

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF
THE HONOURABLE MAGISTRATES MARGARET
MARY CASSIDY AND GRAHAM JOHN BUCKLEY
AS MAGISTRATES OF THE MAGISTRATE
COURT OF QUEENSLAND

BRISBANE

..DATE 10/01/2005

..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

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

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Federal Magistrate Michael Bauman

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On behalf of the Department of Justice and Attorney-General

Acting Director-General Jim McGowan

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On behalf of the Bar Association of Queensland:

Mr Glen Martin SC

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On behalf of the Queensland Law Society:

Mr Glen Ferguson

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HIS HONOUR: Good morning. Please be seated. Welcome to the ceremony to mark the occasion of the swearing-in of Margaret Cassidy as a Magistrate of Queensland and also to welcome Magistrate Graham John Buckley who was sworn in at a private ceremony last Tuesday.

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I acknowledge the traditional owners of the land and also acknowledge the presence of your new colleagues, the members of the Queensland Magistracy who are able to be with us this morning. I would also like to extend apologies on behalf of Magistrate Barbara Tynan who is presiding in the Cleveland Magistrates Court this morning and would very much like to be with us.

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It is a pleasure to have the opportunity to present the first official ceremony of this type in this wonderful new justice facility. I am pleased to welcome this morning the President of the Bar Association of Queensland, Mr Glen Martin SC and also Mr Glen Ferguson, the President of the Queensland Law Society. I also extend a particular welcome to the relatives and friends of our new colleagues, including Graham's partner Debbie, his children John and Katrina, his parents Noel and Beryl and his sister Patricia, and also Margaret's partner Tim, her uncle Keith, her daughters Mita and Bronwyn and her siblings Damien, Michael and Bernadette. It is also a pleasure to have with us this morning the Acting Director-General of the Department of Justice and Attorney-General Mr Jim McGowan.

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SANDRA COCHRAN APPOINTED AS RECORDER

HIS HONOUR: Our new colleagues bring a wealth of diverse experience to the bench. For Magistrate Buckley it is a return to the Court where he commenced his career in Oakey in 1970. He then progressed through the roles of depositions clerk and Clerk of the Court to Acting Magistrate at Cooktown and at Longreach. Here he acquired experience as a coroner which Mr Barnes, our coroner, I have got no doubt will be pleased to know and also he gained experience of presiding in indigenous communities. So for him it is very much like getting back on the bicycle after almost 15 years of managing his own general legal practice in Laidley.

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During that time he has shown a great ability in conducting trials and committals in our Court as well as appearing on District Court sentences. He therefore brings considerable practical experience to our bench. He has also been active in the local community in Laidley through the Lions Club of which he has been president, the ambulance committee and the Chamber of Commerce. Graham will initially be constituting the Court at Maroochydore for a period of 12 months in place of Magistrate Craig Proctor who has transferred to Bowen.

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Magistrate Cassidy's appointment to Brisbane for an initial period of two years flows from the transfer of Magistrate Matt McLauchlan to Ipswich. I wish to thank Magistrates Proctor and McLauchlan and indeed all Queensland Magistrates who throughout the past 12 months have expressed their interest and willingness to transfer to vacancies throughout this State. There has been at least one volunteer for every position which has been vacant.

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Magistrate Cassidy brings to this Court experience not only of the law but in applied science. She commenced her career in the area of scientific research. In her private practice as a barrister over the past 10 years she has appeared in family, criminal, industrial and anti-discrimination jurisdictions. Importantly for the Magistrates Court she has considerable experience in dispute resolution and in dealing with self-represented litigants. She has also undertaken pro bono work for the Women's Legal Service, the Aboriginal Women's Legal Service and the Bar Association as well as involving herself in the QUT undergraduate moot program. I am sure that you will join with me and my colleagues in welcoming Magistrates Buckley and Cassidy as members of our Court.

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I would now ask Magistrate Cassidy to take the oath of office. If you can take the Bible and also repeat the oath of office.

