

# **TRANSCRIPT OF PROCEEDINGS**

**MAGISTRATES COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY**

**On the occasion of the appointment of**

**CHIEF MAGISTRATE LORRAINE WALKER**

**CANBERRA**

**9.29 AM, MONDAY, 28 NOVEMBER 2011**

HER HONOUR: Mr Attorney?

MR CORBELL: Your Honours, as we gather here today, I'd like to acknowledge the traditional custodians of the land we are meeting on, the  
5 Ngunnawal people, and I'd like to pay my respects to their continuing culture and the contribution they make to the life of this city and this region. It is with great pleasure that I take the opportunity to congratulate your Honour on your elevation to the role of Chief Magistrate for the Australian Capital Territory.

10 As first law officer, I am pleased to make these remarks in the presence of the Chief Justice and justices and Master of the Supreme Court, your fellow magistrates, your colleagues and peers, past and present leaders of the legal profession here in Canberra. I am also particularly pleased to  
15 welcome today your partner, Vincent, and your sons Sam and Callum, as well as members of your extended family and friends.

I recall gathering here last year to welcome you to the Magistrates Court. At the time I was confident that your many years of experience as a  
20 barrister, law firm partner, Crown prosecutor, and solicitor meant that you would not only be very well equipped to meet the day to day challenges of the court, but also to make a strong contribution to the ongoing work of this court in providing justice to the territory.

25 In your address on your appointment, you made a public commitment to meet the standards you consider are required of a judicial officer, in particular the need for professionalism, so the public can have faith in the legal system. You also observed that courtesy and efficiency are integral components of such professionalism. You have since demonstrated this  
30 commitment.

I know you are keen to ensure that the court continues to be open and accessible with a focus on ensuring people in front of it can understand the  
35 processes they are going through. Your courteous and accessible approach has extended to all staff here at the court. I know you are well known for your sunny disposition and the staff in particular appreciate your approachability and friendly nature.

40 I am told that court staff very much appreciated your first address to them following your appointment as Chief Magistrate. I understand you have also met with the leadership team of the courts and tribunal administration and shared with them your vision for the courts. This engagement bodes well for your role as leader and motivator.

45 As well as the trademark courtesy and respectfulness, you have

demonstrated a great understanding and sensitivity for the role of a magistrate and the heavy burden of making difficult decisions which affect people's lives. In addition, your energy and enthusiasm and that commitment to the timely delivery of judgment, has meant the community and profession already consider you to be an accomplished magistrate.

I know that you are well regarded by the profession for your exceptional legal skills and reasoning. I note that on your appointment, the President of the bar, Mr Walker, commented publicly that within two weeks of you being on the bench, he had been informed by a solicitor how you had resolved a difficult question of law in a short space of time with a well-reasoned decision, and this was a comment from a losing side.

Aside from your professional skills, I was interested to learn of your love of '80s pub rock music and distain for disco. I trust that all members of the local profession and your colleagues on the bench come to share your excellent taste.

Your Honour has been a member of this profession for over 20 years now. You began a course, with graduation from the University of Sydney and like many a law student before and since, you were initially drawn to the law because there was no maths in the syllabus. I understand you are a big fan of providing computers on the bench, not least because of their ability to quickly calculate sentencing numbers.

I understand that you were initially unsure if you were well suited to the law. Some people are drawn to the law by the academic challenge of learning and understanding key principles. You found your passion in advocacy. When you joined the moot competition in your university days and began to learn the discipline of articulating the law and its practical consequences, it really hit home to you that this was what you wanted to do.

As was noted in your appointment to this court last year, after graduating, you joined the Royal Australian Air Force as an administered barrister and solicitor. You have pursued your career in the UK, litigating civil and criminal matters, and your experience as both a defence lawyer and a prosecutor during that time has well equipped you to hearing both sides of the story. And it has also give you the insights and the skills necessary to deal with the complexity of the matters that will come before you.

