

From the Profession

THIRD ASIA PACIFIC COURTS CONFERENCE

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FUNDAMENTAL ISSUES FACING THE JUDICIARY OF THE 21ST CENTURY

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The impending closure of the current 1,000 years in the Christian calendar and the coincidental commencement of the next, has excited interest around the globe. Not the least reason for that is the predicted disasters which will befall those who rely upon computers infected with the Y2K bug. But this aggregation of events may well have been avoided had those responsible paid regard instead to the Chinese lunar calendar. Given that it dates from 2,600BC the problems of the bug would never have arisen or would by now have been long gone.

This is as good a time as any for review, introspection and forecasting. There are plans for the celebration of achievements and commemoration of misfortunes, along with expectations for advancement in all aspects of human endeavour and predictions of doom and gloom. No doubt there are many, however, who share the sentiments of Albert Einstein "I never think of the future – it comes soon enough".

An Internet search discloses hundreds of sites relating to millennium conferences. The range of subject matter is extensive, embracing the relatively innocuous, such as information management and galaxy morphology and those sounding a little sinister, such as "The End of the World as They Know It" and "The Time Bomb". I hasten to add that the first of these concerns environmental factors and the other focuses on the 2000 crisis, as it has come to be called.

The focus of many of these conferences is on lessons to be drawn from the past and their implication for the coming age and so it is here.

Although honoured to be invited to address this session, I wondered what I could usefully contribute. I am a Chief Justice in what

must be amongst the least populous jurisdictions in the region. We have only about 190,000 people spread over a landmass of nearly 1.4 million square kilometres, or one sixth of the Australian continent. It is a multi-cultural society including about 50 thousand indigenous people, the remainder having come from all over Australia and other parts of the world including the Asian and Pacific regions. Early economic development was heavily supported by the labours of Chinese people, many of whom remained. Succeeding generations have made a significant impact for the good of Territory society.

The Supreme Court has six Judges. We sit throughout the year in the capital Darwin, located in the tropical north, and regularly visit Alice Springs in the desert centre of the continent, 1,500 kilometres to the south. It is a court of general jurisdiction exercising its authority in criminal, civil and supervisory cases, and on appeal from lower courts and tribunals. The Judges sit in trials at first instance and also as members of the appeal court. The purpose of this brief sketch about the court and its work is to show the legal issues before it are wide ranging and I suspect that the practical problems facing it are not much different to those in judicial systems elsewhere.

Before proceeding further, it might be helpful if, as lawyers often do, I define the terms of the subject under consideration as I see them. "Fundamental issues" are topics for discussions which go to the essential foundation of the subject matter. Those issues are to be distinguished from the factors which make up the environment in which they arise. The surrounding circumstances may not emerge in all jurisdictions, and those that do may not have the same effect, some may be helpful for the judiciary and others detrimental. I bear in mind that those attending this conference come from different societies, with varying traditional, cultural and legal backgrounds. But the literature discloses that many factors having a bearing upon the judiciary and in the way it discharges its functions are not confined within jurisdictional boundaries. I have selected four environmental factors which may tend to influence the fundamental issues, they are The Consumer, Technology, Globalisation and Planning for Change. Each will be briefly discussed before moving to what I suggest is the essential foundation of

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