MS CASSIDY: I, Margaret Mary Cassidy, 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.

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HIS HONOUR: Thank you. If I could now just ask you to sign each of the oaths. Magistrate Cassidy, welcome to the bench of Queensland Magistrates. I hope you would accept this Bible as a symbol of your appointment. It has been suitably inscribed as a memento of this morning.

MS CASSIDY: Thank you.

HIS HONOUR: It is also a great pleasure to have with us as part of this first ceremony in our new building the Attorney-General and the Minister for Justice, The Honourable Rod Welford and Mr Attorney, I would like to take this opportunity to publicly acknowledge the gratitude of the Queensland Magistracy for your recent recognition of its increasing work load and its significant role in the justice system of this State by announcing an increase in our numbers from 81 to 84 Magistrates which means that there will be more swearing-in ceremonies in the near future. Mr Attorney, if I could call on you to address the Court.

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ATTORNEY-GENERAL: May it please the Court, Judge Irwin, Deputy Chief Magistrate Hine and Magistrates Cassidy and Buckley, may I join with the Chief Magistrate in welcoming both of you to the magistracy today. Both of you bring to the magistracy exceptional and broad experience as the Chief Magistrate has already outlined.

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In respect of Magistrate Buckley, you come to the magistracy with a long experience both as a practitioner in private practice and as a person who has worked within the Magistrates Court service. You in that respect exhibit the very breadth of skills that this Court especially requires and I thank you for taking up the opportunity being offered to you to serve in this way the people of Queensland on what is in many ways the most important of our Courts, a Court in which most Queenslanders if they are ever to have contact with our Court system are most likely to have contact with this Court.

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Similarly Magistrate Cassidy brings to the magistracy an equally diverse background of experience in private practice and in anti-discrimination law and other fields which will bring to the magistracy a breadth of skills and insights into the management of matters before this Court which I think will significantly enhance the functioning of the Magistrates Court. Your experience in the academic arena as well indicates that you not only practise the law with distinction but you are also a person who thinks widely about the function of the law and the justice that must be delivered according to law in the Courts of our State.

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May I on behalf of the Executive Government and the people of Queensland congratulate you both on your appointment and wish you both a long and successful career in the magistracy, may it please the Court.

HIS HONOUR: Thank you Mr Attorney. I should also welcome Federal Magistrate Michael Bauman. I didn't quite see him in the back of the Court earlier this morning. Mr Martin.

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MR MARTIN: On behalf of the Bar Association I have great pleasure in welcoming the appointment of Magistrate Buckley and Magistrate Cassidy to the Magistrates Court. For Magistrate Buckley this appointment may seem like deja vu all over again following the two decades of experience in the Court before your most recent decade of working in private practice. The combination of experience you have in which you have seen practice in this Court from both sides of the bench will stand you in good stead in the future. Your work within the Court and as a solicitor in private practice gives you an advantage few other appointees have had. We are confident that this will provide a basis for a successful career on the bench.

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Magistrate Cassidy, you come to the bench with a background that may provide some assistance when hearing certain types of cases. Although your 10 years as a bio-chemist and experience in research laboratories may not be something upon which you need to rely on a daily basis - in fact, when I became aware of your previous occupation I wondered whether your time at the bar may have been part of some larger experiment. After all there have been many unkind comparisons drawn between lawyers and laboratory rats. None of them accurate, of course. You have in the time since your admission to the bar engaged in practice in many of the areas in which you will now adjudicate.

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This has already been detailed by the Chief Magistrate and it is your familiarity with those matters and your wider work experience which will provide the basis for what we are sure will be a rewarding and enjoyable career in this court, may it please the court.

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HIS HONOUR: Thank you, Mr Martin. Mr Ferguson, could I invite you to address the court.