On your return to Australia in 1996, you have continued with a diverse range of legal matters, as a partner in Barker Gosling, a firm specialising in commonwealth workers compensation matters, you no doubt gained many insights into the challenges of managing a law firm and this will

also assist you, I am confident, in your role.

5 Prior to your appointment to this honourable court, your Honour practiced as a barrister for 10 years, primarily in the area of administrative and tort law and during this time, I know that you gained the support and esteem of your fellow barristers.

10 Not content with focussing on your own career, you have a history of giving back to the profession through mentoring young lawyers, including through tutoring, and you have also demonstrated commitment to community service through membership of a number of legal boards, as well as the Law Society, the Bar Association and through other bodies such as the Canberra Institute of Technology.

15 Reflecting on your career to date, you have shown yourself to be a well rounded individual possessing robust legal skills, complemented by a strong sense of fairness, justice and community service, all of which are attributes that I'm confident will serve you well.

20 The courts are experiencing many changes right now. The government has worked with the courts to introduce measures to assist with delay and the government has increased the civil and criminal jurisdiction of this court to assist in that process. Amendments to the bail legislation have ensured that matters around bail are fully explored in this court, whilst  
25 ensuring appropriate access to the Supreme Court is maintained. While these changes have expanded the potential scope of the work of this court, I am confident that it is well-placed under your leadership to fulfil these new responsibilities.

30 As Attorney, I look forward to a productive working relationship with your Honour in your new role. We have many challenges, but the goal is the same, to meet and deliver effective and efficient justice for our community. May it please the court.

35 HER HONOUR: Thank you, Mr Attorney.

Mr Walker?

40 MR WALKER: It's a pleasure to appear before you today. It was a great disappointment to me that I was not able to be present when you first were elevated to the bench. It has been a good two years for appointments to the bench. Magistrate Burns was made Chief Magistrate in December 2009, you were appointed a magistrate in April 2010, his Honour was made a judge of the Supreme Court this year, you were appointed Chief  
45 Magistrate in October.

5 Of course it does have some of the touch of like walking through one of those halls of mirrors where you see the same people coming at you from different angles and taking a different shape than they do, but it has been a good two years for appointments.

10 I dilute nothing that I would say about you, if I just continue to reference to both you and his Honour a little further. The appointments of you both have been warmly received by the profession for three reasons, you both display industry acumen and decisiveness. For those of us who practiced with you at the Bar, we knew you possessed these characteristics.

15 We also knew of your general good humour and a certain sense of mischievousness. For those who have not had the benefit of that experience, they have come to learn it over the last year and a half. The Attorney told the story that was reported in the press about a solicitor praising one of your decisions, though on the losing side. Since that article was published, a number of other people, also on the losing side, have come and said the same thing. That characteristic, the ability to  
20 leave the losing side feeling that they have had a fair hearing, not only amounts to the enforcement of the law, but most importantly of all, it gains respect for the law. All also speak of your general pleasantness and courtesy.

25 Your Honour's characteristics of industry acumen and decisiveness will soon have to be applied, along with those of other members of the bench, in somewhat newer, and certainly wider, fields in this court. While the principal work of the court in recent years has been in the criminal jurisdiction, the court has recently seen its civil jurisdiction increase to  
30 \$250,000. This change has taken place partly because an increase in jurisdiction was long overdue, but partly also out of a desire to rebalance the workload between this court and the Supreme Court, motivated in part out of an attempt to reduce delays in the Supreme Court.

35 This increase will now mean that the court will see a range of work occurring here, which for years would only ever have taken place in the Supreme Court. We know that obviously that will increase the amount of personal injuries work coming into this court, but it will also increase the amount of commercial work coming to the court as well. Many  
40 residential building disputes will now take place in this court. More debt recovery work, enforcement of guarantees, and that most mystical of areas, defamation even, may come to this court.

45 As the court has an expanded substantive jurisdiction, it might be expected that it will gain an increased interlocutory workload on the civil

side. As the court has the same powers to grant relief as Supreme Court judges within its jurisdiction, it might expect, for example, that one will see more interlocutory injunctions issues from this court.

