

# TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate

IN THE MATTER OF THE SWEARING-IN OF  
MAGISTRATE DAMIAN JOHN DWYER AS A  
MAGISTRATE OF QUEENSLAND

BRISBANE

..DATE 26/04/2005

**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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Deputy Chief Magistrate Hine

On behalf of the Bar Association of Queensland:

Mr Daubney

On behalf of the Queensland Law Society:

Mr Ferguson

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HIS HONOUR: Good morning, please be seated. Well, good morning and welcome to this ceremony to mark the swearing-in of Damian John Dwyer as a Magistrate of Queensland, or as one media report put it on his appointment, to hand him the gavel.

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I firstly wish to acknowledge the traditional owners of this land on which this Court is built. I also acknowledge the presence here this morning of your new colleagues, the members of the Queensland Magistracy who are able to be present with us.

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I extend an apology on behalf of the Honourable the Attorney-General and Minister for Justice who contacted me only shortly before these proceedings were due to commence. He was intending, as he normally does, to speak at this ceremony to welcome Magistrate Dwyer. However, because of some urgent matters that have arisen this morning he has been unable to do so.

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But it is pleasing to see with us this morning Mr Daubney's SC representing the Bar Association of Queensland and Mr Glenn Ferguson, the President of the Queensland Law Society.

I wish to extend a particular welcome to Damian's partner, Karen, and his son Ryan, his father Les and his siblings Sean and Maxine. Maxine is also a member of the legal profession, being a member of the solicitors' branch of the profession.

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As I observed at Magistrate Rinaudo's swearing-in ceremony, there has been an increase in the number of Magistrates in Queensland from 81 to 84 this year. As a result, new positions have been created in Southport where Mr Rinaudo has been stationed, Maryborough and Cairns.

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Magistrate Dwyer has been appointed as an additional Magistrate to Cairns and will sit there initially for a period of 12 months. That will bring the number of Magistrates in Cairns to a total of six and in addition, the northern relieving Magistrate is based in Cairns. This will also allow a Cairns Magistrate to travel to Townsville for three months of each year to assist that other busy northern centre with its lists.

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I know that Magistrate Dwyer is already looking forward to regular circuits to Cape York and to the Torres Strait Islands, particularly as he was the Clerk of the Court and an acting Magistrate on Thursday Island during his earlier career in the Magistrates Court service. Indeed, for Magistrate Dwyer, as for Magistrate Buckley earlier this year, this appointment is like coming home because he commenced his legal

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career approximately 30 years ago in the Magistrates Court service.

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About 50 per cent of that time has been spent with the Magistrates Court and the balance since 1990 has been spent as a barrister in private practice in Mackay. He has worked in many Court offices in north Queensland, including as the relieving Clerk of the Court based in Cairns and at the time of joining the Bar he was the Clerk of the Court and acting Magistrate at Cooktown, another centre that he will be visiting from Cairns.

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Therefore, Magistrate Dwyer brings considerable experience in the operation of our Courts to his appointment. His experience as a barrister includes acting for the Aboriginal and Torres Strait Islanders Legal Corporation in Mackay and is pleasing to see Mr Shadbolt from that corporation present with us here this morning, amongst the other distinguished guests.

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Magistrate Dwyer also brings a broad experience of life to the Court. He has been a volunteer at the Mackay Regional Community Legal Centre, he has been involved in the Mackay Regional Health Authority and he has also been the Deputy Chairman of various boards connected with mill areas around Mackay as well as being involved in the management of various local sporting clubs.

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So I welcome you sincerely to our Court and I extend on behalf of your new colleagues, the Magistrates of Queensland, best

wishes for a long fulfilling and I know a successful judicial career. You will find that you will receive considerable support from your colleagues, most immediately from those in the Cairns area.

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If you could please be upstanding and repeat the Affirmation of Office.

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AFFIRMATION OF ALLEGIANCE AND OF OFFICE ADMINISTERED

HIS HONOUR: Congratulations on your appointment. I cannot hand you a gavel this morning, but I can hand you a Bible as a memento of this significant occasion.

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MR DWYER: Thank you very much.

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HIS HONOUR: Mr Daubney, I would invite you to address the Court.

MR DAUBNEY: May it please the Court, at the outset may I extend an apology from the President of the Bar, Mr Glen Martin of Senior Counsel on his inability to attend the ceremony, but in view of your Honour's direct and indirect interest in matters equine, it is perhaps curiously appropriate that I be the person who has the honour of representing the Bar on this happy occasion.

