Queensland Law Society Symposium 2007
Friday, 2 March 2007, 8:45am
Opening address

The Hon Paul de Jersey AC
Chief Justice of Queensland

Helen Gregory's interesting history of the Queensland Law Society records that the first Annual QLS Symposium occurred in the year 1961. It was held at Caloundra, and dwelt on the *Matrimonial Causes Act*. The second Symposium was held at Lennon's Hotel at Broadbeach the following year, on the subject of the new *Companies Act*. As the author observes (p 165):

> "The third Seminar established a tradition which endured for many years. It was held in March 1963 at the Chevron Hotel at Surfers Paradise. A comprehensive range of papers included those by Sholto Douglas on estate planning, K W Ryan on stamp duties, and J R Nosworthy and C H Wilson on office management. The legal landmark session which covered a variety of recent changes and developments in the law was a feature repeated at symposia until the mid-1970's. In 1964, the Seminar was renamed the Queensland Law Society Symposium."

The format has over the ensuing 46 years remained focused on continuing professional development, with some change in presentation in very recent years. There has always of course been a convivial side, although not I would say in recognition of the third definition of "symposium" offered by the Australian Oxford Dictionary: "a drinking party…".

It is significant, to us, that we gather <u>together</u> at this event. In a practical sense, there is benefit in the exchange of ideas which characterizes our interaction here. In a symbolic sense, there is the reminder we are members of a noble and learned profession rooted in public service and deriving its lineage from the Supreme Court.

But in the end, it is upon our professional training as individual lawyers that the focus must rest. For it is upon that, that optimal delivery of legal services in this State depends. There is a natural role for the broader professional thrust, especially in inculcating unflinching ethical commitment in the individual lawyer, promoting high standards and maintaining worthwhile traditions. But while important, that ultimately yields to the primacy of ensuring high efficiency in the individual player. And a good contemporary illustration of

that rests in the increasing popularity of the Society's specialist accreditation scheme, which I strongly support.

At an annual commemorative event for a Brisbane school steeped in tradition – which I happened to attend as a young man, I recently expressed a similar sentiment, that a school is really little more than a collection of uniquely talented individuals. Those who promote the virtue of so-called "school spirit" may have considered me somewhat heretical. But it is upon our best performance as individuals that our constituents depend.

Collegial efforts can obviously sometimes produce a benefit greater than the sum of the individual contributions. The elevation of Australian esteem following the success of the Ashes eleven illustrates that. That potential is not however so readily apparent in our professional context, where the media, for example, will more often select "the profession" as a convenient whipping boy for the spectacular transgressions of one or two members, rather than as a source of inspiration and encouragement generally. But that does not mean we do not continue to seek, from our professional orientation, substantial inspiration and other benefit relevant to our personal professional commitment and development.

One area where our collective professional voice can work concerns threats to the rule of law. I am pleased to note the session based around LawAsia. The current affront to the rule of law and judicial independence in Fiji, with among other things, the suspension of Chief Justice Daniel Fatiaki, is horrendous. Reactions of the Australian and New Zealand governments have been appropriately firm, but there is room for at least the expression of grave concern from other influential collectives. The Queensland Law Society has over the years forged important links with the profession in Fiji, a profession which has been led by persons of conspicuous personal courage and independence. No doubt the Law Society and LawAsia are closely monitoring the position in Fiji and, with the support of this profession, will continue to make the responses considered appropriate and potentially helpful to our Fijian colleagues and the nation they support and treasure.

The organizing committee has devised a programme for this Symposium which offers diverse and attractive opportunity for enlightenment about current trends in highly relevant

areas. I have to say that I was frankly astonished by the breadth of the programme, and to be reminded even by the programme itself of the intricacies which characterize, maybe plague is a more apt term, so many aspects of contemporary practice.

The Conference Committee has been fortunate to secure Mr John Weeden, United Kingdom Crime Commissioner, as the first plenary speaker, on the subject of miscarriages of justice. His UK perspective will be followed this afternoon by a Queensland perspective, in which he will be joined by Mr Michael Byrne QC and Mr Terry O'Gorman.

There is no doubt the great advance of the 1980's, in enhancing the credibility of the criminal justice system in this State, was the introduction of video-recorded police interviews. One would like to think the added assurance of DNA evidence, where available, would in those cases have banished any prospect of the occurrence of a miscarriage of justice. But as demonstrated by the *Button* case three years ago, that is not necessarily so. This is a subject which should engage not only those involved in the Griffith University Innocence Project, but every lawyer.

Another subject of particular interest to those involved in the criminal law will be the panel discussion on sentencing, to occur later this morning, in which Justice White and the Chief Magistrate and Judge Robertson will participate. Sentencing remains one of the most difficult tasks undertaken by Judges, and it is the discharge of that task which appears to attract the greatest public scrutiny and interest.

The last two years have witnessed the development within this jurisdiction of a comprehensive sentencing database, utilizing software created by the Judicial Commission of New South Wales. The facility is currently available to all judicial officers, and legal officers of the DPP and Legal Aid. The objective, of course, is greater consistency and predicability in sentencing, and I foresee particular utility for Magistrates, for example, who not infrequently operate alone in sometimes remote parts of the State. The Attorney-General and I will formally launch the facility on 27 March. I consider it involves potentially the most significant development in recent years in the streamlining of our process in the criminal justice system.

While speaking of technology, I mention the circumstance that some large users of legal services, for example Suncorp, are moving to full electronic files. Our courts must be in a position to accommodate this sort of development. Our goal is for the new courthouse to be fully electronic, and we are initiating steps to ensure that. Those who need to use the facilities of the courts will lose patience if our facilities cannot match their own. Our capacity to offer contemporary, up-to-date facilities is, ultimately, essential for the healthy operation of the rule of law.

I note finally the concluding Saturday session in the commercial litigation stream, on the subject: "Why litigate in Queensland?" I was a little disturbed to see the explanatory material reading: "Reasons not to litigate in Queensland". I will be interested to hear them, and in due course perhaps respond, although I am sure my colleague Mr Justice Muir will convincingly present the Supreme Court's view. But I have no difficulty at once expressing five compelling reasons why, for the litigation of commercial cases in Queensland, the Supreme Court would be the first port of call: the existence and streamlined operation of the Commercial List; the enormous commercial experience of the Judges who run it; their capacity to provide comparatively very early trial dates; the expedition with which they deliver their reserved judgments; and the feature confirmed by the Productivity Commission, that litigating in the Supreme Court of Queensland is by a long stretch about the least expensive exercise in any of the nation's courts.

I do however acknowledge one area needing urgent attention, and that is the assessment of costs. The current system often works in a way which is frankly too cumbersome, too protracted and too expensive. It is not what the litigants want; it is not what the court should be presenting. I understand, for example, that the assessment process not infrequently occupies more time than the trial itself. Yet as we know, the Uniform Civil Procedure Rules proclaim, as their purpose, "to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense". The current system is to be the subject of a review, which we hope will be usefully informed by a pilot scheme involving external assessors, to be trialled shortly by the Commercial List Judges. I expect Mr Justice Muir and Mr Eardley will touch on that in their presentations.

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I wish you well, ladies and gentlemen, as you dip into the many streams presented over the next two days – family, property, criminal, business, general practice, personal injuries, succession and commercial litigation. For the lawyer determined to hone his or her skills, this Symposium programme presents excellent opportunities.

I wish you a successful and enjoyable Symposium, which I am very pleased now formally to open.