5 Some of these matters will require very quick turnaround. It is often the mark of a commercial case that it's better that it be decided tolerably well, but quickly, than it be decided perfectly, but long after the commercial advantage has passed to one of the parties or one of the parties has gone broke.

10 Thus the third of those characteristics which I said your Honour is known to possess will come to the fore, the importance of grasping the essence of a matter and making a decision quickly. That will be of great benefit to the court and the litigants which come before it. Your Honour, we do not  
15 know precisely what this change in jurisdiction will mean in terms of workload and the kind of work which the court will now see, although I have given some possible predictions.

20 The Bar and the Law Society have worked with the government and the Supreme Court to try and improve listing and procedures in that court to reduce delays and assist it with its workload. I assure you that as the court embarks on this new and wider jurisdiction, the Bar Association will remain committed to assisting you and the court, if required, in any respect it possibly can.

25 Your Honour, we welcome you to the office of Chief Magistrate. We wish you and the other magistrates of this court well in the challenges that you face. May it please the court.

30 HER HONOUR: Thank you, Mr Walker.

Ms Blumer?

35 MS BLUMER: May it please the court. Your Honour, when you were appointed as a magistrate in July last year, you pledged to deliver justice, courtesy and efficiency and you have done so with honour, practicality, and grace. You have now added leadership to your weighty tasks. Most people's first experience of the justice system is in the Magistrates Court. These people are our clients and as their solicitors, we need to be able to  
40 tell them with confidence that they will be treated with respect, humanity and fairness, whatever the circumstances that bring them there.

We are fortunate in the ACT that we have the benefit of the Human Rights Act to provide a safety net for the standards to which we aspire. Your  
45 Honour takes on this important role at an interesting time. As the

President of the Bar Association, Mr Phillip Walker, no relative, I believe, has eloquently described, the jurisdiction of the Magistrates Court has been increased in significant ways.

5 The workload of the court will require you and your fellow magistrates to provide written judgments in complex matters far more frequently than was previously necessary. Your Honour's previous professional practice in some of these areas is of great importance in equipping the court to deal with those extended responsibilities. The Law Society recognises and  
10 appreciates the additional expertise and knowledge that these duties will require and pledges to assist the court with every courtesy and practical assistance to enable that transition to take place in a manner that continues to provide justice in a proper and timely fashion for the citizens of this territory.

15 The Law Society looks forward to continuing discussion with your Honour, the Director of Public Prosecutions and Legal Aid to explore ways to streamline court procedures, perhaps involving separating bail and traffic lists from the A list. Such proposals may result in more effective  
20 use of the busy magistrates' and legal practitioners' time.

As Chief Magistrate, you will rely heavily on the good faith and professionalism of your fellow magistrates, many of whom are here today. Your kind, inclusive and collegiate manner are attributes that fit you well  
25 for the important task before you and with the help and support of those experienced and skilled magistrates who sit alongside you, we are confident that the Magistrates Court of the Australian Capital Territory will rise to that challenge.

30 Your path in the legal community has included time as a solicitor and also 10 years as a barrister. I fully appreciate the level of organisation and ability it is required for you to nurture four children along the way. I acknowledge the support and encouragement you have received from your partner, Vince Sharma, whose own seniority and experience in the legal  
35 profession must be a constant source of comfort and guidance.

I can't resist but to say with great confidence that I know that the women lawyers of Canberra are brimming with pride today, but it is not just the women, but all of us who have watched your growth in this community,  
40 that wish you all the very best. May it please the court.

HER HONOUR: Thank you.

45 Thank you Attorney, thank you President of the Bar Association and President of the Law Society. Thank you Chief Justice and judges of the

Supreme Court. Thank you Quinn J of the Family Court. Thank you Master, thank you former-Chief Magistrate Cahill and others who have attended today. I am very grateful for the attendance of the profession. Thank you to those friends and colleagues who have shown their support by attending today.

