdom, both the conventional kind and of the street kind because that's necessary in any good judge, any good Magistrate, to the many and varied challenges which will be your Worship's life in the service of justice in Queensland.

10

On behalf of the solicitors of Queensland I wish you every success and assure you of our endurance in Court.

The appointment of your Worship Magistrate Kehoe creates great pride in the solicitors of Queensland. We've always known a special vicarious sense of achievement when one of our own obtains judicial appointment, especially one who has brought so much to the Law Society and its service its fellow solicitors.

20

In that connection and with the Court's agreement the society has asked that your close colleague and current president, successor, as president of the Gold Coast District Law Association, Mr Ted Skuse address the Court and convey our congratulations and support, and I endorse him in anticipation.

30

Both of you, with respect, gentlemen, will be unencumbered by the many happy memories which tie your colleagues to this building and probably make them reluctant to leave. Whether in the splendid surrounds of which you tell us, across the road or in the farthest parts of the state of Queensland, wherever we see you you will have the support of Queensland solicitors always, your Worship.

May it please the Court.

40

HIS HONOUR: Thank you Mr Ashton. Mr Skuse, would you like to address the Court?

MR SKUSE: Your Worship, the practitioners of the Gold Coast are delighted to take this opportunity to make comment today because when news came down to the Gold Coast and went out on the 1st of this month that Dermot was appointed to Magistrate there was the pride and excitement in the air. The legal practitioners, members and committee members of the Gold Coast district law association were delighted and we regard it an excellent appointment.

50

Dermot's record of voluntary services are worthy of note, particularly his contributions to the legal profession. As early as 1971 and through to 1975 he was a member and a committee member of the Queensland Articled Law Clerks Association and he became vice president.

He joined the Gold Coast law association in 1981 and he has served the committee practically without a break since. He has served as treasurer, vice president, and on several occasions president.

His loss will be keenly felt by our law association, but we're left to console ourselves that our associations loss will be the gain to the judiciary and the entire community.

In his legal career Dermot qualified in 1975. He did his articles with a commercial law firm Stevens & Tozer at Holland Park. He worked at Spranklins in Holland Park from 1975 to 1981.

He joined the Legal Aid Queensland office at Southport in 1981 and has worked there up until this point, a total of 23 years.

As senior solicitor he gained a reputation for level headedness and humanity.

Dermot's enthusiasm and ability has been obvious throughout his time at legal aid. With two other practitioners, Peter Lancaster, who is here today and Terry Strong, they served together for 14 years until Peter left and joined the bar some three years ago. Terry remained. For these many years the three of them, led by Dermot, provided a core of hard work as a highly skilled team.

Such stability is a strong indicator of good governance. As a legal aid solicitor and an advocate in the Court for some 23 years Dermot has acquired numerous skills. He has used these to as well represent fellow citizens who have fallen foul of society through accident or design.

He has had ample opportunity to study human nature in its failing.

Dermot can now bring a balance of skills in his role as umpire. The skills and experience as a mediator will stand him in good stead.

On behalf of the Gold Coast law association and the people of the Gold Coast who Dermot has worked these 23 years we wish him every success and satisfaction in his new career as a Magistrate.

HIS HONOUR: Thank you Ted Skuse. I now call on Magistrate Morgan to address the Court.

MAGISTRATE MORGAN: Your Honour, Mr Attorney, Mr Hack, Mr Ashton, Mr Skuse, thank you very much for your very kind and generous comments. Far be it for me to want to depreciate those comments because they are very generous and apply to us.

I was reminded just on Friday of a quip that has been made by the master of appropriate quips and that was retired Judge Pat Shanahan who said that on occasions like

this these proceedings would be much shorter if the participants were required to take an oath before they were called upon to speak.

1

Thank you also to the many people who have interrupted their schedules to attend. I know many of you have busy commitments and there's a commitment today that occupied a fair bit of time being the church service to open the law year and to interrupt your schedules is something about which I am very gratified. I'm chuffed by your presence.

10

I have taken this appointment with mixed feelings of pleasure and regret. I feel sad at having to leave the bar. I have had the extraordinary good fortune to have followed a profession that I really, truly enjoyed and in no small part the enjoyment that I have attained from following that profession has been a result of the number of wonderful people that follow that profession, with whom I have had long association and probably too many bottles of red wine.

