



**Annual Judges' Seminar
Customs House
Thursday, 15 April 2004
Opening remarks**

Chief Justice Paul de Jersey AC

This is the 10th in an unbroken series of annual seminars. I particularly welcome, and as always, our colleagues from the north. James Douglas unfortunately cannot be here because of a criminal trial in Toowoomba. We also particularly welcome back Richard Chesterman.

My principal purpose in these brief introductory remarks is to express sincere thanks to our colleagues who have organized the event – Geoff Davies, Margaret Wilson and Cate Holmes. An enormous amount of planning goes into the process, as well as creativity and experience. They lay before us yet another potentially very interesting programme.

May I diverge for a moment to mention yesterday's Sydney meeting of the Council of Chief Justices? We do as you know at those meetings cover a wide range of issues – judicial ethics, harmonization of court procedures nationally, treatment of complaints against judicial officers, aspects of continuing judicial education and the like. Unsurprisingly, yesterday's discussion extended to the extraordinary Victorian executive response to the determination of their judicial salaries tribunal. I will dwell on that for a moment if I may because it is the matter of major current interest nationally. Our concern centred of course on the disturbing executive rejection of that independent determination, the result of a mechanism set up to be independent in order to bolster the separation of the judiciary.

There have in recent years been some Queensland governmental grumbles about the level of increases determined upon in this State. Our government has nevertheless properly, and politically to its great credit, respected the independent determination. That has thereby helped preserve public respect for and confidence this role we discharge.

I am, we are, very concerned that the Victorian approach must not become a model to be followed elsewhere: that would be a sure recipe for destabilization, and erosion of the confidence upon which this judicial process depends. The court system cannot be compromised by short term or fleeting political attitudes of the day, in this context sometimes properly described as populist. That is why governments have rightly reserved these determinations to independent bodies.



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I believe that the people would accept that an independently constituted tribunal, acting independently, is the best available custodian of judicial remuneration, demonstrably more appropriate than executive government burdened by its most obvious conflict of interest. This is not a matter of protecting financial patches – it goes to aspects of fundamental public significance, which I hope our government will continue to uphold, grumbling aside.

Obviously it is difficult for us to communicate publicly the essence of this point, dispelling charges of self-interest, but I will continue to endeavour to do so, as appropriate, to protect the integrity of this important public system. Now back to the programme.

We begin our sessions with 'The public face of judging'. Those of us who attended the High Court Centenary Conference last October will remember Professor Henningham's energetic and challenging presentation, and I think it is excellent, in the sense of desirably progressive and open, that he is to be joined by David Anderson, the Executive Producer of ABC Radio News in Brisbane, and Hedley Thomas, the award winning journalist.

The ultimate issue is of course how the public can be sufficiently informed about the work of the courts, and in that regard we courts do our best, resources permitting, and 'Joel's little mistake' is a recent and I believe important contribution. You may be interested to know that after the launch and the attendant publicity, the Court Administrator received as many as a dozen requests for copies of the film, including requests from law firms – who, we have determined, by the way, should pay cost price!

I was enlivened recently to read the view of two United States commentators about their Supreme Court, advanced by way of encouraging a studied assessment, which was expressed in these terms:

“Simply put, to know courts is to love them, because to know them is to be exposed to a series of legitimizing messages focused on the symbols of justice, judicial objectivity, and impartiality.” (Caldeira, Courts and Public Opinion, in Gates and Johnson, eds., The American Courts: a critical assessment 303-334 (Washington, DC: CQ Press, 1991)).”

I suspect we may conclude our first session wishing it had been longer.

But we have to finish on schedule to facilitate that irksome but necessary annual event, the group photograph, which I am this year proposing be developed slightly less formally, by way of variation: our collection of school class-type presentations is becoming a tad predictable.



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Then follow the sessions on end of life issues, and it will be particularly interesting to hear from Ben White, Rhodes Scholar who was in 1997 Associate to Glen Williams; then water management and salinity, the session appropriately chaired by our colleague from rather arid parts, though himself the very opposite; and last for today, Professor Rickett on "unjust enrichment". Charles Rickett gave a most compelling presentation on the nature of a trust to a UQ Law Graduates' Association breakfast last year, and I am confident there is much to look forward to this afternoon.

Tomorrow we confront potentially fascinating sessions on legal language from Professor Roly Sussex: you may have heard his sessions on ABC Radio, full of spark and wit, more interesting I think than even Kel Richards at 7.30am; then contract interpretation with Professor McLauchlan from Wellington; and finally jury deliberations, particularly topical in light of the House of Lords decisions in January this year in the cases of *Mirza* and others.

So I again thank our organizing Judges in anticipation: you have given us much to look forward to: an eclectic gathering of interesting and well qualified presenters, a plethora of formidable and useful topics – and I expect as usual, commentary and questioning from the floor which will prove as lively and helpful as the presentations themselves.

I am pleased now to invite Geoff Davies to open the first session.