



CHRISTMAS GREETINGS CEREMONY and PRESENTATION OF SENIOR COUNSEL

Wednesday 10 December 2003, 9.15am

I invite the recently appointed Senior Counsel to make their announcements

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Would those Senior Counsel please come forward to sign the roll?

On behalf of the Judges, I congratulate you on your appointments. They signify substantial personal achievement. Especially with the current scrutiny of the institution of Senior Counsel occurring in some jurisdictions, notably the United Kingdom, you are particularly challenged to work to demonstrate the high level skill and learning which should characterize Senior Counsel – not to mention the integrity, honesty, independence and diligence which are assumed.

We wish you well as you embark upon this new phase of your professional careers.



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I welcome all in attendance today, noting the presence of the Attorney-General, the Chief Judge and Judges of the District Court, Judges of other courts, retired Judges, Magistrates, members of Tribunals, and also importantly members of the profession, led by their Presidents. I must also acknowledge some other special guests of the Court, but following some introductory remarks.

At the Supreme Court Judges' 9th annual Easter seminar held in April, we were given an interesting presentation on the subject "Alcohol and Illicit Drugs: alternates to imprisonment", focusing on the indigenous community. The presenters were Professor John Saunders, Dr Toni Makkai and Ms Boni Robertson of Griffith University.

There is disproportionate representation of indigenous people among those who appear in the criminal courts of this State, and as has many times been observed, in the prison population. Hence the topicality of the presentation given to us in April. I recently agreed to a forum on these subjects in this courtroom early next year, to be convened by the Caxton Legal Centre and the Queensland University of Technology.



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In this context we warmly welcome today Aboriginal elders, Mrs Glenys Croft, Mrs Val Hahn, Ms Jianna Richardson and Ms Monica O'Callaghan, and we are honoured by their presence. We also welcome Ms Boni Robertson, Director of the Gumurrii Centre.

Speaking of next year's proposed seminar, and the presence of the elders today, I wish to quote something said by a Ganggalida spokesperson from Doomadgee, Wadjularbinna Nulyarimma in an interview with Caroline Jones (quoted in Larissa Behrendt: *Achieving Social Justice, Indigenous Rights and Australia's Future*, Federation Press, 2003):

"First of all you have to learn about us. Education has been a one-way street for 205 years. Learn about us and what makes us tick. Accept that we *are* different. Don't try to make us into white people. Accept us and respect us as you are expecting us to respect *you*. Respect us with our differences and we will respect *you*. We can live in harmony in this country despite all the things you have been doing to make people go into the mainstream – once people are recognized as the people we *are* then reconciliation will follow automatically and all these colleges and universities, all the doors won't be able to hold my people. They will go through them because they'll feel good about themselves. They'll identify as the people who have lived here for thousands of years. They'll have so much to contribute they'll walk through those doors in pride. That is the secret of the change that must take place in this country."

The effective work of the community justice groups is one example of contemporary courts' being better informed at the criminal sentencing stage. I was recently very impressed by what I learned of the work of the Palm Island group, apparently accomplished with common sense and a deal of courage.



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Mention may also be made of the "Aboriginal English in the Courts" handbook produced a couple of years ago and recently redistributed; and as well, a current project within the Court, to produce a "benchbook" for the guidance of the Judges, on approaches to culturally sensitive issues, as the judiciary serves an increasingly multi-cultural community.

The "justice according to law" rendered through the courts of this State is delivered, in the words of the judicial oath of office, as "equal justice to the poor and rich...without fear, favour or affection". As the traditional depiction of the blindfolded Themis suggests, justice is unconcerned about points of immaterial distinction. The comparative disadvantage from which many Aboriginal people, indeed many people generally, suffer, is however a feature of real concern to all lawyers, both professionally and as compassionate human beings, and should be.

The Supreme Court of Queensland will celebrate its sesquicentenary in the year 2011. This year 2003 marks the centenary of the High Court of Australia and the centenary of the Bar Association of Queensland. Each of those histories, substantial though it be, is however but a dot in the time line of which we are today reminded by the presence of our fellow citizens of Aboriginal descent, a presence which signifies the inclusive character of our mission, at the same time refreshing our appreciation of the particular problems faced by indigenous people within the community we seek to serve.



