SUPREME COURT OF QUEENSLAND

Central Queensland Law Association Annual Conference
Saturday 17 October 2009
Capricorn Resort, Yeppoon
"Matters of interest to the courts and to the profession"

The Hon Paul de Jersey AC
Chief Justice

It is always a great pleasure for Kaye and me to be with you. It is especially so this year, as we celebrate the 150th anniversary of the State of Queensland and the 50th anniversary of the re-established District Court of Queensland, with the 150th anniversary of the Supreme Court two years off.

While the annual conference is the Association's showpiece presentation, the Association has always and in many ways been a force for desirable cohesion within the Central Queensland profession, a profession which dates from 1861, when W C Bellas and Henry Boyle set up practice in Rockhampton. Rees Rutland Jones started three years later, in 1864. And so began Rees R and Sydney Jones, Queensland's oldest firm of solicitors under its original name, now in its 135th year.

This being an historically noteworthy year, we should remind ourselves of some other features of the Central District, in due course to be renamed the Central Region. It was the Supreme Court Act of 1895 which first provided for court sittings in Rockhampton, and the first Central Judge, Virgil Power, appointed that year, was both the first Central District Judge and also the first Queensland born member of the Supreme Court (McPherson: Supreme Court of Queensland, Butterworths, 1989, p 210).

There was not always a lot of court work to be accomplished in Rockhampton. McPherson records (p 265) the lament of the then Central Judge, Lukin J, in 1914:

> "For periods between full courts in Brisbane, sometimes six weeks at a time, I have practically no work at all. An occasional and purely formal adjudication in insolvency, the granting to the Deputy Curator of Intestate Estates of an order to administer – purely formal – or dispensing with the

> filing and passing of accounts which may be applied for at any time during a period of 15 months, and at remote intervals an application which is not of a formal nature, make up the sum total of my work at Rockhampton, outside the criminal and civil sittings, which are held four times a year and take but a short period of time."

Mind you, there was a substantial circuit commitment, which would then have been comparatively arduous. McPherson mentions (p 319) the Central Judge in 1923:

> "Departing from Rockhampton, he was expected to sit at Clermont on March 1; Longreach on March 7 and Barcaldine on March 9; then Blackall, Mackay, Gladstone, and Bundaberg on March 14, 21, 27 and 29 respectively. His progress terminated with sittings commencing at Maryborough on April 2; returning thence to Rockhampton, he set off again less than two months later to repeat the pattern…"

As to the profession, numbers varied. In 1940, there were only two barristers in Rockhampton, and the aggregate total of solicitors in the two northern centres, Rockhampton and Townsville, was about 30 – with Rockhampton then predominating.

These days in Central Queensland, we see substantial local professions in Rockhampton, and Mackay, with practitioners in a number of other centres as well. The people of Central Queensland are well served by their lawyers, and the spirit of the profession, most recently evident to me at the very well attended Opening of the Law Year Service in Rockhampton on 14 July, is an important contributor to that.

You may be interested to know the current figures: in Rockhampton, 78 solicitors and 10 barristers; in Mackay, 110 solicitors and 3 barristers; in Gladstone, 29 solicitors; in Maryborough, 15 solicitors; in Emerald, 10 solicitors; and in Longreach, 2 solicitors.

To my knowledge, the most comprehensive reflection on the history of the courts and profession in Central Queensland was assembled by Justice Young, as Editor of the Australian Law Journal, and published in Volume 66 in 1992. The Editor records that he was interested that the Journal "from time to time … look at things from the viewpoint of those who practise the law outside Sydney, Melbourne and Brisbane where the bulk of

subscribers practise." He considered "one of the best places to start was Rockhampton". He visited Rockhampton at the time of the Opening of the Law Year Church Service that year in St Paul's Cathedral. He described:

> "… A very close-knit legal community. The solicitors had not been overtaken by merger fever or American commercial practices and appeared to be practising their profession in much the same way as it was practised when I was an articled law clerk some 30 years ago. The biggest firm of solicitors appears to have but seven partners. The solicitors and the barristers all knew each other and all needed to be men and women of integrity because any falling short of the standard would be instantly known by their colleagues."

There follow, in that edition of the Journal, a number of perspectives: the first is by the then Central Judge, Justice Demack, historically the seventh Central Judge, following, in order, Power J, Lukin J, Jameson J, Blair J, Brennan J, Sheehy J and Campbell J; and followed by the late and greatly lamented Dutney J then the incumbent Justice McMeekin. Justice Demack reminds us of what the English author Anthony Trollope said when visiting Rockhampton in 1871:

> "Rockhampton is a town lying exactly on the line of the Tropic of Capricorn, some miles up the Fitzroy River, with about 7,000 inhabitants, which considers itself to be the second town of the colony, and thinks a good deal of itself. It has been seized with the ambition to become a capital, and therefore hates Brisbane."

Then there is an article by the then District Court Judge at Rockhampton, Judge Dodds, the third Rockhampton Judge of the District Court following its reestablishment in 1959, following Judge Shanahan and Judge Howell; and in turn followed by Judge Nase and the incumbent Judge Britton. I pay great tribute to the commitment of both the incumbent Judges.

The final article in the collection was contributed by then Mr Britton, barrister at law.

For younger practitioners especially, I commend that segment of Volume 66 of the Australian Law Journal, which covers as many as 20 pages, a substantial tribute to a non-metropolitan legal centre and a justified acknowledgement of the significance of the

Rockhampton profession in all its branches. Copies are, I understand, available here this morning.

I know you will accept part of my role is to foster cohesion State-wide. My having said that, there is a particular warmth and collegiality about the Central Queensland profession.

