

TRANSCRIPT OF PROCEEDINGS

MAGISTRATES COURT

JUDGE IRWIN, Chief Magistrate
MR B P HINE, Deputy Chief Magistrate

VALEDICTORY CEREMONY IN HONOUR OF
MAGISTRATE ARTHUR GORDON DEAN

BRISBANE

..DATE 25/05/2007

Also present

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On behalf of the Supreme Court of Queensland:

Judge Fryberg

On behalf of the Family Court of Queensland:

Judge Barry

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On behalf of the District Court of Queensland:

Judge Dearden and Judge Tutt

On behalf of the Bar Association of Queensland:

Mr M Daubney SC

On behalf of the Queensland Law Society:

Mr Pinder

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HIS HONOUR: Good morning and welcome to this valedictory ceremony to celebrate the career of Magistrate Arthur Gordon Dean, who is better known to us all as Gordon.

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I could say that this ceremony is to extend early birthday greetings to Gordon for the 13th of June 2007. However, in truth, as Gordon puts it himself, by statutory edict, his retirement takes effect at midnight on the 12th of June 2007, the very beginning of his 65th birthday.

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Before going further I would like to acknowledge the traditional owners of the land on which we gather this morning. I am pleased to welcome the Presidents of both the Queensland Bar Association and the Queensland Law Society, Mr Daubney SC and Mr Pinder who are at the Bar table and will be speaking shortly, along with the Queensland Magistrates who have been able to join us this morning and I can see that our

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colleagues have come from far and wide, from Southport, from Ipswich, from Beenleigh and from Townsville and Dalby, amongst other places.

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I would also like to acknowledge Gordon's family, in particular his wife Sue, his brother Dennis and children Evan, Kylie and Tracey and grandchildren Kate and Ethan and Alexandra, who are amongst the guests this morning.

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I would also like to acknowledge the presence here this morning of Justice Fryberg from the Supreme Court of Queensland, Justice Barry from the Family Court and Judges Dearden and Tutt from the District Court of Queensland, your good friend, Magistrate David Glasgow, with whom you've worked in many capacities for so many years in Townsville, has also joined us and I think somewhere in the audience is your former colleague, Bill McKay, and I can also see other retired Magistrates making up the gathering this morning.

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We were hoping that former Chief Judge Shanahan, who again you would have worked with as an eminent barrister, as he was at that time, in Townsville, would have joined us this morning, but unfortunately ill health has caused him to apologise.

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The regard in which you are held is obvious not only from the number of people who are here this morning, but the broad cross-section from which they come. Judicial officers, prosecutors, defenders, members of the community and Court officials, amongst others.

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I should also record apologies from Magistrate Rinaudo in whose firm you were working at the time of your appointment. He of course is conducting Court at Charleville today, and Magistrate Dowse from Sandgate who is also conducting Court there today.

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Gordon has judicial blood in his veins. In particular Magisterial blood, because his great-grandfather, also Arthur Dean, was first employed in the then Court of Petty Sessions at Bundaberg approximately 127 years ago, and ultimately was appointed as the position was called in those day, Police Magistrate.

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His grandfather Bert was admitted as a solicitor 99 years ago and was one of the founding partners for the prominent Townsville firm of Dean Gilman & Thompson which is where Gordon commenced his articles in February 1960 and was admitted as a partner five years later. I note that Magistrate MacCallum is with us today and I understand that she in fact was Gordon's first article clerk.

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Gordon, I hope I am not stealing one of your lines, but really I am and I hope you do not mind too much if I paraphrase a line from Gilbert and Sullivan in which you so adeptly performed on many occasions during your career, that in summing up your life's work, you live and die a lawyer.

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But in truth, your life has been so much more than that. You have been a radio broadcaster. In fact if you turn on 4MBS on

a Saturday morning at about 10 o'clock most mornings, you still are, and I'm sure you'll be doing more of that in future. You've been a television presenter, a showman performing in many productions, particularly in Townsville, and you were the Federal Member for Herbert in north Queensland. They're just some of the things that you have done on the road to the Magistracy which you have graced for the past 10 years, both in Brisbane and in Warwick.