MR FERGUSON: May it please the court. We have all been waiting for this ceremony for a long time, or rather more specifically, we have all been waiting for the first ceremonial occasion in this impressive new Magistrates Court building. Certainly the opening was a memorable occasion, but now that we are actually here to swear in and welcome two new Magistrates, one gets the feeling that the court is getting down to business in its new Brisbane home.

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This ceremony is in a sense a baptism for this splendid complex. I am unsure if his Honour the Chief Magistrate's tactfully restrained pleasure today is due to the long overdue shift from the previous, may I say, well worn court complex or due to his being able to welcome two new colleagues, although I suspect it is probably both.

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My only regret, and a trifling one it is, is that when the new Magistrates are announced by The Honourable Attorney-General I know that he is being very careful and only recommended to the government the finest practitioners, men and women who are not just eminently qualified but who invariably have a strong record of community involvement. It is the loss to the profession of such high calibre people that concerns us as a profession.

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Certainly that is the case today with the Magistrate Margaret Cassidy and Magistrate Graham Buckley. I note that Magistrate Cassidy came to the law as a second career as her initial qualification was a Bachelor of Applied Science in 1983 and I am sure that the skills learned in that discipline, the need for forensic and scientific approach, will also serve her well on the bench.

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After graduating with an Honours Degree in 1993 from QUT Magistrate Cassidy spent the next decade or so carving out an impressive career as a barrister. Her practice has been predominantly in family law and related jurisdiction and this sadly requires dealing with matters relating to child protection and domestic violence. There could be no tougher, demanding and more draining area of practice, so I am sure that nothing that comes before her in this court will be any surprise.

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I was practically impressed by Magistrate Cassidy's strong commitment to community work, to the Women's Legal Service and the Aboriginal Women's Legal Service among others and this selfless commitment I am certain would have its own rich rewards in accumulated knowledge, sympathetic understanding and appreciation of practical solutions.

For Magistrate Graham Buckley, his appointment marks a coming home. He had previously worked for the Magistrates Court service from 1970 to 1989 and graduated with an LLB from QUT in 1988. After a brief stint as an employed solicitor he is recalled to the colours in 1990 as Clerk of the Court and Acting Magistrate before establishing his own practice, GJ Buckley & Associates in Laidley. The general practice in a country town is not the easiest job. It requires a very broad knowledge of the law, a tactful and discreet approach and typically a full-blooded involvement in your community.

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Magistrate Buckley is the perfect example of a country practitioner and his work with the local Lions Club, Ambulance Committee and Chamber of Commerce is the practical probono work that so many solicitors willingly take on.

Today we congratulate and welcome our two newest Magistrates. They come from different backgrounds that have provided different experiences and that once again underlines the strength and diversity of the Queensland Magistrates Court.

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Queensland is fortunate that they have stepped forward to serve and on behalf of the Queensland Law Society and personally, I wish you both long and successful careers, may it please the court.

HIS HONOUR: Thank you, Mr Ferguson. I would now first invite Magistrate Buckley to reply.

MAGISTRATE BUCKLEY: Attorney-General, Mr Welford, Chief Magistrate, Judge Irwin, Mr Martin, Mr Ferguson, members of the profession, guests and family, I am honoured and proud to accept the position of Magistrate and to be placed at a centre such as Maroochydore is just the icing on the cake.

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I am aware that by far and away more people pass through the Magistrates Court than any other court. So often a Magistrates Court, not only performing its more usual role in the criminal or civil jurisdiction but also dealing with other matters such as domestic violence or constituting the Small Claims Tribunal, resolving issues such as tenancy disputes, just to name some of the facets of the Magistrates Court, is the human face of the justice system. I am aware that the decisions made in the court today can have a resounding effect at a person's home, or his employment, or financial security. I am also aware that a magistrate, in dealing with a large number of people that come before them, have a duty to the wider community as well.

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The study of law achieves an academic qualification while the practice of law achieves a life qualification. I hope that my 14 years or so working at the coalface will serve me well in the duties I vow to undertake. Thank you.

