



**MY FINAL FOUR MONTHS**  
**WELCOME ADDRESS TO QUEENSLAND MAGISTRATES CONFERENCE**  
**Sunday 25 May 2008 at 5.30 pm**  
**Spinnaker Conference Room**  
**Surf Air Conference Centre**  
**Marcoola, Sunshine Coast**

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**Judge Marshall Irwin**  
**Chief Magistrate**

Your Honours and accompanying persons – all of you are our distinguished delegates and guests at the Queensland Magistrates Conference 2008.

I also acknowledge the traditional owners and custodians of the land on which we gather. I respect and am grateful for the wisdom of the elders – past, present and future – and their dedication to their communities, and in preserving the knowledge and rich cultural heritage of Queensland for all.

I adopt these words from the Murri Court DVD which was unveiled at the successful and stimulating Murri Court Conference last week.

I particularly extend a warm welcome to our interstate guests.

Magistrate Paul Sloane and his partner Michelle Anderson join us from the New South Wales Local Court. Paul has been based in Sydney since his appointment in 1988 and has presided in Penrith for the past 12 years.

Prior to his elevation to the bench he had served for twenty years in the Attorney-General's Department culminating as Registrar of the court at Parramatta which was at that stage the largest multi-jurisdictional court in Australia. He has also worked as a Legal Officer for TAFE and with New South Wales DPP office.

The rumour is that he plays golf poorly but nobody is prepared to let him know as he holds a Black Belt in Martial Arts.

Magistrate Michael Wheeler and his partner Lyn Fondacaro are from Western Australia. Michael was first posted to Geraldton following his appointment in 1991. This is some 400 km north of Perth. After 3 very happy years there he returned to Perth and spent the next 13 years presiding in Perth's suburban Courts, principally at Fremantle. For the last couple of years, he has been based at the Central Law Courts in Perth.

Prior to his appointment, Michael had been a Senior Crown Counsel with the then Crown Solicitor's office, conducting jury trials and superior Court civil trials, as well as appeal work as Counsel. He worked in private practice in general litigation for several years after his admission to practice in 1978 before joining the Crown.

Michael has been accompanied to the conference by his partner Lyn.

Magistrate Michael Carey from Katherine in the Northern Territory will be joining us with Lilia Garard later this evening. Several of you may remember Michael from when he practised as a solicitor in Townsville, Brisbane, and Mackay before heading off to the Northern Territory in June 1992 to work in the Office of the Director of Public Prosecutions at Alice Springs.

After transferring to Darwin in 1994 he worked as a prosecutor at both trial and appellate level with that office including before the High Court.

Michael was appointed to the magistracy in April 2005. He was a member of the bench at Alice Springs until July 2007, and then transferred to Katherine. Katherine is 300 km south of Darwin and Michael is the only magistrate at that centre.

Many of you may also remember Michael's father, Jim Carey who was a senior partner with Wilson, Ryan & Grose in Townsville where he practiced for 35 years before retiring in 1979. Jim Carey was the first president of the Queensland Law Society to come from outside the metropolitan area and is credited with the acquisition by the Law Society of its own land and building in Ann Street Brisbane.

He enjoys rugby, walking and fishing sometimes followed by good food (especially Italian) and excellent Australian wine.

I would also like to welcome and introduce to you each of our new colleagues – those 10 magistrates who have been appointed since our last conference:

- Damian Carroll (Toowoomba) – 20.07.07
- Michael Hogan (Southport) – 20.07.07
- Michael Quinn (Sandgate) – 20.07.07  
(and his partner Jo)
  
- Peter Smid (Townsville) – 20.07.07
  
- Joe Pinder (Cairns) – 13.8.07  
(and his partner Nadiya)

- Cathy Wadley (Townsville) – 19.11.07
- Maxine Baldwin (Rockhampton) – 21.11.07  
(and her partner Bob)
- Chris Callaghan (Brisbane) – 3.12.07
- Kevin Priestly (Cairns) – 6.03.08
- Colin Strofield (Brisbane) 6.03.08  
(and his partner Donna)

As you would know Damian Carroll is transferring to Gladstone in July and Colin Strofield swaps with Ray Rinaudo in Charleville on Christmas Day.

Kevin Priestly has also been allocated the functions of our first local coroner for North Queensland.

Our new colleagues are with us because of 12 retirements since the last conference. I wish to recognise the contributions of each of our retired colleagues.

