



**2003 BIENNIAL CONFERENCE OF DISTRICT AND COUNTY COURT JUDGES
Sheraton Mirage, Main Beach, Gold Coast
Monday 23 June 2003, 9:00am**

Chief Justice Paul de Jersey AC

It is my great pleasure, in opening the conference, to acknowledge the significance of the District Court of Queensland, and its counterparts across the Australian and New Zealand jurisdictions. I especially welcome to Queensland Judges from other jurisdictions. I hope you find the programme engaging and this magnificent locale not unduly diverting!

May I say something briefly about Queensland's District Court, the host District Court, in order briefly to acknowledge the significance you all carry, within the State, and national, judicial spectrum?

The District Court in this jurisdiction is of distinctive public significance for its vast jurisdiction and corresponding workload. It is sometimes styled, and reasonably, as the "great trial court" of this State. In terms of crime, our District Court tries many charges attracting a maximum life penalty – rape, sodomy, robbery, burglary, arson; and its civil jurisdiction, which includes equity, extends to \$250,000. There is additionally, an appellate jurisdiction, from the Magistrates Court, and a multi-million dollar planning and environment jurisdiction where its decisions are factually final.

It is a comparatively large court – 35 Judges – which sits in 42 centres, 8 of them having resident Judges. The necessary geographical spread of our District Court is hardly surprising, for a State six times the size of Texas, five times Japan, a State large enough to encompass the whole of the British Isles and Western Europe together. And it is a busy court.



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It is important for a Chief Justice publicly to acknowledge these features. Part of my role is to boost full public appreciation of the great significance of the important work daily accomplished by District and County Courts.

Ideally, of course, the superior courts especially, in any jurisdiction, should work closely together, for they confront similar if not the same issues. I am pleased to acknowledge my excellent working relationship with Chief Judge Wolfe, with whom I regularly consult, and for that I am most grateful to Her Honour.

Unfortunately, though inevitably, relations between Judges of superior courts are sometimes strained, though I believe temporarily, by exercise of a Supreme Court's appellate jurisdiction.

When I assumed the role of Chief Justice in this State and announced with enthusiasm an intention to sit at first instance, some warned I must be prepared to endure the "ignominy" of being overturned on appeal. Their forecast was accurate: over the last six years, a number of my judgments and decisions – I assure you conscientiously delivered – have indeed been overturned.

I mention this to remind that the wounded syndrome is not District and County Court specific. We are all overturned from time to time, including the Courts of Appeal.

I was interested recently to read some words penned by Lord Hailsham. He said, and his gender specific language reflects his era of course:

"If a Judge does his stuff properly, he is bound to be controversial. There is no doubt that in their time, the great Judges have all been controversial Judges. They are still controversial. You have only to see the course of crucial cases on appeal, the trial Judge one way, the Court of Appeal divided two to one the other – the House of



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Lords three to two the other way, back to the trial judges' view or sometimes with a view of their own – to know in your bones that a Judge who succeeds all his day in keeping out of any kind of trouble is either ducking the issues or gifted with a degree of luck not often accorded to human beings. Though a Judge who is reversed on appeal ought always to question his own conscience about his handling of the particular case; the Judge who is never reversed ought to question his own conscience at least as closely as to his total performance."

The cross-court collegiality of the superior courts of this State fortunately withstands the occasional wounding of which I have spoken, and that is, naturally, the result of the wise strength and balance of the Judges. I would expect that is characteristic of all the jurisdictions represented at this conference.

The conference committee, driven by His Honour Judge Alan Wilson, has devised a truly inspired programme which incidentally – you may say fortunately – has nothing to do with the sentiments I have just expressed. It will I am sure be as novel in the execution as in the gestation. I shall leave my own literary contribution there. I pondered for a time delivering these opening remarks in verse, as I suppose would some of our American colleagues or perhaps Justice Heerey: my pondering lasted but a short time!

Judge Julie Dick told me an illuminating story last night. A new lawyer's mother presented him with a flash pen as an admission gift. He immediately wrote with a flourish: "res ipsa loquitur" and showed his mother. "Well", was the response – "And what does that mean?" The new lawyer replied: "Mother, it speaks for itself!" "Yes", she replied, "that may be, but I don't understand Latin!" And of course she represents our relevant constituency, who do not necessarily know what terms like remand, committal and acquittal mean – and there lies part of our challenge.