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HIS HONOUR: Thank you, Magistrate Buckley. And now Magistrate Cassidy, if you would like to respond.

MAGISTRATE CASSIDY: Thank you, Judge Irwin, Federal Magistrate Bowman, Mr Attorney, Mr Martin, Mr Ferguson, thank you to those who said kind words this morning. Can I say it was with indecent haste that I returned all of the briefs that were in my chambers upon being informed by The Attorney that I was to be appointed as a Magistrate. My joy at being able to return these briefs actually that were cluttering my desk and sideboard was overwhelming and indeed it lasted all night.

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Having relieved myself of the need to do any further work as an advocate, it occurred to me that I should consider what it was that I was going to be doing in this the next and final phase of my career.

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The most significant task I had as an advocate prior to becoming a Magistrate was to actually decide how to act for one side in the dispute. I might even say I did that strenuously from time to time, although that is perhaps for my colleagues to say.

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I knew that I would no longer be doing this, so where to from here? I turned to the words of the oath that I have just sworn. It was to treat everyone fairly and without bias according to the law. It occurred to me that that may be easier said than done.

With my newly created spare time I decided to head up to the Supreme Court library to look at the biographies and all the biographies of jurists that are much more eminent than I could ever hope to be. I perused words uttered by High Court judges. A number of hours was spent doing this. I looked at some work by Chief Justices Dixon, Mason, Evert, Brennan, Dean J and I was looking for some assistance with how I should go about ensuring that I live up to this solemn promise that I was going to make on Monday morning, the 10th of January 2005.

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It seems to me that central to maintaining public confidence in the judicial process is both actual and apparent judicial independence. Brennan CJ, in a Blackburn lecture he delivered eloquently, described the dependency of the rule of law on judicial independence. He said this:

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"A judiciary of unquestioned independence is essential. The judge stands in the lonely no-man's land between the government and the governed, between the wealthy and the poor, the strong and the weak."

My suspicions were confirmed. To treat everyone fairly and without bias according to law is perhaps easier said than done. I will simply do my very best to be faithful to that oath I have sworn this morning.

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I now wish to thank my colleagues from the profession. The Bar is truly a collegiate profession. Looking around here this morning, I have asked nearly everyone, in fact I thank everyone here, for some help with a legal problem and I have never been turned away without a useful and helpful answer. I am now moving to another collegiate

profession and the e-mails and other words of support that I have saved to date suggest that I will be able to turn to my fellow Magistrates for help from time to time. My door will always be open, although I do not suggest I will be as much assistance at first, but what comes around will eventually go around.

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A special thank you goes to my friends who are here. I can see you there. I very much appreciate that you have come. It's a pity that my dear friend Tracy Burton can not come. She is a lawyer working for the United Nations in Rome. How many people could say that? Her parents are here and I am very grateful that they are here to represent her.

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Finally, I wish to thank my family. In all that I have ever done I have always had loving support and encouragement from my family. My late parents enabled me to obtain the education that provided me with the professional opportunities I have had. My mother's brother, Uncle Keith, is here today and it is fair to say of my mother, you would agree Uncle Keith, she set a sterling example of humanity, integrity and humility, the best in the world.

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I am pleased that my sister and two brothers are able to be here today. They have all come a considerable distance to attend. Mita and Bron, what can I say to my daughters. You are the best - and I wrote that in capital letters and unlined it. My husband Tim, you have been very supportive during the long days and nights I was in private practice. I thank you for your patience and kindness.

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There is little left to say. It's time to go to work. Thank you.

HIS HONOUR: Thank you, Magistrate Cassidy, and thank you to everybody who has joined with us in this very special first ceremonial occasion in this court building today.

For those of you who are able, subject to your morning commitments, I extend an invitation for you to join us for morning tea with our new colleagues. That will be in the Magistrates common room on level 9, which is fast becoming known, I am told, as the flight deck. Court is adjourned.

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THE COURT ADJOURNED

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