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It is my pleasure to appear this morning on behalf of the Bar and to extend to your Honour the Bar's congratulations on your

appointment. Your Honour's achievements and personal history have been well covered by his Honour the Chief Magistrate. What that tells us is that you bring to your new role a depth of experience, both as a regional practitioner of long standing and a person who has had an active involvement in the wider community, all of which will better enable you to discharge the important duties that lie ahead.

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His Honour has already observed that your career spanned two significant phases. The first of about 15 years in the Public Service and the service of the law, and the second of about 15 years in private practice in the service of the law. And your contribution particularly to the practice of the law in the regions has been noted.

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Also noted is your extensive involvement in community affairs, not least of which is your Deputy Chairmanship of the Mackay Regional Health Authority and your holding the position of chair of local boards attached to various mills in the Mackay district.

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It is also noted that your Honour has been involved in the management committees of the Brothers Cricket Club in Mackay, the Brothers League Club in Mackay as well, I note particularly, as the Mackay Turf Club.

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Your Honour joins a Court which, if I may mix metaphors, is at once at the coalface of the administration of justice and the community and is the powerhouse in terms of disposition of a

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huge volume of work. Our society expects that its judicial officers serve to uphold, maintain and apply the rule of law.

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The simple statistical fact is that the vast majority of members of the community who have some formal interface with the judicial system will do so in this Court. Those consumers of this Court services, both in the civil and the criminal realm, in reality expect their issues to be dealt with fairly and by a healthy application of real world commonsense to the rule of law.

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To strike the appropriate balance between the theory and the practice calls for people of special skills. The people of Queensland are indeed fortunate that your distinguished professional career and full life of community service so eminently fit you for this task.

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Needless to say, in carrying out your new and important role, your Honour can be sure that you will have the unqualified support and assistance of members of the Queensland Bar.

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On behalf of the Bar Council and members of the Queensland Bar may I extend to your Honour our very best wishes for a fulfilling, challenging and satisfying time on the Bench. May it please the Commissioner.

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HIS HONOUR: Thank you, Mr Daubney, and thank you for taking those few short steps from the equine inquiry to this

courtroom this morning. Mr Ferguson, could I call on you to address the Court.

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MR FERGUSON: May it please the Court, undeniably the appointment of his Honour, Magistrate Damian Dwyer, to the Cairns Magistrates Court will be as much a loss to his Mackay community as it will benefit the Cairns community.

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For his Honour this appointment is a return to where he spent a part of his 16 year career as a Court administration officer prior to going into private practice as a barrister in Mackay in 1990. Although of course his return is rather more Magisterial than his original arrival.

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Magistrate Dwyer comes to the Magistrates Court Bench with an impressive background as a lawyer and a community worker, not to mention his more than useful experience with the Justice Department in Court administration which took him to Mackay, Townsville, Innisfail, Mt Isa and finally to Cooktown where he was Clerk of the Court and acting Magistrate.

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It is certainly true to say that there is hardly one part of the north and far north Queensland that he does not know well, if not intimately, and that connection with an involvement with his community coupled with his undeniable legal skills demonstrated during a highly successful 15 year career as a barrister in Mackay, makes him the very ideal appointment.

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While in Mackay he served as Deputy Chairman of the Mackay  
Regional Health Authority and Chairman of the local boards  
attached to the various sugarcane mill areas in the district.  
Importantly, his profound sense of justice and community  
spirit saw him act as a legal officer of the Mackay and  
District Aboriginal and Torres Strait Islander Corporation for  
Legal Aid Services and at the time of his appointment he was a  
volunteer with the Mackay Regional Community Legal Aid Centre.

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If that was not enough, Magistrate Dwyer has been involved in  
the management committees of the Mackay Brothers Cricket Club  
and Mackay Brothers Rugby League Club and, as my friend  
earlier mentioned, the Mackay Turf Club. While I can assure  
your Honour that all these three sports flourish in Cairns I  
suspect your Honour has already ascertained that.

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When announcing his appointment the Attorney-General and  
Minister for Justice, the Honourable Rod Welford MP, made the  
very valid point that Magistrate Dwyer's broad life experience  
as well as his impressive qualifications would make him a  
great asset to the Bench.

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Certainly I concur with that comment and it is my very great  
pleasure on behalf of the Queensland Law Society and all  
Queensland solicitors to welcome our newest Magistrate and  
wish him every success in his new and important role. May it  
please the Court.

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HIS HONOUR: Thank you, Mr Ferguson. And I formally direct that these proceedings be recorded by a mechanical device pursuant to the provisions of the Recording of Evidence Act and that Bernadette Margaret Kelly be the recorder.

It only remains for me to thank you for your attendance this morning and to invite you, if you have time, to join us for refreshments with Magistrate Dwyer on level 9 of our building.

THE COURT ADJOURNED