

**EXCHANGE OF CHRISTMAS GREETINGS
and
PRESENTATION OF SENIOR COUNSEL
Banco Court
9.15am
Wednesday 11 December 2002**

Chief Justice's observations

I invite the recently appointed Senior Counsel to make their announcements.

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Would those Senior Counsel now please come forward to sign the roll?

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On behalf of the Judges, I congratulate you on your considerable personal achievement.

At a time of substantial public focus on standards within the legal profession, we trust you will show good leadership from the position of seniority you have now attained.

We have again passed through an intensive consultative and collegial process in the selection of those to be appointed Senior Counsel. The Senior Counsel Appointment Protocol, as endorsed by the Judges, may be read by any interested person: it is displayed on the court web page. The Protocol lists these as the qualities which should essentially characterize Senior Counsel: skill and learning, integrity and honesty, independence, diligence, and experience; and the Protocol requires that they be evident in "high degree".

We are convinced, gentlemen, that you exhibit those qualities: may the discharge of your now elevated professional responsibility corroborate that conviction!

...

On behalf of the Judges, I extend warm Christmas greetings to you, Mr Attorney, as representing the executive government of the State, to you Mr Glynn and Mr Sullivan as you represent the legal profession, and to the people of Queensland.

This seasonal focus on goodwill is a matter for reassurance in an erratic post-cold war world. International uncertainties mean the people cling more tenaciously to the traditional pillars of society: the rule of law, as secured by the courts of law, is a cornerstone.

While joyful goodwill is certainly not the tone of the daily fare of the courts, where conflict and unhappiness are regrettably the norm, we strive nevertheless to ensure that when litigants leave these precincts, they feel they have been treated with courtesy and fairness.

In relation to the presentation of the court, we have made great progress since the publication, in 1998, of the “Courts and the Public” report, which was critical of courts generally – as being aloof and unresponsive. The Rare Books and Lucinda precincts of the public corridor on this level of the courthouse, the regular complementary displays, and the Supreme Court History Society’s lecture program, exemplify our determination to render the courts, if not happy places, then at least places which are better understood and appreciated as critical to the maintenance of civilized society.

Our broadening community reach was well illustrated by two recent events on this floor – in this courtroom on 8 November, Mr Roger Traves’ lecture, “The gentlemen’s game: was it really cricket?”, with commentary by former Australian wicketkeeper Mr Ian Healy; and the launch on 18 November of the Sporting Wheelies and Disabled Association’s 25th Anniversary Photographic

Exhibition in the corridor outside. The courts serve the people. Our core business is of the utmost gravity. There is however every reason why we should, by such means, endeavour to render our serious processes more palatable. One approach is to make the environment more interesting, and we are committed to that endeavour.

The Judges of this court have been particularly heavily committed to court sittings over the past year. I thank my colleagues for their dedication to that task, and additionally, for their willing participation in matters of court administration and community involvement. An interval pending the appointment of a Judge of Appeal and the inability of Mr Justice Douglas to carry any substantial workload from March, increased the burden on the rest of the court – a burden, I should say, willingly borne. It is important there be no delay in the appointment of Mr Justice Douglas's successor, and I know the Attorney will be doing his best to secure a timely appointment.

The relentless progression of major criminal cases has continued this year, as have the demands placed on the Court of Appeal. The sufficiently early briefing of experienced Counsel in criminal trials remains a matter of concern in the higher courts. We are pleased to note that attention is being given to the most efficient disposition of the resources of the Office of the Director of Public Prosecutions, and improvements have occurred. But in relation to the optimal operation of the criminal justice system, there is still a long way to go.

Notably on the civil side, Mr Justice Chesterman is, in this courtroom, entering the 5th month of the *Emmanuel Management* and *Fosters Brewing* litigation.

The applications jurisdiction remains a reliable barometer of the state of practice of the law in the State: a mass of significant applications daily, a parade of legal practitioners, a lively and reasonable expectation in litigants – increasingly self-represented, of expeditious judgment. Having sat in that jurisdiction in the last week of November, I sensed litigants confident in the work of their court, and served by dedicated professionals.

The aspect of the work of the higher courts which attracts most attention is criminal sentencing. Judges are active proponents of the comparatively unfettered judicial discretion in this area – such as we have. This is not the occasion to be expansive. But I say this. Our State's record suggests that when, fortunately only occasionally, a primary Judge is considered to have erred, the error is quickly corrected on appeal. The people of this State are protected by a reliable sentencing regime, conscientiously administered by sentencing Judges, and reviewed when necessary by the Court of Appeal. The Court of Appeal will continue to show leadership by appropriately deterrent responses to violent offending especially, and by taking account of clearly established, reasonable community expectations.

It is unfortunate that circumstances arose this year necessitating this court's adjudication upon issues within the Magistracy. Outstanding questions in relation to those issues must of course be resolved as soon as possible, by regular process. Their subsistence will inevitably be feeding doubt in the minds of the public. That said, I express my confidence that the court work of the Magistracy is being discharged conscientiously and reliably. The people may be confident about that. The current problems within the Magistracy are a separate concern. The Magistrates Court deals with the majority of the day to day caseload of the courts of this State, it does so appropriately, and that should be accepted – notwithstanding current difficulty in that court's administration.

It is a matter of profound regret that our late colleague Mr Justice Douglas is not here today. His untimely death in office on 26 November 2002, after a tragically short 3½ years on the court, meant the people of this State lost a fine Judge. His Honour's contribution is commemorated by the display in the corridor outside mounted by the Supreme Court Library.

On 7th August 2002, the profession lost Mr Bill Cuthbert, a rightly venerated barrister who exemplified an array of fine qualities in full measure. By way of tribute, the Supreme Court Library has produced an excellent booklet to commemorate his life. I am pleased now formally to launch the booklet.

Copies will be available as you leave the courtroom this morning. This is the most recent example of the Library's invaluable assistance in the recovery, restoration and recording of the State's legal history.

The past year has thrown up many challenges in the law, especially with the problems of the insurance industry and the issue of tort law reform. It has been a challenging year, as we know, for the Council of the Queensland Law Society, which is to be commended for acknowledging the existence of substantial problems in certain areas and seeking conscientiously to address them. The people may be assured of my close attention as those matters develop, and that of my colleagues.

Our meeting here today in Brisbane is symbolic of the interdependence between the court and profession throughout the State: travelling to other Supreme Court centres, I am reassured to note the closeness of that relationship. Cooperative relations ensure the best outcomes for the litigating public, and it is good they exist. I thank all who contribute to the maintenance of that position.

We express thanks to all who have this last year facilitated the discharge of our mission – executive government represented here by the Attorney, the Director-General and his officers, the legal profession, the Registry and administrative staffs, the corps of bailiffs, our security officers, and the staff of the State Reporting Bureau: with pronounced additional mention, of course, of our spouses and partners and families.

On behalf of the Judges, I again express our goodwill for the forthcoming festive season: may we all enjoy peace with justice!