



## North Queensland Law Association Conference 2008

### Mackay

**Friday, 30 May 2008, 9:15am**

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**The Hon P de Jersey AC  
Chief Justice**

One of the unique features of the role of Chief Justice in Queensland is the opportunity to interact with a substantial regional profession. Kaye and I greatly appreciate, in particular, the opportunity to attend annually this important conference, and its sister conference at Yeppoon.

### **Decentralization**

Necessary decentralization is a feature of government in Queensland which is distinctive of this part of the federation. That extends beyond executive government to the judicial branch as well. For example, the Supreme Court of Queensland sits in 11 centres outside Brisbane; the District Court sits at 44 regional centres, and the Magistrates Courts in 106. Of a state-wide profession exceeding some 8,000 practitioners, there are local professions operating in five centres: 239 practitioners in Townsville, 242 in Cairns, 67 in Rockhampton, 727 at the Gold Coast and 137 in Toowoomba. There are 3 resident judges of the Supreme and District Courts in Townsville, 3 in Cairns, 2 in Rockhampton and 3 District Court Judges at Southport.

While there must inevitably be a metropolitan courthouse, and a metropolitan profession, we must be vigilant to avoid the development of any unduly metropolitan “mindset”. All Queensland citizens are entitled to the optimal delivery of legal services. That involves reasonable access, throughout the State, to quality practitioners and judicial officers. Reassuringly, governments have been astute to this stipulation.

Throughout my last 10 years as Chief Justice, I have considered it very important that I visit regional centres on a regular basis, that I keep abreast of regional court and professional developments, and that I draw the attention of executive government to areas



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warranting further attention. I also continue to encourage regional practitioners to alert me to aspects on which I may be able to assist in streamlining the service.

I remain particularly grateful for the good and productive relationship we enjoy. It is important to the health of the system. It is in the end a reflection of your professional commitment, for which I respectfully commend you.

This has been a year of anniversaries. The Queensland Law Society reached 80 years, for example, and I myself passed a decade in my present office.

Unsurprisingly I have been asked a number of times this year to reflect on the major changes in the legal system which have occurred over that decade. Some have readily come to mind: the gender composition of the court; the increased incidence of litigants without legal representation; the introduction of broader technological support; the substantial remodelling of the regime for the maintenance of professional ethical standards; in the courts, the increasing embrace of mediation, and for those civil cases which must proceed to adjudication, an inexorable retreat from oral advocacy to written presentations. The list goes on. I was grateful to be given the opportunity to cover some of those matters in the February edition of "Proctor".

There are four particular features about which I wish to speak briefly this morning. They concern pro bono work, technology, cost assessment, and the Supreme Court History Program.

### **Pro bono work**

The first is the profession's pro bono commitment, especially marked over the last decade. I am most appreciative of this. QPILCH has done very good work, but pro bono work broadly characterizes the commitment of the Queensland profession.



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I do however wish to say a little about QPILCH, the Queensland Public Interest Law Clearing House. QPILCH is a creature of the profession, set up to assist persons without means in civil law public interest cases. QPILCH, of which I am patron, draws on the resources of the profession – private firms of solicitors, barristers, government and corporate lawyers, law schools and other community-based agencies, in order to assist the disadvantaged and marginalized within our community. I mention QPILCH today partly to commend the North Queensland profession for support of the Homeless Persons Legal Clinic in Townsville.

I am informed that about a quarter of the solicitors' firms in that city, eight of 34, and five community legal organizations, are cooperating in delivering legal services at three Townsville locations. The firms are Bevan and Griffin, Boulton Cleary & Kern, Chris Mills, Connolly Suthers, Purcell & Taylor, Roberts Nehmer McKee, Ruddy Tomkins & Baxter, and Wilson Ryan Grose. There was an induction training session in February, and the services commenced on 26 March, with a formal opening this month by the Federal Parliamentary Secretary for Social Inclusion and the Voluntary Sector.

I thank you, ladies and gentlemen, for that commitment. It illustrates very well a feature of the legal profession rarely publicized and often overlooked, and that is, an altruistic commitment to true public service.

In December last year, the Attorney-General launched a citizens' advice bureau service at the Supreme and District Courthouse in Brisbane. This was modelled on the highly successful service which has operated from the Royal Courts of Justice in London, now for many years. The initiative is called "accessCourts", and includes a free-of-charge professional advice service run by QPILCH from the courthouse, in conjunction with a network of trained volunteers who assist persons involved in court proceedings through the process. The service is operating effectively, and with the financial support of the Queensland government. It is the first of its kind in Australia, and probably the first such service ever outside the United Kingdom. I mention it now because I am hoping that the



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Brisbane service will be regarded as a “pilot” initiative which can be established also in regional centres. Its development was inspired by the increasing incidence of unrepresented litigants within our process, and that phenomenon is not confined to Brisbane. I am pleased to note that the Brisbane service is receiving referrals from North Queensland, but it is important that we establish comparable facilities in the major regional centres as well.