When you presided in Warwick for the last time in 2003 you may recall that Mr Neil Maxwell, a local solicitor, addressed the Court and said, "I've seen many Magistrates come and go, but none with your compassion." And he welcomed the human touch which you brought to your work. Your humanity, your compassion and decorum has continued to be the hallmark of the discharge of your duties in Brisbane and you depart, in my humble view, at the top of your game.

Your collegiality is demonstrated by the fact that you are prepared to have this ceremony held two weeks early to meet my convenience. I very much wanted to be a part of it, as you know, but I wouldn't have been here at the time of your retirement.

Our careers overlapped for a short time in Townsville and it's been a privilege that they've overlapped for the last three and a half years. In fact, slightly more, on the Bench in Brisbane.

I am also pleased that you will not totally be lost to the Court because you have kindly volunteered, and I can make the public announcement on this occasion I think, to assume the role of the Court's Honorary Archivist to put together a history of the Magistracy in Queensland, something which I regard as being very important.

Gordon, your life is one of significant achievement in so many areas, you have made a significant contribution to the Queensland and indeed to the Australian community. As you commence this next chapter in your life it only remains for me to wish you, on behalf of the Magistracy, a very happy and fulfilling semi-retirement it seems, surrounded by Sue and your family who I know mean so much to you.

I thank you again for your service to this Court and to the community. Mr Daubney, I invite you to address the Court.

MR DAUBNEY: May it please the Court, when you were a lad you served a term as office boy in the family's legal firm.

You cleaned the windows and you swept the floor and you polished up the handle on the big front door.

You polished up that handle so carefully that you ended up a member of the Magistracy.

As office boy you made such a mark that they gave you a post as an articled clerk.

From clerk to lawyer was a doddle and a pip so they took you into the partnership.

Your solicitor's practice led from Townsville through to
Brisbane, then the Magistracy.

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This lawyer around town had a civic bent so they sent him
off to Parliament.

To towns you served from north as far as a civilised
person gets from Canberra.

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Your service of good folk and democracy was a challenging
precursor to the Magistracy.

Your dramatic streak was for all on show when the
theatre, even G and S's Mikado.

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Your enjoyment of good music and harmoniousness means
your voice has long been heard on the wireless.

Despite this it was settled by the then AG that you'd do
well to give service to the Magistracy.

As a Beak you've sat in bush and town, you've been firm
and you've been fair and you haven't let us down.

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The Bar says thanks for a job well done, it's a pleasure
to confirm that you have won the respect that's due, it's
earned, not free to a well beloved member of the
Magistracy.

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Congratulations and best wishes. May it please the Court.

HIS HONOUR: Thank you, Mr Daubney, and next time you appear
we'll do our best to accompany your words with the appropriate
music and not the sounds of the Friday fire drill which is
going on in the background. Mr Pinder, could I invite you to
address the Court.

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MR PINDER: May it please the Court. Your Honour, Chief

Magistrate Judge Irwin, your Honours, distinguished guests and very importantly our guest of honour, Magistrate Dean.

Recently, your Honour Magistrate Dean published a book of his life entitled "A Simple Country Lad", autobiography. And while I'm yet to read it I already have some reservations about whether or not it is entirely accurate.

It's probably not a good move to question the veracity of a member of the Bench, even upon his retirement, but I have to wonder out loud if the author's self description of a simple country lad. County perhaps, simple never.

By any measure your Honour has led, and is indeed leading, an extraordinary and diverse life. Your Honour is a true north Queenslander having been born in Mackay and educated in Mt Isa and Townsville. As we've heard, your Honour's family has a rich legal history in north Queensland with your grandfather being a founding member of Dean Gilman & Thompson, a firm that your Honour later was admitted to as a partner.

Your Honour had a busy and rewarding legal practice and also contributed substantially to the community, including in your Honour's great passion, music. That community involvement also included your Honour serving as Federal Member for Herbert.

Since your Honour's appointment as a Magistrate in 1997 you've continued to serve the legal profession in the community of Queensland. As a Magistrate you've displayed those fine

attributes for which you are known as a solicitor, being diligent, considerate and above all, fair.

