

**CITY NEWS QUEENSLAND BUSINESS WOMEN'S
BREAKFAST EVENT, FRIDAY, 10 MAY, 2002, 7.00-9.00AM,
ROYAL ON THE PARK (EDITED)**

It is wonderful to be here this morning with so many bright-eyed Brisbane breakfasters. What a good idea to forego the chaos of home, the demands for lost school hats, missing sports socks and complaints about unironed uniforms for a delicious silver-service breakfast, polite conversation and intellectual stimulation whilst also helping The Smith Family.

Even public speaking has to be better than a bad morning at home. I'm sorry to tell those of you with babies and toddlers that your problems don't end once you get past poo-ey nappies, reflux on the shoulder of your freshly dry-cleaned best jacket just when you are about to make a run for the car, and having your face splattered with spat-out cherry-flavoured Panadol, dutifully administered for those frequent high temperatures.

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I was privileged to be appointed President of the Court of Appeal in 1998. This is a stimulating and demanding role. The jurisdiction of the Queensland Court of Appeal is diverse, covering both civil and criminal appeals. For most purposes, the Court of Appeal is the final appellate court in Queensland, as special leave is needed to appeal to the High Court. Every case is unique, with its own challenges; it is always important to those directly or indirectly touched by it. The work is often intellectually rigorous. My role provides an opportunity to play a part in the good government of Queensland, for while the courts are fiercely independent of the legislature, it is not always appreciated that the courts and the judiciary are themselves an arm of government.

I have shared something of my story. Every magistrate and judge in Queensland brings to the bench not only their legal qualifications and professional experience, but also their personal attributes and encounters. Each has a unique life story. In 1990, there were no women judges or magistrates in Queensland. Today there are 15 women magistrates from a bench of 75; 5 women District Court judges from a bench of 35 and 7 women Supreme Court judges from a bench of 24. Four magistrates have an indigenous or Torres Strait Island background. A number of judicial officers are first or second generation migrants. Increasingly, the composition of the judiciary reflects the qualifications and talents of our multicultural society of indigenous and migrant Australians, in which women are playing their rightful role.

This diverse body of men and women, the judiciary, is enthusiastic to ensure the public understands its important constitutional role as an independent arm of government to which individuals can turn to impartially enforce their rights against other citizens, corporations or the State. The courts are proud of their tradition of openness and encourage the public to exercise their right to attend court hearings. You should all have been provided with a copy of the booklet recently launched by the Chief Justice "Our Courts ... an inside look". I urge you to take it with you, peruse it and refer to it in the future. We judges hope this booklet will help lay people better understand the judicial system and to feel more comfortable when they attend court, whether as victim, juror, witness, litigant, support person or interested observer.

Perhaps I have dispelled some stereotypical assumptions you may have about judges. Judges are frequently criticised in the media, especially as to their sentences, and are said to be out of touch with the community and its values. Often, that criticism is not warranted.

Please do not think that I am anti-media: the media plays a crucial role in democracies like Australia. I have enormous respect for journalists like Max Uechtritz, who fearlessly and impartially scrutinise all arms of government, including the judiciary, in the interests of the protection of democracy and better government. Time and again throughout the world, when the pillars of democracy are shaken, the first casualty is the free press and the brave journalists who work to defend it. I agree that inappropriate judicial behaviour should be exposed to the public by a vigilant media. In the long term, this can only result in a more accountable, stronger and better judiciary. But if the community is well-served by its judiciary, as in Queensland, it is essential that the public has confidence in it. Unfair reporting can wrongly undermine that confidence. Generally, the quality of reporting of legal cases by the print media and the ABC in Queensland is responsible, accurate and fair.

But some elements of the media find irresistible the easy target of a judge's or magistrate's sentence and unfairly snipe at it. It is not demanding, investigative journalism to state some facts and ignore others so as to make a sentence for a crime of human interest appear peculiar and to invoke a strong public reaction. A victim, or the victim's family will often, understandably, feel aggrieved, even by a fair and appropriate sentence. A judge must balance on the one hand society's and the victim's interest in punishment and deterrence and on the other, society's and the offender's interest in rehabilitation. Unfortunately, complex issues such as sentencing, which turn on the unique facts of a particular case, are too often trivialized by cries for the appealingly simple solution of heavier penalties. Heavier penalties do not always provide the answer. The punitive treatment of Germany after World

War I in the Treaty of Versailles created a milieu in Germany of resentment and injustice in which Hitler and Nazism flourished and is now recognised as a major cause of World War II. Where appropriate, punishment should be tempered by rehabilitative considerations. I believe that, in the great majority of cases, if the public had access to all the information placed before the sentencing judge, they would appreciate these competing interests and understand why a judge imposed a particular sentence. The correctness of this view is borne out by case studies which have found that the hypothetical sentences imposed by lay people with full details of the case were the same, or more lenient, than the actual sentences imposed by judges.

Although judges should never be influenced by knee-jerk uninformed public opinion, they are responsive to sensible, informed, community ideas about justice. Over my 26 years in the law, I have seen a significant increase in penalties for dangerous driving offences, offences involving sexual abuse of children and offences of physical violence, especially armed robbery and domestic violence.

It is important to understand that judges give reasons in open court for the sentences they impose. A sentence which is plainly too lenient, too heavy or otherwise inappropriate, or which is inconsistent with comparable cases will be corrected on appeal. The Court of Appeal encourages quality reporting of cases by ensuring all branches of the media and the public have immediate access to its delivered judgments. I urge you when next you hear or see a media report about a sentencing matter before my Court, the Court of Appeal, which you think seems odd or just plain crazy, go to the courts' website, www.courts.qld.gov.au, read the judgment and reach an informed opinion. If you are interested in the justice system, visit the courts – your courts. And please, take an inside look! Happy bedtime reading!