### **Technology**

The second court matter I wish to mention is developments in technology. We offer these to assist you and your clients to better outcomes. I have read in the national press of things happening in this arena in New South Wales and Victoria. But in many instances, Queensland has been a forerunner in such developments. In many ways, Queensland has been ahead of the game, and for relatively small investments has used IT to enhance service delivery.

We are particularly proud of the e-Search service, which facilitates the searching on-line of civil files in the Supreme and District Courts, free of charge and at any hour of the day. e-Search provides a wealth of information and saves court users considerable time in their dealings with court registries. Last year, there were more than 500,000 searches conducted using this easy service, available state-wide. Being in North Queensland, I particularly mention the recent extension of the service to practitioners and self-represented litigants in Bowen, Cairns, Innisfail, Mackay, Mount Isa, Townsville and Charters Towers.

Then there is Wi-Fi. Queensland courts were the first in Australia, and probably the world, to offer free broadband wireless internet access within courtrooms. Lawyers can, in this jurisdiction, access the internet, stay in real time contact with colleagues back at the office, or connect to their office systems, in more than 120 courtrooms around the State.



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In 2007, the Court of Appeal began producing electronic appeal books. This means large appeal books are routinely distilled into a single CD of searchable PDF documents provided to all parties. Judges use the electronic appeal books from PC's on the bench to enhance further the efficiency of the courtroom process.

I should add that PC's are also being installed in selected trial courtrooms so that complex matters may be heard electronically. These are set up in fixed locations, with a mobile solution also under development to allow electronic hearings to be conducted in any courtroom in Queensland – in situations where all the evidence and documents will be presented and managed electronically. This initiative will allow Queensland practitioners confidently to prepare their cases electronically without the need to produce large volumes of printed material before the hearing.

I wish to mention the Queensland Sentencing Information Service, or QSIS. This is a world class online legal research tool focused on sentencing and related matters. The service was established in 2006. It is accessible by Judges and Magistrates, as well as officers in the Office of the Director of Public Prosecutions and Legal Aid Queensland. Earlier this year, free access was extended to members of the private legal profession who make the necessary application. To date, five firms and six members of the Bar in North Queensland have established accounts for such access: more applications are encouraged.

There are two other aspects of the technology which I should mention.

The first is the digital recording of proceedings. This has been introduced in all 260 courtrooms around the State to replace aged analogue equipment. Proceedings are recorded via a PC and soundboard within the courtroom. Proceedings in Supreme and District Courts are then monitored from remote workstations. For example, evidence given in Mackay may be monitored and transcribed in Caboolture. This is being done in the interests of efficiency. The installation of the equipment has reached the stage of practical



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completion, and final resolution of some remaining software issues is imminent. The state-wide implementation of the digital recording of proceedings is an achievement of major proportion, and in which Queensland leads the nation.

You may be interested to learn that the State Reporting Bureau is developing a facility whereby a transcript of court proceedings may be ordered, and delivered, online, with orders possible on a 24 hour basis. This will be a State-wide service, in due course available to legal firms. The purpose obviously enough is not only to reduce the number of hard copy transcripts being prepared and delivered, but also to provide a more streamlined service, both in relation to cost and service delivery times.

The second aspect concerns the use of video recording, for the taking of the evidence of vulnerable witnesses, for example, for video conferencing, and for hearings by video, as with bail applications utilizing a link from the court to a correctional centre. There has been substantial improvement in the availability of these important facilities over the last few years, to the point where now, 244 courtrooms enjoy the facility. They include 6 in Cairns, 2 in Mt Isa, 10 in Townsville, 1 at Thursday Island, 1 at Mornington Island, 4 in Mackay, and 3 in Rockhampton. 111 video conferencing systems support the court system state-wide, including 4 at correctional centres and 9 within the Offices of the Director of Public Prosecutions. Facilities are attached to police stations at Doomagee and Mornington Island.

You will have heard me mention some quite remote centres. Let me add reference to the courthouse at Weipa, which is now equipped with a portable evidence playback trolley, which embraces a large plasma display, DVD/VCR and connections for computer-based evidence. This unit is being commissioned, and a video conference facility added to allow for links with remote communities, courts and correctional centres. Also, the Court Technology Group recently tested wireless video conferencing from a laptop using Telstra Next-G service. Those tests were conducted at various locations in the Torres Strait, to test the usefulness of the facility for Far North Queensland generally. The service is



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available on request should there be no other way to present a witness to the court. Recently, for example, it was used to transmit the evidence of a witness from a residence in Acacia Ridge to the Richlands Court, in circumstances where the witness was a severe agoraphobic.

My purpose in mentioning these things is to assure you of a determination to ensure the availability of these important facilities not just in Brisbane, but state-wide. Obviously, some very remote centres are yet to be equipped, and we must recognize there is a finite limit to resources. But the achievements to this point have I believe been not only satisfactory, but encouraging.