I expect it is often still true in this part of the State that "a solicitor's word is his bond", an expression dating back to the 70s and before, which should now translate to "his or her bond". It may also be that as in Maryborough, the shutters are lowered at lunchtime and the partners go home for lunch with their spouses – a most civilized practice.

In non-contentious work, there is no doubt clients benefit when the lawyers can get on productively together. Similarly in the modern approach to contentious work, with the slant towards consensual resolution. And when the matter goes to a hearing, I can assure you the judges greatly appreciate cooperation, rather than conflict, at the bar table.

In short, friendly professional inter-relationship makes practice more attractive for you; and even more significantly, it enures to the benefit of your clients, thence the public.

I remain respectfully proud of the Central Queensland profession for its strong commitment to rendering optimal legal services in this great part of Queensland. An incidental measure of that respect and pride has rested in Kaye's and my determination regularly to attend the annual conference. I again congratulate the Association on its splendid work over the last many years in fostering relationship, cohesion, and continuing professional development in the Central Queensland profession. I especially mention the President Lance Rundle and his committee members for their willing and effective commitment.

Unlike other courts within the Australian federation, the work of our State courts is accomplished in a substantial number of centres throughout the State. In that sense, the

development of the courts has followed the development of the colony separated in 1859, which became a State in 1901.

The Supreme Court sits, as required, in 11 centres as well as Brisbane: Cairns, Townsville, Mt Isa, Mackay, Rockhampton, Longreach, Bundaberg, Maryborough, Toowoomba, Roma and Southport. There are resident Supreme Court Judges in Cairns, Townsville and Rockhampton.

Necessary decentralization, a feature of both executive government and the judicial branch in this State, extends also to the District and Magistrates Courts. More dramatically than with the Supreme Court, the District Court sits at 44 regional centres, and Magistrates Courts in 106. Consistently, of a state-wide profession exceeding 8,000 practitioners, there are substantial local professions operating in six centres: Rockhampton, Mackay, Townsville, Cairns, the Gold Coast, and Toowoomba. I should add that not insubstantial numbers of practitioners serve other major regional centres, as examples, Ipswich, Pine Rivers, the Sunshine Coast, Gympie, the Fraser Coast, Maryborough, Bundaberg, Gladstone, Innisfail and so on – roughly equating, I suppose to the "Sunshine Route" we used to learn at primary school in the 1950's. I should add reference to Mt Isa and other western centres.

Since the early days of the separated colony, there has been an acknowledgement that where practicable, courts should go to the people rather than the reverse. It should be noted that these days, Magistrates especially, still endure considerable burdens servicing Cape and Torres Strait communities.

In relation to the basic objective, I was personally disappointed in 2002 when events conspired to prevent the trial of Mr Long, the Childers backpacker murderer, in Bundaberg, which is the closest Supreme Court centre to Childers. As I said in the course of delivering a pre-trial ruling, "recognizing the decentralized nature of the State, it is fundamentally important that a trial ordinarily proceed in the district of the alleged offence." While for

various reasons the trial of Dr Patel will next March take place in Brisbane, the trial Judge, Justice Byrne is contemplating the contemporaneous digital streaming of the hearing to the courthouse in Bundaberg, so that interested parties may watch and hear it unfold, locally.

I am very pleased to acknowledge the executive's support for court sittings in remote centres, with for example Magistrates resourced to attend remote Torres Strait centres, lest defendants endure potentially life threatening dingy trips, without their having the fuel to survive, simply because they cannot afford to buy it.

The comparative remoteness of some court centres has obviously affected, in a number of respects, the way the court proceeds. For an historical and now aging example, the court used not to sit on Easter Tuesday, so that parties and witnesses in proceedings adjourned over the Easter period could make their sometimes arduous journeys back to courthouses without losing their break.

We have for many years been conscious of the need to avoid imposing unnecessarily on witnesses. In these distant lands, some of our experience intrigues those outside.

I recall the intrigue of some English judges when I informed them in the late 1980's that our Supreme Court not infrequently took evidence by telephone.

As we all know, technology has, in many forms over the decades, proved invaluable in the streamlining of court proceedings. I expect, before the end of my term, to see the advent of full electronic filing in Queensland courts, with appropriate accommodation of course for the situation of those without legal representation. Allowing for the nature of technological development, it would be foolhardy to seek to forecast other likely changes, but they are inevitable. Technological support greatly facilitates the dispatch of our work. Timeliness and other efficiencies would be lost, absent that support, with our contemporary case-load.

The title assigned for my address this morning is "matters of interest to the courts and to the profession". It was apparently felt the Chief Justice should be allowed a wide berth. I hope what I have said may have been of some interest.

In dwelling on the decentralization of the State, I have this morning tended to focus on the courts and the profession in Central Queensland. You would have found that agreeable: I certainly did. But in the end, though dispersed, the Queensland profession is a relatively united and cohesive profession. Modern communications help ensure that, as does the work of the professional associations, including in the area of continuing professional development. Courts are likewise, though sitting in numerous centres, at one in mission and method. Then there is the supervening assurance that the profession and the courts are mutually supportive, which is critical to the effective delivery of justice according to law.

The people of Queensland are well served by their profession, and their courts. True it is that few members of the public take the trouble to come and watch the courts in action, but I do not think that signals any broad lack of interest. If the public takes the courts for granted, then it pays the courts something of a compliment, in betraying implicit faith in the courts' conscientious and effective discharge of their mission.

I do believe there is an abiding active public interest in the work of all State courts, and it is an interest flavoured by confidence borne of the independence, transparency and predictability of the process.

Ultimately, there is confidence in the healthy operation in this State of the rule of law, and for your important role in ensuring that, ladies and gentlemen, I express considerable gratitude.