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Your Honour was a significant contributor to the Queensland Law Society, including serving on the Society's continuing legal education committee and on behalf of the Society and all of my members I express gratitude for that contribution.

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On behalf of the society I thank your Honour for your contribution over many years and wish you the very best in retirement. Thank you.

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HIS HONOUR: Thank you, Mr Pinder. Now, I call upon Magistrate Dean to respond.

MAGISTRATE DEAN: Yes, thank you very much, your Honour Chief Magistrate, your Honours from other jurisdictions, your Honours my colleagues, family members, friends, ladies and gentlemen. After my appointment to the Magistracy in June 1997 my first depositions clerk was a lad by the name of Jason Price, otherwise known as Jake.

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He was a grade 3 law clerk, he had a law degree and he had a rather irreverent wit. He was knowledgeable, he was quick and at times, as I said, irreverent. Not long after my appointment he was approached by a journalist from "The Courier Mail" who asked about, "Who's this new Magistrate?" And Jake replied, very conspiratorially, "That is Magistrate Fazel Dean."

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Now, many of you obviously will know of the Dean brothers, a well known family of demolitionists who seem to do their best work in the dark of the night. And some of you might think that I myself still work in the dark of the night.

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The next morning the newspaper did indeed publish a report of the case concerned and there it was, Magistrate Fazel Dean. Thanks Jake. I hope he's here because I wouldn't want to be talking behind his back.

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Jake was actually my sometime phantom clerk. He had an engaging ability to be able to melt into the nooks and crannies of the building, even to its very fabric, and not be found. It meant that he couldn't be found to receive more work, which meant that I didn't get more work. I don't know whether to be grateful for that or not, but in any event, thanks again Jake.

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But notwithstanding the gentle fun I'm having at Jake's expense, I do record my genuine thanks to him for his most able and supportive assistance, and that leads me to thank all my depositions clerks over the years. They include Tammika Telford, or Crawford as she was, from Warwick, and currently Dean Pappas here in Brisbane. But all of them have served me and the Courts remarkably well over the years.

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The many courthouse staff from Registrars down with whom I have worked over the years, have all been highly capable and

courteous and unfailingly helpful and friendly. They all have brought to the Courts, as I see them, very high levels of skill and professionalism and I don't know that they are really suitably rewarded for that.

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To those of you today who have spoken in generous terms I thank you. There are times in all our lives when we ache for commendation and compliment believing we thoroughly deserve it, but I'm not sure today that I really do deserve the words I have heard, but I rush to thank you for them, in case you seek leave to withdraw them.

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I take the opportunity to express my broader appreciation to all who have appeared before me over the years. Professional and police prosecutors, defence lawyers, those representing parties in civil disputes, officers from agencies such as Legal Aid, all those, and there are many of them who have in some way assisted, in my experience, were motivated by a real desire to assist and by a proper and genuine respect for the Court and the Bench. I am very grateful for that.

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Such moments of tension as did from time to time arise, it would be foolish of me to try to deny that of course, happened no less as a reflection of my own shortcomings than of anyone else's.

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On the 23rd of June 1997 I was sworn into this office by the then Chief Stipendiary Magistrate Stan Dear, who many of you will remember, and whom I once had the joy of dubbing, in a

new name, Sir Stanley of the Sweetest Nature. He gave me some
useful advice. He said, "Our colleagues will respect your
position, they won't try to intrude on your role as an
independent Magistrate. However, if you ask for help they
will willingly give it." And I must say, he was correct
because I have spoken to many of them over the years and they
really have been most helpful, selflessly helpful in response
to my questions.

I also thank all my colleagues for putting up with the strains
of classical music emanating from my mini hi-fi in my
Chambers, which no doubt obstructed many of them in the
performance of their duties. I wish all my colleagues well in
their endeavours in the days and years ahead.

