



**North Queensland Law Association  
Annual Conference  
SOUTHBANK CONVENTION CENTRE, TOWNSVILLE  
Friday 4 October 2002, 2.00pm  
OFFICIAL OPENING**

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**Chief Justice Paul de Jersey AC**

I am very pleased again to be with you at this annually significant event. Thank you for welcoming me, and Kaye who arrives later this afternoon. Attending this conference is an important commitment in our annual calendar, and one which we have successfully striven thus far to meet each year.

Part of my pleasure on these occasions is to acknowledge the fine leadership shown to the north and far north Queensland professions by the resident Judges – in the Supreme Court, Justices Cullinane and Jones; and in the District Court, Judges Wall and Pack here in Townsville, and Judges White and Bradley in Cairns. Sitting in court in both centres I appreciate the professionalism of the local practitioners, and I am the beneficiary of a courteous and cordial relationship between the profession and the resident Judges.

As you know, I am concerned to keep abreast of the courts' influence State-wide, and the situation of the profession upon whose cooperation and competence we Judges depend in optimally discharging our critically important role, the delivery of justice according to law. I was privileged earlier in the week to sit in court for the first time on Thursday Island, indeed the first time the State Chief Justice had officially visited the Torres Strait. I was much moved by the warm welcome and palpable delight of the island people that I should have come. But then I was



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following in the footsteps of others of the Supreme and District Courts, and I am grateful to Justice Jones for having urged me to make that trip.

The older people of the Torres Strait are very concerned about the problems of alcohol and sex abuse, and the erosion of the authority of the elders. There is currently a project underway to develop strategies to reduce the Indigenous incarceration rate – approximately 18% of the prison population, in respect of 2% of the Australian population. I had the opportunity on Thursday Island to speak with the Councils, the Strait's Authority, community justice groups and family welfare organizations – as well as sitting in court. I feel I am now much more enlightened as to the unique issues confronting our fellow Queenslanders at the top end of the State. One is the inaccessibility of the court on Thursday Island (and Badu) to the residents of the outer islands. We will have to work towards having judicial officers travel to those islands, with the necessary resources secured. It is unacceptable that their people should have to travel three or four hours in a dingy through sometimes treacherous seas. Lives have been lost. This is another instance in our vast decentralized State of the need to take the courts to the people, not vice versa.

My being here, my being on Thursday Island: as well, I trust, as serving some practically useful function, my presence symbolizes the collegial spirit of the profession State-wide. Representing the Judges, I assure you of our support and encouragement. In accepting ultimate responsibility for your professionalism, in holding you out as fit to practise, the Supreme Court expects much of you, and I am pleased to record that the profession in this part of the State meets those expectations.



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Speaking in Townsville, I am pleased, as Chief Justice of a court system which has always sat State-wide, to see the legislature following our lead, inspiring the people of the region through its recent session here in Townsville!

Conversely to my travelling north, the cosmopolitan and erudite Northern Judge's influence spread south earlier in the year, through his association with the Italian Professor Alberto Cadoppi. Professor Cadoppi wrote a learned paper on the Italian influence, through Attorney-General Zanardelli, on the Griffith Criminal Code. Justice Cullinane, as Professor Cadoppi has observed, masterfully translated Cadoppi's paper into English, and it was published. I acknowledged this in Banco Court on 19<sup>th</sup> July in my remarks at Sir Harry Gibbs' opening of the Library's fine exhibition, "The Queensland Criminal Code, from Italy to Zanzibar". I hope it will be possible to bring that exhibition in due course to Townsville and Cairns.

In late August, Kaye and I attended the Central Queensland Law Association conference in Yeppoon. I then noted, and repeat now, my commendation of the Associations for their beneficial work in bringing local professions together, imparting useful information and providing invaluable opportunities for the exchange of views. We speak so frequently, as if in clichés, of the importance of professional interaction, of collegiality, but experience does show the real danger of isolation. The Law Associations do good work, and their executive officers deserve special commendation. I congratulate Jane, Julie and Tina on their work in developing an interesting and worthwhile conference program. I urge you, ladies and gentlemen, to support the sessions, which range over a host of challenging and topical subjects.



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The importance of this conference, of the role of the North Queensland Law Association, and of the north and far north Queensland professions, is further acknowledged by the presence of the President and members of the Council of the Queensland Law Society – and in substantial numbers. The position was similar in Yeppoon. A large part of the good work done by the Society is in safeguarding and promoting its constituency outside Brisbane. It is a function the Society discharges conscientiously and very well.