I have a special thank you for the court staff, and I can't name them all, there are too many, but the Annes in criminal and civil, Merrin in the Domestic Violence Unit, to Michelle in the Coronial Unit, to the Business Support Unit people, to the Court Transport Unit/Corrective Services people, to Alison Purvis, to my associate past, Lynn, and present Talei. I thank of course the magistrates who are present here today. Mr Lalor asked me to pass on his particular regrets, he is visiting an impending grandchild in Holland.

Thank you to Sue, who now organised my life. Thanks to my special family and friends, the people who are here by birth and association, who continue to provide support at times when only a family can, when they see you laid bare and they still hold you as one of their own.

It is the loss of this type of support or the emergence from a family rendered dysfunctional by drug or alcohol abuse, by violence or poverty, by mental illness or social isolation, which sadly creates a large proportion of the need for these courts to exist, particularly in relation to our criminal work.

It is this fact which in my relatively short time on the bench, has caused me to become interested in how those factors can be best addressed in individuals who frequently come into contact with the court in a time of acute crisis and for whom the clash of the criminal justice system is not so much a cause as a symptom of the dysfunction in their lives.

Some of the larger jurisdictions in August have piloted programs aimed at early intervention in such cases, such as the court integrated support system which operates in Victoria. That program aims to bring together the wealth of resources available to the citizen in one place, at the court, at the time of the person's initial contact, when a person appears to first answer a charge. I hope to look closely at such systems and work with our government to explore how Canberra might benefit from such an approach.

Of course under the careful leadership of Magistrate Fryar, we are already seeing the implementation of a similar approach through the Children's Court, Drug and Alcohol Court. It is in its early days, but the broader court will no doubt benefit from the lessons learned through that vehicle.



5 Similarly, the Children's Court in the ACT has led the way in terms of the implementation of restorative justice, that is, a chance to bring the offender and the offended person together, a process which in my view should be expanded to the wider criminal jurisdiction.

10 One advantage that Canberra has over all other jurisdictions in Australia is that we have a single central court location serving a relatively small geographical area. Whilst our size with its smaller population means that we may not have as great an overall bucket of money to dip into as the larger jurisdictions have, we have the advantage of being able to provide whatever support services can ultimately be garnered in a single location. This of course leads one to consider what other economies of scale can be achieved by virtue of the centralisation of justice in the territory.

15 A number of processes are currently underway to reflect the need to modernise and streamline our provision of justice. A review of our 1989 model court information system is currently underway. A review of the now inadequate 1963 Supreme Court facility is also underway. It's as old as me, so it's probably ripe for a revamp.

20 A single registry to service both the Magistrates Court and the Supreme Court is now operating, and of course a common set of rules have been in operation for a number of years, reflective of the inherently similar essential nature of the work performed through the courts.

25 There has, as has been touched upon, been unprecedented legislative changes to the relative jurisdictions of the Supreme and Magistrates Court. These are designed to streamline the provision of justice and render it more accessible to the territory citizens. And whilst the full significance of those changes has yet to be felt in the courts or indeed recognised by organisations such as the Remuneration Tribunal, there is no doubt that the wider profession and my colleagues understand that this means that the work of the court is no longer directly comparable to that of other Magistrates Courts around Australia.

30 These changes reflect the legislature's recognition of the particular needs of the Canberra community and reflects an attempt to address those needs with the best utilisation of the capable resources of its magistracy to supplement the heavily burdened Supreme Court.

35 In modernising our buildings, our IT, our approach to the common rules and the division of jurisdiction between the courts, it seems to me that there is a very near opportunity to modernise and streamline our approach to the delivery of justice in the territory, having regard to the very

structure of our court system.

5 The system that we currently have in place has developed in a somewhat  
ad hoc manner since the territory was first established as a legal  
institution, as I confirmed this morning, in 1910. The ACT Court of Petty  
Sessions was established by the Court of Petty Sessions Ordinance (No.2)  
1930, number 21, Commonwealth, and it was renamed the Magistrates  
Court by the Magistrates Court Ordinance 1985, number 67, section 3.  
10 The Act was converted into an ACT enactment on 1 July 1990, giving us  
the present Magistrates Court Act, still very out of date at 1930, and at  
that same time, stipendiary magistrates were re-titled simply magistrates.

