



**Central Queensland Law Association Annual Conference, 2008**

**Rydges Capricorn Resort, Yeppoon  
Sunday 9 November 2008**

### **The Queensland Magistracy: The task continues**

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#### **Judge Brendan Butler AM SC Chief Magistrate**

Thank you to the Association for extending an invitation to me to address this conference. Indeed, this is my first formal presentation since my appointment as Chief Magistrate, if one excludes the observations I made at my swearing-in. I am very pleased that this opportunity presented itself here in Central Queensland where my journey began a life time ago.

You may not be aware but I was born in the Rockhampton base hospital 60 years ago yesterday and with the exception of a year in Winton my whole primary and secondary education was received here in Yeppoon. So, Yeppoon holds some memories for me.

I am usually not given to much reflection about the past but the coincidence of these factors has caused me to reminisce a little during my attendance at this conference. However I will spare you from having to hear more about my past in Yeppoon

I, like many others who have spent most of their working lives in Brisbane, have my roots in regional Queensland and am keenly interested in the needs of those who live and work there.

It is important to remember just how de-centralised Queensland is. That very decentralisation creates difficulties for dispensing justice in such a vast state.

The Magistrates Court is the part of our judicial system which most truly reflects the decentralised nature of Queensland. 87 magistrates sit in more than 100 centres. The Magistrates Court deals with approximately 96% of all criminal matters in Queensland. It is the court which is most visible to our citizens.

The former Chief Justice of Australia, Sir Anthony Mason said in the key note address to the 2008 Magistrates Annual Conference:

*Australians are much more likely to have direct or indirect experiences of magistrates than of the higher courts and it is in the Magistrates' Courts that Australians will form their views of the courts as a whole.*

Today I will report on the progress of the Magistrates Court in the past year. I do so with some humility, recognising that as a new appointee my grasp of the achievements of the court throughout Queensland is still meagre. And, of course, I can take no credit whatsoever for those achievements.

A Chief Magistrate can have only limited impact on what is achieved. The credit must go to the many hardworking members of the court. But to the extent that he does have some impact the credit must, for the moment, go to my predecessor Judge Marshall Irwin who worked tirelessly to promote the court and enhance its effectiveness.

### The Workload

The criminal caseload of the Magistrates continues to increase. State-wide in the 07/08 year the Court dealt with 369,022 criminal charges; there was a 7.39% increase in adult defendants and a 1.56% increase in child defendants over the previous year.

These increases were slightly offset by a 2.42% decrease in civil claims, minor debt and small claims lodged.

The most recent national statistics, which are for the 06/07 year, show that the Queensland Magistrates Court has the highest number of

lodgements of all Magistrates Court criminal jurisdictions – 187 600 matters compared to: New South Wales 186 400 and Victoria 157 400.

Locally the number of defendants in the criminal jurisdiction has continued to increase year by year. In four years it has gone from 21 000 to 24 000. The busiest courts in the Central Region are Rockhampton, Mackay, Bundaberg and Gladstone in that order.

In Central Region over the past four years, Childrens Court, civil claims and small claims are all up. Only minor debt matters fell slightly.

I am mindful of the pressures these increases place on Magistrates and court staff.

### Magistrates

There are now 87 magistrates positions with six new magistrates' positions having being created in the last three and half years. During the 07/08 year two new positions were created, one in Cairns and one in Brisbane. The Cairns position has allowed us to circuit to eight additional Torres Strait Island locations and to enhance the Cape York circuit.

The other position was for an additional Coroner in Brisbane.

By reorganising the court's resources it has been possible to also create positions for a Northern Coroner, based in Cairns and Southern Coroner based in Southport. This brings to five the number of dedicated positions of coroner in Queensland.

I would very much like to see the appointment of a Central Queensland Coroner to complete the development of a state-wide coronial establishment. However, this final step is dependent upon the allocation of government funding for the creation of an additional position with support staff and accommodation. In these difficult times we may have to wait a while before that is achievable.

Locally we have Magistrates at Rockhampton, Gladstone, Mackay, Emerald and Bundaberg. Like my predecessor, I am committed to encouraging stability of service in regional centres wherever possible.

In that regard Central Queensland has been fortunate that Magistrates Hennessy and Risson have stayed in their respective positions in Rockhampton and Mackay for close on 9 years. Magistrate Carroll at Gladstone spent the greater part of his career as a solicitor in Gladstone. Magistrate Dwyer in Emerald is another dedicated Central Queenslander.