With one exception in order of retirement they are:

- Gordon Dean – 12.06.07
- Tony Pascoe – 25.06.07
- Greg McIntyre – 3.07.07
- Graham Hillan – 9.07.07
- Ken Taylor – 4.10.07
- Andy Cridland – 13.11.07
- Bob Quinlan – 11.11.07
- Margaret Cassidy – 12.10.07
- Michael Halliday – 12.04.07
- Jim Herlihy – 5.05.07
- Basil Gribbin – 9.05.07

The person who I have purposely left out of this list is David Glasgow who retired on 25 April 2008. I have done so because David is a guest at this conference.

As you know he resigned about 9 weeks before his statutory retirement date due to his appointment as Queensland's inaugural Family Responsibilities Commissioner based in Cairns. David has the combination of experience and skills to take on this challenging role. If anyone can make a success of it – it is David. I know that you will join me in wishing him the very best for the future.

David will be able to speak to you at the conference about the new Commission and its interrelationship with our court. I urge you to take this opportunity to learn about the Commission. There is an opportunity for a close working relationship between our court and the Commission to the mutual benefit of both, and to the benefit of Indigenous communities. Although we may be approaching matters from different directions what we

are both seeking is to address the causes of offending and to divert people from the criminal justice system.

David's presence also reminds us that some of our former colleagues have not gone far away.

Gordon Dean continues to work from our Brisbane court as the voluntary honorary archivist for the Magistracy. This has already resulted in the establishment of an historical display in the building, which will be launched by the Attorney-General on Queensland Day.

Our display is centred around the evolution of the means of recording evidence.

Other displays give the story of the development of the Brisbane Courts and of the new building; and show a historical timeline from about 1920 to the present with the work of our court and the legislation and laws it administers outlined against the historic events of those decades.

The History Project concerning our courts is still ongoing. We are collecting historical detail and memorabilia from all over Queensland and hoping also to have some brief biographical data about as many of our magistrates as possible. I invite you to contribute to this project. This includes providing items of current interest. Because what we do today is the history of tomorrow.

One monograph has been prepared by Gordon giving an overview of the magistracy in Queensland, as it has evolved from the ancient office of Justice of the Peace to the vital and independent judicial office it is today. It is hoped to be able to fund a launch of this, particularly with the State's 150th anniversary next year. Others may follow, telling of our courts throughout various regions of the State.

I consider the project of significance. It may assist, in our achieving other aims by emphasising the importance of our court to the administration of justice in Queensland – aims such as enhanced entitlements and the emergence of the magistracy as judges.

As you know some of our colleagues remain part of our court by appointment as acting magistrates:

- Jim Barbeler
- Tom Bradshaw
- Jim Herlihy
- Graham Hillan
- Bob Quinlan
- Ian Rose
- George Wilkie

Bob Quinlan and Jim Herlihy returned in record time – with their acting appointments commencing five and eleven days respectively after their retirements.

I consider that the legislation which allowed this to happen for the first time is one of the most important milestones of the past 12 months.

It may ultimately be the catalyst for creating parity with the Supreme and District Courts by increasing our court's statutory retirement age from 65 years to 70 years. The opportunity to prove that a magistrate's skills do not disappear on attaining 65 years is available as Jim Barbeler who has been reappointed at 67 years, and Jim Herlihy and Bob Quinlan who will both soon turn 65 pass through the grey ceiling. As they circuit through the state they will be our court's first grey nomads.

This is because another important milestone this year has been the creation of two new magistrates positions – a second Brisbane Coroner (to which John Lock has been appointed) and an additional magistrate in Cairns. At a swearing-in ceremony the Attorney-General said about these appointments:  
“The workload of the Magistrates Court continues to grow. The need for additional magistrates and resources is understood by the Executive Government.”

There have now been six new magistrates positions created in the last 3½ years.

We have also been able to reorganise the court by creating two new Coroners positions from within its own resources – the North Queensland position which I have mentioned, and more recently a position based at Southport which will also address Beenleigh coronial matters.

The North Queensland position was created from the previous Northern (Relieving) Magistrate position. The Southport position derives from transferring the Brisbane vacancy arising from the retirement of Jim Herlihy. As a result there are now five specialist coroners in Queensland.