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It was in mid-September that I was privileged to visit Palm Island. Magistrates regularly sit in court on Palm Island, but they are apparently the only State judicial officers who have ever done so. I applauded their rapport with the Palm Islanders. Perhaps intrusively, I questioned why the judicial presence on Palm Island should be confined to the Magistracy. Over recent years Judges of the District Court have been sitting in comparatively remote centres in Cape York and elsewhere. I am very pleased to note now that the District Court will next year commence sitting on Palm Island to dispose of criminal sentences, rather than its being necessary for defendants to travel to Townsville. It is obviously desirable that courts should, so far as practicable, sit in the locale of the conduct which explains the court's involvement. There is every reason why the people of Palm Island should enjoy that facility, and I believe it will be good for the esteem of their community. I sincerely thank the Chief Judge for her cooperation in this matter, and Judge Pack for his interest in assuming the function.

I again thank the Elders and our other special guests for their presence this morning.

May I report now, on a completely different issue, that the Rules Committee has completed its work on the expert evidence rules, which we are hoping will shortly be brought into effect by order-in-council. I thank all participants in the



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lively debate which has accompanied the development of these progressive rules.

I also wish to say a little this morning about the Bar centenary. The Bar Association is to be congratulated on a memorable calendar of centenary events. I congratulate the President Mr Martin and the Chairman of the Organizing Committee Mr Daubney. They exemplify a Bar of high quality, in terms of both professional competence and ethical commitment. I also express my view that it is more than coincidental that the senior professional posts of President of the Law Council of Australia and President of the Australian Bar Association are currently both held by prominent Queensland barristers, each a former President of the Bar Association, Mr Gotterson and Mr Glynn. It is unsurprising that as our State's significance in the constellation of the Commonwealth steadily increases, so does the role played on the national stage by its leading members.

Our Bar Association has been a unifying force, serving a Bar of manageable size. With a membership of about 640, our Association contrasts with its counterparts in New South Wales and Victoria, which have comparatively very large memberships, 1,900 and 1,500 respectively. The Bar Association of Queensland has, I believe consequently, been an effective instrument over the years for cohesion amongst its members. That cohesiveness has helped enhance ethical perceptions and professional standards generally.



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The Association has been a reasonably effective regulator within the constraints of available resources and mechanisms. But it has for some time been of concern that all practising barristers in this State have not, by joining the Association, been prepared to subject themselves to its disciplinary regime, and that especially leaves one sanguine about the new scheme intended under the *Legal Profession Act 2003*.

Of course implementation of that Act will, down the track, necessitate detailed consideration of many issues. But I am particularly pleased, for the present, to note the legislative acknowledgement, implicit, of the importance of maintaining a separate independent Bar in this jurisdiction notwithstanding the engrafting of the national scheme for admission, and the express preservation of the role of the Supreme Court and the Bar's relationship with the Supreme Court, as its officers. As has many times been said, it is to the court that the lawyer owes his or her professional legitimacy: the court admits the lawyer, the court ultimately rules on questions of professional fitness, and it is to the court that the lawyer owes the predominant duty which distinguishes the lawyer from other professionals.

The celebration of the centenary of the Bar Association marks only a pause in a continuum of public commitment. As I have said this year on a number of occasions, including at the Cairns conference in April and the ceremonial sittings and centenary ball in June, one may have confidence the Association



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will continue to lead the Bar of this State with wisdom, vigour and progressiveness.

The efficient disposition of the court's work this year has been greatly facilitated, not only by the Bar, but also, of course, by the solicitors. That I have dwelt for a time on the Bar Association should not be thought to obscure my respect and support for the Queensland Law Society as it continues to serve the solicitors of the State, and thereby the public. I am confident the Society will effectively adapt to the new legislation, and in evolving, maintain its relevance.

The Registry and Administrative staffs of the Court have continued to serve with dedication, diligence and competence, for which I say thank you.

Maybe I will disappoint some people by not this morning pleading with the Attorney for more resources, or dilating on the condition of the courthouses. Let goodwill and optimism mark the occasion! Those who are interested about these important matters may read my remarks in the Supreme Court's annual report which I presented to the Attorney in mid October and which will no doubt shortly be tabled.



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My colleagues and I express thanks to all who have this year helped us effect our mission, including our spouses and partners, and we wish all a happy, restful and re-invigorating festive season.