



Queensland Magistrates' Annual State Conference 2012
Law Society House, Brisbane
Wednesday 1 August 2012, 9:30am

The Hon Paul de Jersey AC
Chief Justice

I am very grateful for the opportunity to speak from the rostrum this morning. We gather together at a time of considerable significance for our State's judicial system. In two days time, Her Excellency the Governor will formally open the metropolitan Supreme and District Courthouse.

The co-location of the metropolitan homes of all three State courts is quite symbolic: it suggests our shared mission, the delivery of justice according to law; the dignified presentation and contemporary beauty of both our material premises is consistent with the high professional commitment of the judicial officers and support staff who work within them; and that we will be working here in such proximity suggests a measure of pervasive collegiality which is very much in the public interest.

It was at the opening of your excellent courthouse on 16 November 2004 that I drew the then Premier's attention, in my closing vote of thanks, to what I described as "some fine, apparently uncommitted government owned land close-by, about 6,000 square metres of it...which may prove an ideal site for new houses for the other courts within (his) domain". And it has. Queensland now has the finest metropolitan courts in the nation.

I use the word 'metropolitan' deliberately. I appreciate that the vast majority of the State's Magistrates work outside Brisbane in courthouses of varying quality, some of them of quite poor standard. Higher courthouse standards in some regional centres must come to feature on the radar of those responsible for such things. One always hopes for more rapid attention than public finances seem to allow for. But the need for progressive improvement of court facilities throughout the State must be recognized.



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I wish to mention now a few aspects of your new neighbour, the design philosophy and some of its features. When I first visited the then new Magistrates courthouse, I was particularly impressed by the substantial inflow of natural light, into courtrooms and public spaces. I expressed a strong preference for the maximum inflow of natural light into any new Supreme and District Courthouse, and that has certainly been achieved. The building looks outwards rather than inwards. This should have a calming effect on those who work within and use the building.

That has been achieved, obviously enough, through the substantial use of glass in the external walls of the structure. The most dramatic architectural feature is, I suggest, the crystalline presentation, and that is hugely symbolic of the judicial process which will be going on inside. The large open spaces, both inside and out, reinforce that image. The very scale of the building suggests high public significance: so does its striking architectural presentation. But the scale of your new neighbour is not discordant with this courthouse.

Since the inception of the project, my principal focus, shared by all the Judges, has been to secure optimal working conditions for those who will use the building: prisoners, correctional officers, witnesses (including the vulnerable), jurors, administration and Registry and judicial staff, court reporters, litigants and their families, legal practitioners, bailiffs, security staff, visitors... It was not until about five years ago that we were able, in the previous courthouse, to provide our valued staff with a lunch and recreation room: shamefully after that complex had been operating for as long as 36 years. It was only then that we gained acceptable vulnerable witness facilities.

A major driver in the campaign for a new metropolitan courthouse was the difficulty of introducing modern technology into our former building – largely, I was told, because of the prohibitive expense of installing cabling in very thick concrete floors.



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Resort to modern technology renders the justice system more accessible, by reducing cost, delay and inconvenience, and by facilitating a more comprehensible presentation of material, for example to juries. Use of the technology now available in this new building should markedly streamline the court process.

All 39 courtrooms have the capacity for the digital display of evidence. Seventeen allow for the reception of evidence by video from remote locations. Fourteen can accommodate full e-trials. Digital evidence display is available in all jury rooms. There is capacity for an interpreter to operate externally to the courtroom. Wi-Fi is available on all floors.

[slideshow of photos of new building]

I have brought with me a number of fact sheets about the building should you be interested. Those sheets also contain information about the public art and the historical museum.

I earlier mentioned a feature of the building at 304 George Street which gave real, practical point to the need to consider a new development. In its later life, that complex could not keep up with the times, although our much valued IT staff achieved excellent things. We must accept that our defining landscape will never be static.