20

My other significant regret and, perhaps, the most significant regret I have is the damage that it might do to my wife's career. She has very graciously agreed to suspend it for the time that we will spend in Innisfail. I don't underestimate the significance of that sacrifice and Frances I am deeply indebted to you for doing that.

Enough of the negatives. One important positive outcome that will occur as a result of Frances and my going to Innisfail is that it will have the wonderful outcome of enabling Zac Sarra and his wife to reunite. For many years he has commuted to Innisfail.

30

The most significant positive aspect I would like to note in my coming to the Magistrates Court - Magistrates Court bench is that the Court's future at the moment looks very bright and that's not just as a result of it moving into a new building.

The press has convinced us that the reputation of this Court has fluctuated from time to time but I'm happy and I'm sure we're all pleased to appreciate that it is now in its ascent and I have great fortune in being appointed to this bench when it is in such a period and I hope that I do not retard that process.

40

Thank you, your Honour.

HIS HONOUR: Thank you, Magistrate Morgan. I now call on Magistrate Kehoe to respond.

50

MAGISTRATE KEHOE: Mr Attorney, the Chief Magistrate Judge Irwin, my judicial brothers and sisters, the representative of the bar association, Phil Hack, the vice president of the Queensland Law Society, Mr Ron Ashton, the president of the Gold Coast District Law Association, Ted Skuse, my progressional colleagues, fellow workers, my mother, family and family and friends, I would like to thank the Attorney-General by honouring me with this appointment.

By this appointment he honours all those who work in legal aid and the people who assist the Courts of Queensland.

Today is the start of my judicial life and before doing so I need to acknowledge persons who assisted me on the journey to this place, sir Edward Williams, judge of the Supreme Court who assisted me in finding articles, my uncle Bill White, former Undersecretary of the Department of Justice.

In 1978 when I was still in private practice and I was planning to go into partnership with Spranklins and Company in Holland Park. When I was holidays in Childers I met Bill White who at the time was visiting courthouses throughout the state. Whilst talking to him I told him of my intentions to go into private practice. He said to me, "The rich will always have money to pay good lawyers, the poor need good lawyers", and he suggested I apply to join the Legal Aid Office. I didn't heed this advice immediately and waited approximately two and a half years, which is probably just inside the usual time.

My professional colleagues at the time discouraged me. They suggested I was wasting my time and it would be a dead end. My commercial clients offered to help set me up my own practice and do their work. I would never have done this to my former colleague. I never regretted my choice and notwithstanding offers over the years I have remained at legal aid because I enjoyed the work and the service I performed for the clients.

I enjoyed the support of my wife and friends who have supported me over the years and have lifted me whilst I have been tired on this journey. I also, lastly but not least, thank my parents whose example has always been one of Public Service and self sacrifice.

I remember, no matter the position that my father held, when asked his occupation he would say "public servant". He was so proudly a public servant. Even today I still meet people who remember his kindness to them.

When you spend a lot of time in watch-house with clients and police you often hear the police say to clients, "What goes around comes around". It appears now I will once again walk the streets of Brisbane where I did my article clerkship and study. I have now turned the full circle from articles to solicitor to the bench.

After this ceremony you will all be invited to tea and cakes upstairs and, perhaps, later in the afternoon at 4.30 I will have a small CLE at the Irish club. It is not mandatory to attend. You may, if you wish, but you won't score the usual points, you may only reach the limit of point 04 and then you might have to move.

Perhaps on the way due to my knee injury I may be forced to stop, rest and refresh myself at my old universities the

Criterion and the Grosvenor school of law where I will remember some of the great criminal barristers such as Casey, Cuthbert, Copley, MacGroarty, Godsall and TAEFFE. Even if they can't be there they live there in spirit.

1

At 4.30 I will be at the Irish club to greet you and celebrate for a short time. It is Monday, tomorrow I will return to this building to serve the people of this great State of Queensland as a Magistrate, as my father did before me. I thank you all for coming.

10

HIS HONOUR: Thank you Magistrate Kehoe and I would like to now invite everybody to go on the first stage of that journey with Magistrate Kehoe in joining us for tea and cakes.

These proceedings are now adjourned. Mr Dyer, would you please close the Court, thank you.

20

THE COURT ADJOURNED

30

40

50