15 Magistrates were originally appointed in the ACT under the  
Commonwealth Public Service Act of 1928 by virtue of that 1930  
ordinance. The nature of Magistrates Court work has long since led to the  
recognition that such appointment failed to reflect the judicial nature of  
magistrates' work, with the inherent requirement for independence.  
Initially appeals were directly to the High Court of Australia.

20 Now, I stole this directly from the Supreme Court website, so whoever  
else constructed this, I apologise for my plagiarism which follows, but I  
note that the Supreme Court of the Australian Capital Territory was  
established as a superior court of record by the seat of government, the  
Supreme Court Act 1933, which commenced on 1 January 1934. And the  
25 principal reason behind the establishment of the Supreme Court was to  
relieve the High Court of its original jurisdiction in respect to the  
Australian Capital Territory and to provide an intermediate court of appeal  
between the Court of Petty Sessions and the High Court.

30 In 1958, provision was made for judges of the commonwealth courts to  
serve as additional judges of the territory, no doubt recognising the  
difficulty of providing sufficient judicial resources to meet the particular  
needs of the small jurisdiction. From 1977 to 2002, appeals lay to the  
Federal Court and it was the usual practice for a resident ACT Supreme  
35 Court judge to sit on a Federal Court appeal from the Supreme Court. In  
2001, of course, appeals to the Federal Court ceased with the  
establishment of the ACT Court of Appeal, which exercised full general  
appellate jurisdiction, including the hearing of appeals from judgments in  
criminal and civil matters of single judges of the Supreme Court or the  
40 Master of the Supreme Court.

I revisit this history because it is significant in terms of where we current  
are. Of course the change to the civil jurisdiction will potentially  
introduce a third tier of appeal for a whole swathe of matters which  
45 previously would have had only a single level of appeal from the territory

courts. As far as I'm aware, the potential impact of this change remains unassessed. I do not understand there to have been any particular consideration of appeals directly from the Magistrate's Court to the Court of Appeal, for example, in certain cases.

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Given the current situation, now is the time to reflect on what form of court system will best deliver justice to the territory in the future. Having reached the point that we are currently at by virtue of reactive adaptation, utilising historical forms and structures, it is an opportune time to consider what form of court system would best reflect the size and the nature of this particular jurisdiction. Whilst we're developing a new IT system and looking at the new physical structure for our courts, no doubt consideration will be given, and I don't claim any ownership of this idea as a new concept, but to a single court for the ACT. It could, for example, exist as a single court centre, a single administrative support organisation, three points of entry, civil, criminal and coronial, and one or two levels of appeal as was deemed appropriate in respect of various aspects of the jurisdiction.

20 Within such a system, there may well be scope for utilisation of resources with greater flexibility than is currently available to us, with judicial officers being utilised according to the need and complexity of matters, perhaps on a dual commission basis within a single court system. Any integrated support services, which I have touched on initially, would then be ready available to all court users in one single location.

The traditional distinction between the levels of the judiciary reflects the English justice system of the Middle Ages as it evolved and was adapted to changing social and political systems, but that process of evolution continues. It is reflected in the push for new court structures and new nomenclature for judicial officers. Such renaming is currently occurring at present in traditional common law jurisdictions. In New Zealand, magistrates have recently been renamed District Court judges. In England and Wales, stipendiary magistrates have been renamed as district judges, reflective of the modern nature of judicial office.

The territory, by virtue of its size and its preparedness for innovation has the opportunity to be a centre of excellence in the provision of legal services to our community. Careful reflection as to the best utilisation of limited resources, including judicial resources, is a necessary part of this process.

I am honoured to accept the role as Chief Magistrate of this court. I look forward to seeing its recognition in accordance with its ability to contribute to the territory as a centre of excellence. I particularly look

forward to working with my colleagues, judicial and administrative, the wide profession, the superior court, the executive and the legislature, to strive for that reputation.

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**ADJOURNED**

**[9.58 am]**