For example, we are drawing nearer to the ideal of a “paperless” courtroom and Registry. I forecast that with the eventual advent of electronic filing, the space required by the Registry will constrict. As resort to electronic materials becomes even more pronounced, so may the space traditionally required by the Library: some Library space may come to accommodate other ways of disseminating knowledge and learning. As the years go on, a shift to in-house mediation may even lead to a reduction in necessary courtroom space.

By contrast with its predecessor, this new building has the capacity to adapt to foreseeable further change.



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I look forward to welcoming the Chief Magistrate and some of you to the opening ceremony on Friday. The ceremony will be attended also by all Australian Chief Justices and the Chief Justices of New Zealand and Hong Kong, together with the Master of the Rolls and Lady Justice Hallett of the UK Court of Appeal. That level of attendance involves substantial tribute to the courts of Queensland, as of course will the participation of the Premier and the Attorney-General. The Council of Chief Justices of Australia and New Zealand is to meet at the new courthouse tomorrow.

The Supreme and District Court Judges, ladies and gentlemen, look forward to joining you in this precinct, and I hope that our use of the Turbot Street car park entrance will not unduly inconvenience you!

The last decade has seen substantial administrative integration of the three major State courts and the Land Court. This development takes that integration on to another plane again, both in terms of utility and symbolism.

Major events such as the opening of a courthouse, or a significant anniversary such as the Supreme Court's 150th last year, inevitably foster consideration of both what we have achieved, and what we may achieve. There is one thing we must achieve, and that is the discharge of our commitment to the delivery of justice according to law. But there is no doubt that the pace of development in contemporary conditions means we should always be vigilant to ensure that the way we go about the achievement of that mission is as efficient and streamlined as it can be.

The pace of change appears to increase insidiously as one ages. When in the year 2008 I reached the 10th anniversary of my appointment as Chief Justice, I was asked on a number of occasions to reflect on change in the judicial landscape over that decade, and it was immense: in the gender composition of the Supreme Court from one woman Judge to eight; in the elimination of undue delay in the delivery of reserved judgments, with our



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early adoption of the three month protocol – as have you; in the culling of our civil lists with the increasing embrace of ADR, so that we could offer early trials for those cases which had to proceed to trial; with an increasingly hands-on approach to the management of both criminal and civil cases; with a distinct and express focus on equality of treatment of litigants and witnesses; with a more streamlined approach to the taking of evidence from vulnerable witnesses, utilizing the statutory platform; then there was the increasing incidence of unrepresented litigants, with the need for Judges to adopt rather different approaches to the avoidance of unfairness; we saw the profession's enthusiastic embrace of a pro bono contribution, really a defining feature of that decade, and we saw the related introduction of citizens' advice bureaus and the involvement at the courthouses of the Court Network for Humanity.

But I think the overwhelmingly defining feature of that decade was technological development, with for example our harnessing the legal research capacity of the Internet, communication by e-mail, video-conferencing, e-courts, e-trials, electronic appeal books and the like.

In 2011, with the Supreme Court's major anniversary, I added to that list the reconstitution of the Supreme Court in 1991, with each division of the Supreme Court, the Trial Division and the Court of Appeal Division, last year reaching its 20th anniversary. The other part of the Supreme Court, the Office of Chief Justice, has by the way been running since 1863, so that "Office" will reach its sesquicentenary on 23 February next year, the date when Sir James Cockle, our first Chief Justice, received his Commission.

At the sesquicentenary sittings last year, in terms of jurisdictional change, I mentioned also the court's having had to endure the controversy inevitably arising from its exercise of jurisdiction under the dangerous prisoners' legislation.

The mission of the courts remains timeless. But contemporary conditions will always generate new challenges which must be met.