The creation of these additional positions and the retirements since my appointment in September 2003 has resulted in 39 new appointments to our court. When the current 4 vacancies and the one which will arise from the retirement of Magistrate Bill Randall on 5 September 2008 are taken into account this results in a 50% change in the constitution of the Bench over the 5 years of my term which ends on 12 September 2008.

In addition to this another milestone since the last conference is the appointment of 5 judicial registrars as part of the two year pilot. These are:

- Dennis Beutel (Brisbane)
- Robyn Carmody (Southport) – 2 days
- Trevor Davern (Southport)
- Grace Kahlert (Beenleigh) – 3 days
- Richard Lehmann (Townsville)

The Attorney-General is already reported in the Gold Coast and Townsville Bulletins as declaring the pilot a success.

Importantly I am sure that the magistrates in the jurisdictions where they preside will agree that overall the new role has made a measurable impact by freeing up magistrates to focus on more complex and contested cases.

With the appointment of the additional magistrate at Cairns another significant milestone has been achieved – the ability for the Cairns bench to circuit to 8 additional Torres Strait Islands and also to provide an enhanced Cape circuit.

As a result the much sought after “access to justice” is at last being achieved for the deserving people of Queensland’s remote Torres Strait Islands. There are only three populated islands which are not circuited to. This is because of difficulties with aircraft access. The residents of those islands have access to a court in the immediate cluster group.

The importance of this is illustrated by the warm speech of welcome on the opening of the Yam Island Court:

“The Yam community gives you all the warmest welcome. It has been a long time since we have seen justice administered here on the island. We know that this is the best way for our people. It worked well in the past, so we are confident that it will work well here today.

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By the 80’s, court moved to Thursday Island. This was a very difficult process for us islanders. Plane fares were expensive and we couldn’t afford them. This meant travelling to TI in a dinghy. Of course if the weather was rough, or we couldn’t get fuel, we couldn’t get to court in time. For many of us, this meant we had a charge of failing to appear in court put on top of the original charge.

Now we see Magistrate’s Court back here on the island. The community is excited and enthusiastic about this. Very few of our visitors receive a cultural welcome. It is a mark of our great respect for the court, the due process of law and the return of justice to the island, that the Yam Community offers you this welcome today.”

During the past 12 months the Murri Court has continued to grow. On 18 June our 13th Murri Court will be launched by the Attorney-General at St George. There is every reason to believe that a Mackay Murri Court will open in the near future.

I was overwhelmed last week to see the large number of delegates from throughout the state who attended the Murri Court conference.

I am very proud and privileged to have been given the opportunity for almost five years to have a close association with the Murri Courts and

all the wonderful persons who have made them the integral part of the fabric of the Queensland criminal justice system that they are today.

As one of the foundation elders of the inaugural Murri Court – Uncle Albert Holt – said in his keynote conference address:

“Let us all agree that we have gone too far to go back where we came from.”

I believe that the same can be said of the other innovative programs which are operated by the court and which it has also been my privilege to be associated with:

- the Drug Court
- the Illicit Drugs Court Diversion Program
- the Cairns Alcohol Remand and Rehabilitation Program (CARRP)
- the Queensland Indigenous Alcohol Diversion Program (QIADP)
- the Queensland Magistrates Early Referral into Treatment Program (QMERIT)
- the Homeless Persons Court Diversion Program.

I would like to specifically address the Homeless Persons program which is operated at the Brisbane Arrest Courts with a Special Circumstances List for homeless defendants who have impaired decision making capacity. For two years we have operated this court within our own resources other than funding for a court liaison officer.

My hope was that from 1 July 2008 this program would be funded to operate 5 days a week, including funding for a magistrate to conduct it. This has not been forthcoming to date. Therefore the future of the court is under review.

However there is light at the end of the tunnel. The “Which Way Home” options paper which was launched by the Prime Minister this week criticised mainstream services, such as health, education and justice, for washing their hands of the issue. This is not the case with our court or its partners in this holistic approach to addressing the causes of offending by these disadvantaged persons who come before our court.

There is hope that what has been achieved with limited resources to date will be recognised and funded appropriately because in the words attributed to the Prime Minister:

“Homelessness is a national obscenity. We can do better, we must do better. Put simply, our homelessness policies aren’t sufficient to deal with the scale of the problem.”