A vacancy for a magistrate now exists in Rockhampton and I am hopeful that it will be filled in the near future.

The composition of the Magistracy continues to change with retirements and resignations giving rise to ten new appointments in the last financial year – two barristers and eight solicitors. Over the past 5 years there has been a 50% change in the composition of the Magistrates Court Bench.

An issue that confronted Judge Irwin when he commenced was to establish a transfer policy for magistrates to meet the needs of a decentralised court and provide fairness and certainty to magistrates. The Chief Magistrate is supported by a Court Governance Advisory Committee in making transfer decisions. The process has worked well. There have been no forced transfers in the past 5 years. I am committed to maintaining a fair and effective transfer process.

### Court Technology

The Magistrates Court is increasingly moving to use technology to aid its work.

A couple of weeks ago I presided when evidence was received from witnesses in Brisbane in a French rape and incest case. The French investigating magistrate appeared before me to examine the witnesses. Interestingly, a confrontation was held by video link between a witness in Brisbane and the accused and alleged victim in France. No delay was experienced in receiving the speech of the participants in France and the technology worked without fault.

In another recent case, a key witness that was incapacitated and unable to attend court was able to give evidence without leaving home through the establishment of a secure network to the court via a laptop and high definition camera. With the advent of the Next G network this form of connectivity now extends too many remote parts of the State.

Video Conferencing for defendants in custody continues to be extended. New video conferencing facilities have been installed in the Arthur Gorrie Correctional Centre at Brisbane. Use of these facilities has commenced and the arrest courts at 240 Roma Street have started to hear bail and remand matters for defendants in custody by video link. This is an extension of the very successful trial in some of the outer Brisbane courts particularly Richlands.

Because of the cost and safety benefits I have no doubt this will be extended over time to correctional facilities throughout Queensland.

## Innovative Court Programs

The Murri Court program that was first established in Brisbane in August 2002 by Chief Magistrate Diane Fingleton and Deputy Chief Magistrate Brian Hine has gone from strength to strength. In June 2008 the 13<sup>th</sup> Murri Court was launched at St George. In the past year new Murri Courts have also opened at Caloundra and Cairns. A Murri Court is soon to open in Mackay.

The Government has provided 5.2 million dollars over three years from the 1 January 2007 to evaluate the Brisbane, Rockhampton, Townville, Mt Isa and Caboolture Murri Courts.

I have been impressed to see how these courts operate and obvious impact confronting indigenous elders has on the offenders.

The Murri Courts are just one of a number of innovative programs that have been pursued or trialled in the Magistrates Court. Longer standing is the Drug Court which has dedicated government funding. There are other drug and alcohol diversion programs operating in locations around Queensland.

In Brisbane the Homeless Person Court diversion program operates with no dedicated funding but with the support of a number of government and non-government agencies. It has proved very useful in supporting the rehabilitation of particularly difficult recidivists.

Here in Rockhampton Magistrate Annette Hennessy has trialled a specialist Domestic and Family Violence Court. It would be great if this could be the blueprint for such a program around the state. As with so many of these other innovative programs, their development beyond the trial stage depends on a commitment by government to provide the necessary resources.

## The Future

The growth in Queensland's population and the tendency of government to legislate for new jurisdictions means that the size of the Magistrates Court is certain to continue to increase. Indeed the increases have been so great in recent years that the challenge in many parts of Queensland is to find accommodation to meet the needs of the Court as its work expands. The Government continues to open excellent new facilities throughout the State but even so many existing courthouses are already fully committed and this places limitations on the ability of the court to expand its services.

Significant changes will happen in the next couple of years. The government has already committed to establishing a new Queensland Commercial and Administrative Tribunal which will take over some of the jurisdictions of the Magistrates Court, most notably in the area of Small Claims and Minor Debts.

We are also awaiting a report by The Honourable Martin Moynihan QC who has been looking at the committals process and the criminal and civil jurisdictions of the Magistrates Court as part of a broad brief from government to review court processes. That report is expected at the end of this month.

### Conclusion

I am immensely proud to be associated with what has already been achieved by the Magistrates Court and hope to be able to make my own contribution to the advancement of the Court in the years ahead.

I know that a court must respond to the needs of all those who use it and that particularly includes the members of the legal profession. I value suggestions and criticisms from legal practitioners such as yourselves and look forward to taking as many opportunities as possible to meet with practitioners and listen to what you have to say.

I commend the organizing committee on what has been an excellent conference and thank the Association again for the invitation to speak to you.