In expressing my thanks to various people I should indicate
thanks to my family. In doing so I don't want to turn this
into some kind of mawkish award winning, Oscar award winning
gush, but it is important that I acknowledge the strong family
unit that it's my very good fortune to have. And so to my
wife, Susan, here today, who has been optimistically
supportive at all times. My grandchildren, I'm so delighted
that three of my four grandchildren are here today, Caden,
Ethan and Alexandra. They have seen now something of a
courtroom and of somebody in it. It was not until I became an
articled clerk that I myself had ever actually been in a
courtroom, so I'm delighted they are here to see something at
least of what it is to be in a Court and what we on the Bench
here do, that is talk a lot. So to all my family members I

thank them for being here today, but to all of them generally,
I thank them for being there for me over the years.

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And I thank all of you here present for attending my
valedictory ceremony this morning, it's an occasion I'll not
forget.

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Without, I hope, empty vanity, I can look back on my
professional life with considerable pride. I've been a
solicitor in private practice, I've served in the Federal
Parliament, I've seen the law from the perspective of the law
maker and I end my working life as a Magistrate. It's all been
immensely satisfying. While I don't expect to regret coming
to retirement I do expect never to forget the many privileges
I have experienced and a sense of fulfilment that I feel.

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The trajectory of my working life reached it's apogee in this
great Court of ours, but it's a Court that's not always been
regarded as necessarily a great Court. Its origins go back to
the 12th century in England when Richard the First, good old
Richard the Lion Heart, appointed various of his knights to be
"Keepers of the Peace"; His way of trying to retain control
over his realm. These keepers of the peace came to be known
as Justices of the Peace, or Magistrates, that is masters,
after the passing of 14th century law in England and that law,
in effect, codified their role. They had the conflicting
duties of law enforcement on the one hand and adjudication on
the other. To put it simplistically, in their one office they
were both policeman and Judge.

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If one can believe the latest BBC series being shown on the ABC, Robin Hood, the keepers of the peace could order a number of very crowd pleasing penalties such as the cutting out of tongues. Be that as it may, they were not able to order capital punishment. One of their duties was indeed to constitute a forum in which to deal with petty matters and to order penalties and it is clear, in fact, that they were expected, anecdotally they didn't do it, but it's clear that they were expected to give a fair hearing.

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It wasn't long before there were dumped on Justices, a wide variety of administrative, judicial and ministerial or proclaimed powers and functions. In about 1700 somebody identified a mix of their powers and functions and the following is some of them. It's not by any means an exhaustive representation of that list. But that mix included the administration of licensing and gaming laws, the power to inspect decayed bridges, the power to supervise hospital accounts. Now, there's a duty from 1700 that would still ring some memories in the minds of Magistrates in Queensland.

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In 1700 Justices were also empowered to supervise the cloth trade, weights and measures and the manufacture of malt. That must have been one of the more pleasant duties. And they were given the tasks of reading gas meters and to search for popish books. That last duty brings to my mind a gloomy Dickensian image of some of our Magistrates, some of us here today, cloaked in our flowing robes, wearing funny hats, brandishing

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a gavel and stalking the streets of Brisbane tracking down popish books and hitting recalcitrants on the head with our gavel. Those must have been the days.

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Interestingly enough we are now predominately judicial officers, but there is a notable continuing ministerial function, or a couple of functions, that we deal with, such as the holding of Inquests of death and enquiring into the cause and origin of fires and indeed the holding of committal hearings is more of an Inquiry than a judicial process.

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We don't want to get bogged down into historical detail this morning, but Captain Phillip was empowered to appoint Justices according to the English model when he arrived in Australia, but the transplanted model was not entirely satisfactory. There were varying decisions, varying approaches, all made by a disparate collection of Justices, most of all of whom were honorary or unpaid, and they were laymen and without legal knowledge.

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There needed to be a more disciplined and consistent approach and so it is that from 1832, or thereabouts, paid Magistrates began to be appointed. They still had some control over the activities of local police, hence the name Police Magistrates. Queensland inherited the system in 1859, but then set about codifying its own law as to Justices and their forums. The result was the Justices Act of 1886 and it seems to be regarded as one of the more monumental of such works in Australia and it certainly did lay not only the foundations,

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but built the framework within which the Magistracy as we know
it today functions.

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Interestingly enough, Justices of the Peace under that Act,
and they still are today, are appointed to keep the peace,
whatever that phrase might mean, so that a small slice of 12th
century England survives to this day here in Queensland.