I am pleased to note a Bar Association Council presence at the conference, in the form of the Vice-President, Mr Glenn Martin SC. It is appropriate that the Bar Council be involved, not just in the annual symposium, but the two major district law association conferences also.

There are three specific subjects I wish to develop briefly in these opening remarks: topical issues in relation to the insurance industry, ethical concerns being confronted by the Queensland Law Society, and two current initiatives of the Rules Committee: expert evidence and professional costs.

**1. Insurance matters**

Shortly after 11<sup>th</sup> September and the collapse of HIH, we were told of the impossibility of the insurance industry's continuing to discharge its traditionally accepted obligation to the public. The newly apparent lack of economy, in the insurance industry's continuing the protection afforded for decades, was laid at the feet of the legal profession: rapacious practitioners and magnanimous Judges. A casual reading of the financial press would since have dissuaded most from the casuistry of that position, even allowing for the natural tendency to yield to the temptation of blaming foremost the lawyers.



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What astonishes is the power of the lobby groups, not just commercially within the insurance industry, but to my mind significantly, professional as well. I find it extraordinary that the medical profession has apparently persuaded the federal government's "Negligence Review Panel" to recommend, among other things, a legislative rewriting of the test for medical negligence – less demanding of course for the medical profession, and the diversion of claims to a non-judicial tribunal constituted, presumably, by and large, by doctors. Hard cases make bad law.

It would be very bad for this country if dissatisfaction of medical practitioners with the standard of care objectively established by the nation's highest court, conspires with the economic plight of commercial organizations resulting from executive inefficiency and rapacity, to produce a situation where reasonable entitlements to compensation of injured members of the public are compromised, and that seems clearly to be what is potentially involved.

Fortunately the government of this State has not succumbed to the pressures borne, for example in New South Wales, of particular local problems not replicated here. I hope that remains the position, but the pressure arising through the Standing Committee of Attorneys-General, will I expect be strong.

## **2. Queensland Law Society**

I will speak only very briefly on the problems facing the Law Society.

My own principal concern, as Chief Justice, centres on the apparently substantial allegation that claims have been "swept under the carpet" prior to any suggested consideration by the Solicitors' Complaints Tribunal.



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These are contentious and sensitive matters. I am on record as confirming the Society is at the “crossroads” in relation to the perception of its objective treatment of these issues. I am confident it is doing its conscientious best to confront and move through the issue in the interests of, not primarily solicitors, but the public.

In the court, we are anxiously monitoring this whole process. What we presently see inspires confidence, but provided it is independently followed through. We have assurances, from people we believe, that that will occur.

It is deplorable that public confidence in the profession should be in any degree dented by the infractions of but a few. Ours is a noble profession, very directly orientated towards public service, and neither those errancies, nor sensationalism, will destroy that true nobility. But for all that, the challenge facing the Law Society is immense and with the Judges’ support, it will I hope lead the profession onto a new stratum of public acceptance and self-worth.

### **3. Rules Committee**

The Rules Committee is currently grappling with two major issues: court appointed experts and the revision of the scale of professional costs.

The Committee’s proposals in relation to the former have been published on the court’s web-page. The proposal is quite radical, and if you have not yet considered it or expressed a view, I encourage you to do so – but quickly please.

As to professional costs, we propose simplifying and modernizing the scale, and in some instances increasing the levels more towards commercial rates.



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I encourage you to become interested generally in the work of the Rules Committee. It is an important committee. Its work is directed of course to the public interest, and incidentally, reasonable treatment of the profession. Most of its initiatives are publicized through the court's web-page, and I urge you to explore!

Ladies and gentlemen, we are here, over these two days, not just to bring ourselves up-to-date with current developments, but also to derive mutual inspiration from our common experiences, experiences directed towards promoting clients' interests optimally, and thereby promoting the public interest: that interest which lies at the heart of our professionalism.

As a five year old Chief Justice, I am flattered that you wish me to return. As I have said, I see it as an important part of my State-wide mission that I do so. Thank you for your welcome. I am anxious throughout the conference to be available to speak with you about matters of interest and concern.

In again commending the Queensland Law Society, the North Queensland Law Association, and particularly its executive, I am pleased to declare officially open, the North Queensland Law Association 2002 Annual Conference!