



**SUPREME COURT  
OF QUEENSLAND**

**Queensland Law Society Christmas Breakfast and  
2008 Specialist Accreditation Awards  
Friday, 5 December 2008**

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**The Hon Paul de Jersey AC  
Chief Justice of Queensland**

I begin today by acknowledging the traditional custodians of these lands, and the continuity of Aboriginal spirituality and culture.

As a judge, over-representation, by population, of indigenous people in the criminal justice system, is a matter of persisting concern. We grapple as a community with various ways of addressing that problem, and the features which contribute to it, like the poverty, poor health and limited employment which blight our indigenous fellow citizens – glaringly so in remote communities.

As our governments struggle to address these problems in new ways, the problems must remain uppermost in our minds, and especially so in this season of goodwill; for it is only while we acknowledge the problem that we will be driven to address it.

I am privileged to be the patron of an indigenous scholarship scheme being implemented at Brisbane Boys College. At a related function yesterday, hosted by CEDA – the Committee for Economic Development of Australia, I was asked whether I thought Australians had any relevant appreciation of the reality of remote Cape communities especially. The answer is plainly no, and that is explained in part by the large geographical separation between those communities and centres of urban development. But that aside, it is difficult to have any realistic idea of the problems facing those communities unless one has visited them.

I do not, as a matter of ordinary practice, begin my public presentations with the acknowledgement with which I began today. That is simply because I would not like my



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acknowledgement to be seen as rote, or delivered as a matter of form. I delivered it today, because, as said, I suggest it is especially important at this time of the year to remember that we are all Australians, and that the measure of a civil society is the way it treats its most disadvantaged. As we all benefit from society, we are all obliged to do our best to improve it.

As lawyers, we are often exposed to the worst sides of the human existence. But as lawyers, we also have the capacity to develop acute social consciences. We see those consciences at work in the dedicated practitioners who work for ATSILS; in the practitioners who annually travel to Bangladesh to assist grossly underprivileged children; in the practitioners who regularly participate in a vast array of pro bono initiatives.

It is that sort of social conscience, that determination to assist ones fellow human beings, which will probably ultimately help address in a substantial way the indigenous problem to which I have referred, if anything is going to be successful in that regard. Governments can do a lot, but I suspect it is person helping person which will ultimately go to alleviate that blight, if anything will.

It is a great pleasure to be with you again, to have the opportunity to speak briefly on this annual occasion notable for its being close to Christmas. My message in past years has, I recall, always been consistent with the spirit of goodwill.

In twelve days time, I speak at the Annual Christmas Greetings Ceremony in the Banco Court. Preparing my remarks for that occasion, I am invariably conscious of its having been dubbed "Christmas Insults" some years ago, following rather critical observations from the bench to executive government. The reality is that such exchanges are fortunately no longer necessary or justified.

Quite apart from the constraints of the Christmas season, I have never had occasion to criticize the profession broadly over my last decade as Chief Justice – quite the contrary, I have had every occasion to congratulate the profession on its ethical commitment and



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professional efficiency, and I do so again this year, with sincerity and enthusiasm. There is of course no better illustration of the quest for professional excellence than the Society's specialist accreditation programme.

I take the opportunity to congratulate the President, Megan Mahon, on her tireless leadership of the Society over the past year. There are necessarily many events I need attend in my capacity as Chief Justice. Megan has invariably been present, often in places a long way away from Brisbane, and the inference I naturally draw is that I attend but a fraction of those she attends. She has done a marvellous job of upholding the interests of solicitors in this State, over the term of her presidency, and I respectfully commend her. It is appropriate on this occasion to note also the leadership of Peter Carne, who is of course uniquely placed, by virtue of his own past presidency, both to discharge his present function, and to work effectively with the President.

I have been asked to speak about "the year in review", or as the topic is presented, "highlights and lowlights". That was the form in which the topic was assigned to me. I must confess I rather doubted whether there was such a word as "lowlight", but there, sure enough, it appears in the Macquarie Dictionary, immediately following "lowlife". Being a judge, I have inevitably over the last 12 months been exposed in the courtroom to quite a bit of lowlife. Fortunately the "lowlights", defined as "the point at which things are at their worst", have been few. The dictionary offers the following example, which has a contemporary ring about it, especially for those recently returning from Bangkok: "Being stranded at the airport was a lowlight of the holiday." Well, the past year...

Aside from the discharge of the workload of the courts, this last year, like every year, has had its particular points of distinction, some welcome, some not so welcome.