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While Magistrates Courts as such were not established in Queensland until 1921, with the passage of the *Magistrates Courts Act 1921*, Justices of the Peace had administered civil justice through Courts of Request since 1823, and Captain Wickham had inaugurated the Police Magistrate regime from 1842, following the departure from the colony of the last military commandant. My point is not to give a history lesson, but to acknowledge that the Magistracy, in one form or another, has a lineage in this State which in duration extends beyond that of the Supreme Court and the District Court. In terms of qualification, the dye of the 21st century Magistracy was cast with the requirement that from 1985, all new appointees to Magistrates Courts throughout the Commonwealth be qualified legal practitioners.

The Magistrates Court is by far the largest court operating within the State. It comprises many more members than the Supreme and District Courts combined. It sits in many more centres. Its workload is immense and unrelenting. Magistrates not infrequently, often regularly, sit at weekends and out of hours. My other point, having acknowledged those distinctive features, is to emphasize what is often said, and that is that Magistrates are the public face of Queensland courts which is most often seen.

Especially I think out of Brisbane, the local Magistrate will be regarded as the custodian of community order. The generally good work of the Police in enforcing order is ultimately, in the event of challenge, subject to the sanction or otherwise of the Magistrate. To retain public confidence, the Magistrate must present as a virtual model of measured judgment.

I say "virtual" because our citizens do not expect perfection. Occasional expressions of impatience with garrulous witnesses giving irrelevant evidence, with long-winded lawyers who won't get to the point, and with litigants who flagrantly abuse our processes, are forgiven. But general discourtesy, persistent lack of punctuality, dilatoriness, or lack of discretion, will not readily be forgiven, and neither should they: those lapses not only



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impair perceptions of justice within local communities, but perceptions of the courts more widely.

We owe duties to ourselves, our colleagues, our courts, and our State meaning our citizenry.

A large challenge for you as Magistrates, not shared to the same extent by other judicial officers, arises from lack of legal representation. About one-third of the cases presently coming before the Supreme and District Courts involve at least one unrepresented party. I understand that the extent of unrepresented litigants is substantially higher in the Magistrates Court.

Another challenge is to accommodate, within legal parameters, local concerns. I know of disquiet in some centres about penalties meted out to young recidivist offenders. I was challenged about this when I addressed newly-appointed members of parliament earlier in the year, and I know that the situation is more complicated than the situation presented to me then.

Enduring pressures engendered by local press coverage of issues of particular concern in local communities can be deeply upsetting for local Magistrates, and their families. The only tenable approach remains this: to do one's best, and while noting criticism, keep one's head up and keep going on. Do not overlook, of course, that advice and mutual assistance is available either from resident colleagues, or at the end of the telephone.

I spoke earlier of our need to adapt to inevitable change. The jurisdictional and procedural changes following the implementation of the Moynihan Report plainly bear on that.

It used rather simplistically to be asserted, as if generally true, that the resolution of a claim for \$20 can be every bit as complicated as the resolution of a claim for \$20,000. That may



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be true sometimes, but it is not generally so, and should not be: very small claims must be dealt with expeditiously and inexpensively.

It used also to be said that the Supreme Court's burden is the least, because a Judge's role in a murder trial is relatively straight forward: with the High Court jurisprudence of recent decades, I can assure you that that is certainly not so.

With the substantial increases in the jurisdiction of the Magistrates Court which have occurred in recent years, on both the civil and criminal sides, the demands upon you have increased correspondingly. It is obviously essential that the resources available to you remain at an appropriate level.

I see my role today as threefold.

First, as the senior member of the judiciary in this State, I should acknowledge the high significance of your role within the system, with a view to encouraging your continuing high commitment to the discharge of your mission. I make that acknowledgment, and I respectfully commend you for your level of commitment.

My second object is to express my strong support for your Chief Magistrate, for whom I have great respect.

My third objective is to express the hope that notwithstanding your increasingly demanding jurisdiction, the disposition of the work of the Magistrates Court will continue to be characterized by these features in particular: the predictable application of legal principle, expedition, the minimization of expense, and the injection of common sense; and from the other side, respect for the court, in that it is seen as the embodiment of authority, reflected especially through its courtesy and measure.