### **Costs assessment**

I have spoken about assistance to unrepresented claimants and litigants, and technology. The third matter I especially mention this morning is costs assessment. You know that late last year, the Uniform Civil Procedure Rules were amended to insert a new chapter dealing with costs. That established a new mechanism for assessment, by legal practitioners approved by the Director of Courts. The new regime covers both party and party and solicitor and client assessments. It has been operating now for almost six months, and no problem has been referred to me. At last count, 22 practitioners have been approved as costs assessors, and the significant point I make here, is that they include 14 resident and practising out of Brisbane, there is 1 in Townsville, 1 in Cairns, 4 at the Gold Coast and 2 in Maryborough.

I am gratified the new system is operating satisfactorily. I have spoken previously about the reasoning behind the changes. Suffice for today, that I repeat my view that this is a progressive development which will benefit litigants and the public.

I use this opportunity to urge other practitioners interested in this field to consider applying for appointment as costs assessors.



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The courts depend on members of the profession for their critical evaluation of all these approaches. We greatly value your contributions, should you note an area not working well, or should you be able to suggest a better way forward in some particular respect. This is in the end a collaborative effort, and I personally welcome your contributions.

### **Supreme Court History program**

I turn finally to the Supreme Court Library's initiative in gathering, presenting and displaying the State's legal and judicial heritage, under the aegis of the Supreme Court History Program. The Far Northern, Northern, and Central Judges are all members of the History Program Subcommittee. Capturing the rich legal heritage in North Queensland is integral to the program. I remind you of some of its achievements in this part of the State.

Probably most significant is the North Queensland legal practitioners' on-line database, now freely available on the Supreme Court Library website. It is a compilation of historical information about judges, barristers and solicitors who served or practised in North Queensland from the first non-indigenous settlement at Bowen in 1861 until 1964. The preliminary data was researched by Dr Dorothy Gibson-Wilde, the well known historian and author of histories of the Townsville courts and the firm Wilson, Ryan and Grose. The Library is always anxious to receive more information about these things, and is continuing to develop that database as new information comes to light.

Then there is the oral history project, now well established. Thirty-six interviews have been conducted, including five with North Queensland practitioners: Brian Baxter from the Burdekin, Paul Martinez, John Francis, and Graham Roberts from Townsville, and Harold Westaway from Cairns. The Librarian would, I am sure, welcome suggestions as to persons who may, in North Queensland, act as either interviewer or interviewee.



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You may or may not have caught up with the fact that the Library is now annually producing a year book for the History Program. This is intended to continue, or I should say revive, the tradition of such reference sources as Pugh's Queensland Almanac (1865-1925) and the Queensland Legal Directory (1952-1982), providing a snapshot of the legal year. In addition to providing a record of major judicial and legislative developments, appointments and retirements, admissions and professional associations for the year, the year book publishes scholarly articles relevant to Queensland's legal history. It is, if I may say, a most impressive annual publication, informative and very interesting, and copies may be obtained from the Library. The 2006 edition included former Justice Carter's paper on "The North Queensland Bar 1962-1974". The 2007 edition is now available.

The Library will continue to bring travelling exhibitions to this region. Townsville and Cairns experienced the "Women in the Law" exhibition, and plans are underway to bring the "Queensland Criminal Code" and the "Shakespeare and the Law" exhibitions to Townsville later in the year.

The Library has developed substantially and interestingly over the last 10 to 15 years, led by our indefatigable Librarian. Its nature will change, of course, as the focus shifts even more markedly to the technological presentation of research materials. But the Library's focus is broad, and there is real determination to gather interesting materials of these varieties. Legal tradition vastly transcends what occurs in the courtroom, chambers or office. I urge you to participate in these programs.

I should on this aspect mention finally the possibility of firms depositing their historical materials with the Library. That is now possible even in relation to documents to which client confidentiality would attach, because of amendments in the year 2005 to the *Supreme Court Library Act*. A lawyer may now give an "historic document" to the Library Committee, absent the consent of an interested party, provided that consent cannot practicably be secured. A couple of years ago Allens donated the 37 volume Feez Ruthning Opinion Books, which include some fascinating material illustrating the legal,



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economic, political and social development of this State. They include copies of opinions by illustrious people, including Sir Samuel Griffith. The new statutory provisions facilitated the Library's reception of that material. It has acquired an archival quality digital scanner which safely digitizes these often fragile documents. I know the Librarian would enthusiastically welcome more of these rich sources of information, so that they may be digitized, preserved and appropriately displayed from time to time.

### **Conclusion**

I conclude with this observation: we are a united profession, of which the elements are mutually supportive. The courts, in particular, are ever appreciative of the support of the profession. As Chief Justice, I am privileged to express that gratitude on behalf of all judicial officers in this State. I warmly commend you for your commitment to the maintenance of high professional standards, and for your support of the courts, in this important part of our great State.