I have to say the conference programme alone, is about the most interestingly prepared I have seen: captivating would be a better epithet. I noticed



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mention of Eliza Doolittle's expression of exasperation. May I add Shaw's lines from Pygmalion:

"Remember that you are a human being with a soul and the divine gift of articulate speech: that your native language is the language of Shakespeare and Milton and The Bible; and don't sit there crooning like a bilious pigeon."

- an admonition unnecessary here! Drawing on the creativity of others, the most evocative explication of the term 'language' I can offer, is "that wonderful crystallization of the very flow and spray of thought" (I Martineau, Ess. (1891) IV. 104; OEB 2nd ed, vol 8, p 634).

The expressive theme of the conference invites attention to the way courts communicate, and what and to whom we communicate. Smart, properly-resourced contemporary courts are not confined to face-to-face communication, but may also do so electronically. Further, while our core function involves communicating our reasons for judgment to the instant parties to litigation, courts are currently embracing a broader role – an educative role, seeking to instil some better understanding of the point of the judicial arm of government. I do in this context applaud the literary inclination of the organizing committee, and commend what reads as a potentially fascinating programme.

While on the subject of communication, and noting your programme's admirable focus on how we courts and Judges communicate with those whom modern parlance would term our "stakeholders", communication within courts remains of vital importance. Undoubtedly the most effective courts are those where the Judges work harmoniously together on a collegial basis, and none of that is inconsistent with our independence inter se. Homespun though it may sound, judicial relationships are in some respects akin to those within families, and their health depends on continuing sensible interaction. I appreciate the large size and dispersed locations characterizing some of our county and district courts render that ideal sometimes difficult of attainment;



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but at least provided the collegial spirit is alive and well, the court system and thereby the public will be the deserving beneficiaries.

In relation to communicating with the public, while courts do so primarily through their judgments, an enormous stride has been taken since the accusatory 1998 report of the AJJA entitled "Courts and the Public". I am confident our District Court exemplifies a broad national thrust, with many Queensland Judges committing themselves to speaking engagements at schools and community and service organizations and with students visiting their court, the court engaging in a measured way in response to media criticism when it emerges, and a court, through a variety of additional mechanisms, determined to enhance proper public awareness of the significance of the work of this arm of government. We even saw Judges prepared to participate in the recent ABC production on life at the bar, and no doubt opinions will vary about that!

As pivotal public institutions, the courts of law expect criticism, indeed welcome constructive criticism. After all, by dint of the publicity, actual or potential, attending almost everything courts do, they are, on any reasonable analysis, the most actively, publicly accountable arm of government. Probably much of the criticism is fed by bemusement at the exercise of such substantial power by persons not accountable at the ballot box. The jurisprudential response is that Judges exercising such power must not be subjected to partisan, corrupting influence; hence the stipulation, as part of the rule of law, for the independence of the judiciary.

I believe the Judges of this nation, through dedicated ethical commitment, amply justify the maintenance of that independence accorded them. Insofar as doubts may continue to be expressed, one fears they are in large part explained by an inadequate appreciation of what courts do and how they operate. If this conference inspires greater capacity to engender better public comprehension of the role of the judiciary, it will have achieved a lot.



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Lest these remarks delivered in contemporary Queensland be dismissed as anodyne, I acknowledge we are all acutely conscious of the problem situations emerging from time to time, especially of course in recent history in this State. But with due process, we work through those fortunately occasional problems, and without practical jeopardy to the principles which underline our role.

This is, I understand, the 17th of these biennial conferences, and the third occasion we have in Queensland been the privileged hosts. The number of those attending has progressively increased over the years, from 45 judges at the conference inception in 1973, to as many as 109 judges and 87 accompanying persons three decades later. Judges taking, as it were, time out, to meet in this way, and not only on a trans-State but trans-national basis, is a terrifically important way of assuring our public – always, we note, completely supportive and appreciative of our efforts – that their Judges are not only competent and dedicated, but in-touch and reliable.

It is my privilege to declare the conference open.