There are other milestones for our court over the past 12 months to which I could refer in more detail:

- the creation of the Far Northern Region of the court by dividing the Northern region in half
- the commencement of a rotation of co-ordinating magistrates

- the continued enhancement of the use of video link technology
- enhanced technology for magistrates on circuit
- the protocol with the Bar Association for barristers to wear robes in some cases in our court
- the announcement that in Brisbane a specific depositions clerk will be designated to each magistrate in place of the previous principle of regular rotations.
- the proposed accreditation project for Indigenous interpreters in Aurukun

The Indigenous interpreters accreditation project is a particularly welcome movement by the Department of Justice and Attorney-General. It is something that our court has strongly argued for in the last two annual reports.

As I am coming close to the end of my time I believe that it is a good time to reflect on the future of the Queensland Magistrates Court.

I used my crystal ball to forecast the future in a paper I delivered at QUT earlier this year:

“A vision for the future of the Queensland Magistrates Court.”

I wish to share with you my optimistic vision.

It is a future which will see an expanded number of magistrates and judicial registrars addressing an increasing jurisdiction in keeping with Queensland's continued growth.

Although the court will continue to be a grassroots people's court, in a number of respects, it will look more like the Supreme and District Courts with robed barristers and harmonious practices and procedures. It will truly be the court of first instance in the judicial system of Queensland Courts.

Although there will be an increase in magistrates and no decrease in the number of places where it is essential to hold court in this geographically large and diverse state, I believe the future will see more magistrates appointed to hub centres and visiting satellite courts on circuit. This will in no way reduce the extent of services given to the satellite court centres.

The ability to rely upon technology to link witnesses, lawyers and defendants to the court throughout Australia and the world will increase over time. It will be an integral aspect of the court for the future.

The court's innovation programs will also continue to extend to supporting initiatives to provide diversionary options for people early in their offending history, to provide alternative sentencing options for people whose offences



are the result of drug or alcohol addiction, homelessness or impaired decision-making capacity, and to co-ordinate strategies to reduce over-representation in the criminal justice system.

This is not because magistrates are becoming social workers but because magistrates are the front line of the administration of justice and see first-hand that *there is always a story behind offending*. The fact is that Magistrates Courts serve by default as front-line response to problems of substance abuse, family breakdown, intellectual disability, personality disorders and mental health.

These initiatives will include not only a continued role for the Drug Court, but a Murri Court supported by legislation which is sufficiently flexible to adopt procedures suitable to the local court environment and local issues – contemporary, vibrant and always changing; and programs which strike at the heart of the causes contributing to the gaps in Indigenous life expectancy, educational achievement and employment opportunities – the use and abuse of alcohol.

This is a future in which we will embrace the possibility of new solutions to enduring problems where old approaches have failed.

These solutions will extend to specialist courts for people who are homeless or suffer from impaired decision-making capacity and to address the causes of domestic and family violence, rather than just dealing with the outcomes.

Therefore these or similar programs which focus on the causes of offending behaviour and attempts to break the cycle of offending will continue to be part of the future of the Queensland Magistrates Courts.

There is also reason to believe that a suitable adaptation of the New York Redhook Community Justice Centre model within the court – as has happened in Victoria – will be implemented to allow the magistrate to make use of on-site social services to address the underlying problems of the people who appear before the court. I hope that this would include a strategy of offenders immediately undertaking community service obligations. The immediacy and visibility involved would send a powerful message to offenders and the community.

The court will continue to increase the number and range of services that it provides for Indigenous communities. We will spend more time there – reducing perceptions of fly in / fly out justice.

Our court will be seen as an accessible and vital part of these communities – a court which makes a visible difference to the day-to-day lives of everyone who lives there, including offenders.

In this way, the court will be an effective mechanism for increasing participation and ownership by the communities in the criminal justice process.

The court will be assisted by an Indigenous Interpreter service and courtrooms will be removed from within police stations. This will increase the trust by the residents of these communities in the justice system.

These developments will not occur overnight. They will be implemented incrementally, wisely, carefully and with full regard to the likely issues which may obstruct their ultimate implementation and success.

At the end of it all – and I say this knowing that there is a current entitlement submission still under consideration – just as it is being suggested with Federal Magistrates, Queensland Magistrates may have taken the next step in their journey – and emerge as Judges.

In conclusion I would like to thank Jeannie, Vivienne, Nicola, Rachel, Sandra and Julie for their wonderful contribution to getting this conference organised. This conference will be a success. And that success will be the result of their hard work in conjunction with our Conference Committee.