Criminal work attracted at least the usual level of interest, greater this year probably because of the 'Aurukun nine' sentencing and appeals, and the Denis Ferguson fair trial issue, along with some well-publicized acquittals based on the defence of accident. There



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have been important procedural developments in the criminal jurisdiction, with the advent of majority verdicts, judge alone trial, and jury separation during deliberation.

The civil side saw the consolidation of the new cost assessment regime. The Moynihan review of the jurisdictional spilt among the three State courts nears completion, as does former Justice Williams' work on the Queensland Consumer and Administrative so-called "super" Tribunal

While the roll out of State-wide new court technology continued, so did the instability of the digital recording system, and we are following a carefully considered strategy in relation to that particular problem.

The QLS Library was officially amalgamated with the Supreme Court Library, with, as reported to me, no appreciable diminution in service to solicitors.

There were judicial appointments, the retirement of Chief Magistrate Irwin and the appointment of Judge Butler, the appointment of Justices Fraser and Applegarth to the Supreme Court, the retirement of Justice Williams, and the imminent departure of Justice Mackenzie, next Monday, after 19 years on the court, and also, unfortunately, the departure of Justice Jerrard following sustained ill-health – and a very substantial judicial contribution. There were appointments to the District and Magistrates Courts. We have been subject to seemingly endless speculation about potential appointments to the High Court.

The position of Judge Administrator of the District Court was established and filled. My respected predecessor, Chief Justice John Macrossan, unexpectedly died.

There was also, in September, my guest editing of the Sydney Law Journal...the Australian Law Journal, which was something of a hoot.



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In terms of court accommodation, the much anticipated new Supreme and District Courthouse project proceeds apace towards an opening in 2011, when the Supreme Court turns 150.

These events have principally concerned the work of the courts. The profession continues to be distinguished not only for its ethical commitment and professional efficiency, but also for its collegiality, and it is highly appropriate to emphasize that feature at this particular time of the year.

That collegiality is well evident at three of the annual events I particularly appreciate: attending the March Symposium in Brisbane, and the Annual Conferences of the Central Queensland Law Association and the North Queensland Law Association later in the year. This is the only State with a profession so widely spread geographically. Yet we do rightly acknowledge a State-wide profession in the cohesive sense, and an important part of the obligation of the Society's President, and me, is to facilitate that cohesion. I thank the President for her dedication to that objective.

The excellent magazine "Proctor" reminds the reader interestingly, and well, of State-wide professional issues and achievements. I congratulate the Society and the Editor, John Teerds, on the continuing effectiveness of "Proctor", in terms of providing information and fostering debate, and also in unifying the profession.

Now in my 37<sup>th</sup> year as a lawyer, I remain conscious of the privilege of acting as a lawyer, and the commensurate responsibility. Take the case of a barrister, entitled to appear in our courts, before a judge or magistrate and court machine sponsored by the State. Take the case of a solicitor, deploying his or her talents and knowledge in resolving difficulties a lay client is not equipped to resolve, sometimes not even to understand. From the courts' point of view, the lawyer also has an important opportunity, by giving good advice, to forestall litigation. The issues a lawyer confronts will almost always be dramatically important to the client, and the routine of daily practice cannot be allowed to obscure that.



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Those privileges are matched by immense responsibilities: essentially, the client's fate is, often in substantial degree, in your hands.

There is I fear risk, sometimes, that the gruelling demands of day-to-day practice, the need to meet overheads, and the difficulties attending office routines, may obscure our appreciation of the grandeur of those privileges and responsibilities; so may the drastic phenomenon of depression, which we are told blights a not insubstantial proportion of contemporary practitioners. Other pressures presently arise from the world's economic problems. I hear and read of commercial firms deferring graduate programmes, and otherwise downsizing. There is considerable concern in parts of the profession about the economic way forward, and how to react, or better still, anticipate.

This is why it is important that we pause from time to time, to reflect on past achievements and future goals, and the festive season provides an excellent opportunity for that, as well as for the more important aspect of our lives as human beings, and that is, interacting with families and friends – and recognizing, as I said at the outset, that this is a disparate society in which we all need to look after each other.

Ladies and gentlemen, thank you for your welcome here today; thank you for your support of the courts, and for me as your Chief Justice; and thank you for your continuing personal professional commitment. I express the sincere hope that you may enjoy a fulfilling professional year in 2009, and I offer you my warm best wishes for a safe, happy and rejuvenating festive season.