

ADDRESS TO THE MAGISTRATES CONFERENCE 2004, NOVOTEL HOTEL, BRISBANE, MONDAY, 8 MARCH 2004

I am honoured and delighted to open this year's Queensland Magistrates Conference – even if not quite first choice! Short notice has advantages! As I am listed in court at 10.15 this morning, I have the glory of opening this significant conference without the burden of preparing a lengthy address, something for which no doubt you, too, can be truly grateful! I will, however, sincerely miss the opportunity to mix with you all at morning tea, an event infinitely more pleasant than what awaits me in court later this morning.

The institution of the Queensland magistracy has a history as long as European settlement in the Brisbane area, yet it is humbling to remember that justice was meted out in what is now Queensland by the ancestors of our indigenous community for 60,000 years or so beforehand. With the establishment of the tiny penal colony of Moreton Bay in the early 19th century, magistrates first dispensed summary justice here in Brisbane. Before long, magistrates, water police magistrates and clerks of petty sessions were also at work in Ipswich and Maryborough. Now, Queensland magistrates dispense justice, in this most decentralised of all Australian States, from Coolangatta to Cairns and out to Camooweal, from Badu Island to Birdsville and from Yarrabah to Yeppoon.

The system of stipendiary or police magistrates survived the colony of Queensland's separation from New South Wales in 1859 and operated simultaneously with a system of justices of the peace. The *Justices Act 1886 (Qld)* was largely drafted by Queensland's first Chief Justice, Sir James Cockle, and was introduced into Parliament by Sir Samuel Griffith. Although much amended, it remains a primary source of jurisdiction for the Magistrates Courts in the 21st century.

It is important to remember the beginnings of the institution to which you belong, but magistrates and their courts have come a very long way from their 19th century predecessors. In 1863 Queensland magistrates could send people to prison for up to six months, and the jurisdiction of the small debts court was limited to a maximum claim of £10. Nowadays magistrates have the power to send offenders to prison for up to three years and jurisdiction to hear civil claims up to \$50,000, exclusive of interest.

Last year, this Court dealt with 65,480 civil claims, 176,174 defendants in criminal matters charged with 314,824 offences, and in the Childrens Court 13,026 defendants charged with 26,162 offences. Today's Queensland magistrates are professional judicial officers, experienced lawyers and sound administrators, embracing technology and continuing legal education.

Up until 1991, despite your important judicial work, you were not recognised as truly independent judicial officers because you were employed public servants. Now, magistrates' salaries are determined by the independent Salaries and

Allowances Tribunal. Although for some time you have used the committee system to involve many magistrates in the collegiate administration of the court, legislative recognition is now given in the *Magistrates Act 1991 (Qld)* to a collegiate approach to the administration of your court with the establishment of a Court Governance Advisory Committee. These and other recent changes to the Act are long overdue recognition by the legislature of the application to magistrates of the fundamental internationally recognised principle of judicial independence

It is fitting that on International Women's Day I note another major change to the magistracy since its commencement here in Queensland in the early 19th century. There were then no women magistrates. Now, approximately 25 per cent of Queensland magistrates are women. The appointment as judicial officers of capable women and of others with a background more diverse than traditional appointees reinforces community confidence in the court and provides an excellent role model for all members of the community, especially girls, young women and members of minority groups. The appointment of magistrates from more diverse backgrounds also enriches the bench as a whole as magistrates share experiences with each other off the bench.

These days your court's wide jurisdiction includes the Small Debts Court, the Industrial Magistrates Court, a significant area of Commonwealth jurisdiction, and the important, sensitive and emotionally charged areas of law governed by the *Child Protection Act 1999 (Qld)*, the *Domestic and Family Violence Protection Act 1989 (Qld)* and the *Family Law Act 1975 (Cth)*. A significant component of your work concerns the taking of evidence from children and the specialised jurisdiction of the Childrens Court. I note that you will be considering the new *Evidence (Protection of Children) Amendment Act 2003* later this morning. This court has shown innovative leadership in its participation in the Queensland Drug Court pilot program. The Magistrates Court also encompasses the important role of State Coroner, about which you will be hearing more this afternoon.

Another positive recent development in the life of the Queensland magistracy is the provision for the appointment of part-time magistrates. Not only is this a clever way of attracting to the magistracy talented young women lawyers who would otherwise not consider appointment because of family commitments, but it opens flexible possibilities for others. More and more male professionals want to be involved in the active rearing of their young children. I am confident it will not be long before the male lawyers who have young children are also attracted to the magistracy because of this part-time option which will truly allow them to share child-raising with their professional partners. Some experienced magistrates have found the demands of full-time work too onerous as they age; they have retired and the magistracy has lost their invaluable experience; part-time appointments for these magistrates may also prove to be mutually beneficial to magistrates and the magistracy.

The over-representation of indigenous people in the criminal justice system remains an area of concern to all courts and to right-thinking members of our society. You are to be commended for sensitively embracing the concept of

consultation with community justice groups in the sentencing of indigenous offenders. I note that much of the conference program is dedicated to discussing indigenous issues.

One of your sessions tomorrow afternoon concerns litigants in person. The challenges presented by self-represented litigants are not limited to your court; they are a growing concern in all courts, including the High Court. In 2002-2003, 205 of the 616 matters heard in the Court of Appeal (33.2 per cent) involved matters where one or both parties were not legally represented. In all courts, the number of unrepresented litigants has steadily increased in recent years and this places an added burden on the registry staff and judicial officers. The Court of Appeal has developed a system of information sheets and an up to date web page to assist litigants in person. I understand that information is also of considerable assistance to lawyers, especially those who do not appear in the Court of Appeal regularly. No doubt you are framing your own strategies to deal with this development.

I wish to thank each of you for the important judicial work you perform deciding each case in your heavy workload according to law with diligence, courtesy, independence, measured compassion and in a timely fashion. And remember, as former Chief Justice Dormer George Andrews once said to a young barrister appearing before him, who was more used to appearing in the Magistrates Courts and who consistently apologised for referring to the Chief Justice as "Your Worship": "Oh well, Mr X, I suppose it is better to be worshipped than honoured!"

I am confident you will find this year's program stimulating and informative and that you will leave enriched, not only from the high quality of the papers, but also from the interaction with your fellow judicial officers.

It is with great pleasure that I declare the Queensland Magistrates Conference 2004 open.