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The general jurisdiction of the Courts of Petty Sessions as
they were called, was exercised by two honorary lay Justices
seated together. On the other hand, Police Magistrates could
sit alone and over time they were given sole jurisdiction in
any Court where a Police Magistrate was available to sit.

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By the beginning of the 20th century Magistrate's police
powers had eroded away, although the by then obsolete Police
Magistrate appellation was not changed to Stipendiary
Magistrate until 1941. The word "stipendiary" was
legislatively removed in 2000.

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So from about 1900, while court registries and officers still
had a mix of administrative duties, and that was convenient in
maintaining some services to wide parts of the State,
Magistrates themselves, to all intents and purposes, had taken
over the substantive work of the Courts. They were expected to
have legal training and they were fulfilling a predominately
judicial role.

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The Stipendiary Magistrates Act of 1991 established the modern

Magistracy in Queensland and affirmed its independence. The requirement for appointment is, in short, admission as a barrister or solicitor of five years standing. The Act formally, or in effect, broke the long-standing precedent of appointing Magistrates solely from within the Public Service, that is, the ranks of qualified clerks. And coinciding with the 1991 Act came the first appointment from outside that precedent. The person concerned was her Honour Donna MacCallum, sworn in on the 12th of September 1991, now regional co-ordinating Magistrate placed at Ipswich.

And Donna's was for me a special appointment because she had begun her career in the law, as has been mentioned, as my articled clerk with Dean Gilman & Thompson in Townsville. I like to think that I taught her all she knows. She persists with the delusion that she learnt what she knows after escaping from my tutelage. Being aware of women's sensitivity about their ages I'll not reveal Donna's, but I seem to recall that her student days came precisely 10 years after mine.

We have arrived at the here and now and I have no doubt that we today serve in what I have referred to earlier as a great Court of the land. And this is not an overly bold or conceited claim. It is true that Magistrates deal summarily with minor matters, but also a large number of more serious prosecutions and charges, whether by express conferral of jurisdiction or by election.

In a speech to the 35th Australian Legal Convention in Sydney

in March of this year no less a person than the Chief Justice of Australia said this, that (that is, the work that we do)...

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"..... does not mean that cases dealt with by summary or relatively uncomplicated process are less important. On the contrary, for most people this is the level at which any encounter with the Courts is likely to occur."

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The Honourable Justice Gleeson was pointing out that what we do is just as important as that which is dealt with in the higher Courts. And even if for no other reason than that so much is done in our Courts and so many people appear in our Courts. For most people and the wider community their personal experience and knowledge of the Courts, as distinct from what they might pick up on television, is what they see and hear about in our Magistrates Courts. Justice Gleeson continued,

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"All people are entitled to a fair and public hearing by a competent, independent and impartial Tribunal established by law. The growth of a fully professional Magistracy is an expression of the rights of citizens. It would be a serious mistake for the legal profession to overlook the importance of the professionalism and independence of the Magistracy."

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I could add a few more words of my own to his Honour's, that it would be a serious mistake for the whole community, including governments, to overlook that importance.

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It follows from his Honour's words that it is crucial Magistrates aspire to the highest levels of professionalism and vigorously maintain their independence. We can do that by displaying a thorough knowledge of the law and by applying it properly and expeditiously. We should be courteous and fair, we should have commonsense and show a human face, we should be

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determined to do what is just and right without circumscribing
proper processes and without unduly bending to external
pressure and opinion. Indeed, not only Magistrates but all
who professionally serve, work in and appear in our Courts
have the onus of maintaining the highest of standards to
ensure that the Magistrates Court is never less than the great
Court I consider it to be. For myself I can only hope that I
personally did not fall too far short of those standards.
Soon I leave the Court. I was humbled by having been
considered worthy of appointment to it in the first place, I
am proud to have been able to serve in it as a Magistrate.

Your Honour.

HIS HONOUR: Thank you, Gordon. I hope that those of you who
are able can join Gordon and Sue and his family with us for
refreshments and a couple of other happy events that Gordon
doesn't know about yet, on level 9. All that remains then is,
adopting the theatrical approach, to bring down the curtain on
these proceedings.
