

CENTRAL QUEENSLAND LAW ASSOCIATION DINNER TO CELEBRATE THE CENTENARY OF THE FIRST CENTRAL JUDGE The Hon Sir Gerard Brennan, AC KBE Chief Justice of Australia 1 December 1995

Rockhampton, Q

I am delighted and honoured to be invited to propose a toast to the Central Judges. Apart from the fact that my father was the longest serving Central Judge - whose record will be eclipsed by Mr. Justice Demack if Rockhampton is fortunate to retain him here - I have known six of the 9 Judges who have served in that capacity and this toast gives me an opportunity to say something about the importance of the Central Judiciary to the community whom it serves. 1. Mr. Justice Power 1895-1910 2. Mr. Justice Lukin 1910-1922 3. Mr. Justice Jameson 1922 (April-December) 4. Sir James Blair 1922-1925 5. Mr. Justice Brennan 1925-1947 6. Sir Joseph Sheehy 1947-1965 7. Mr. Justice D.M. Campbell 1965-1973 8. Mr. Justice Kelly 1973-1978 9. Mr. Justice Demack 1978- Tonight's celebration of 100 years of judicial service in the Central District is an occasion for tribute to those who have rendered that service. It was not always easy. The Central Judges were judicially isolated and, even with today's ease of transport and communication, there is still a significant separation of the Judge from both his peers and, of necessity, from the community which he serves. It is an occasion for thanksgiving for the services of all the Judges who have served as Judges in the Central District, whether as the Central Judge of the Supreme Court or as a resident Judge of the District Court. In particular this evening we pay a tribute to those Judges present who are serving or have served in those capacities. But the occasion is also an instruction about the society in which we live and the future of this country for which we hope. Oftentimes, a reference to our society or our future is taken as a reference to some passing political policy or political aspiration. But when we speak about our society or our future in the context of the judicial branch of government, we are speaking about something far more fundamental and, we hope, more enduring. We are speaking about the rule of law. The rule of a uniform law, uniformly applied, is the legacy of 800 years of legal history. In the second half of the twelfth century, when Henry II put the practice of the local administration of justice on a firm footing and subjected the local interests of the Crown to judicial procedure, his reforms, says Holdsworth ¹ -

"tended to strengthen the belief... that the maintenance of a supreme law was the great aim of government. It is a belief which is a condition precedent for the stability of any sort of constitutional government".

Henry's reforms -

"caused the idea of the supremacy of the law to be no mere technicality of the lawyers or abstraction of the philosophers, but an article in the political creed, and a part of the political instinct of all Englishmen."

These were the sentiments expressed by T.J. Byrnes, the Attorney General who, in introducing the Bill which led to the Act creating the Central District and the office of Central Judge said this ² :

"[T]here is no subject of greater importance to the people of any civilised nation than the constitution of the tribunals which have ultimately to decide on the highest rights of the people."

The 1895 Act which created the office of Central Judge did not command the universal support of the Legislative Assembly. The Northern District lost one of its two Judges to Rockhampton and that loss was the subject of considerable debate. But the argument from Central Queensland, eloquently put by Mr. Curtis (then member for Rockhampton) was that ³ -

"Central Queensland is in a far more advanced position in every way than Moreton Bay was at the time of separation... and yet immediately after separation Moreton Bay had two judges. The population of Central Queensland is more than twice the population Moreton Bay had in those days, and its revenue is five or six times as much and I contend that the Central division, by reason of its extent of territory, its resources, its population, its revenue, its export and import trade, is in every way entitled to a resident judge at Rockhampton."

That argument carried the day. Tonight it is worth reflecting on the reasons why the office of Central Judge was created. A large territory, the demands of industry and commerce which cannot be carried on except in

the environment of the rule of law, a significant population whose peace, security and relationships cannot be assured except by the rule of law, public revenue which cannot be efficiently raised and the administration of government which cannot be adequately controlled except by the rule of law. We have become so accustomed to the rule of law in our peaceful society that we are as unaware of the mechanisms for sustaining it as we are unaware of the air we breathe. If there were no judges to enforce the rule of law, competently and impartially and, let it not be overlooked, if there were no lawyers who advised on and applied the rule of law in the daily work of their chambers and offices, we would not have the society we value and future generations would have to begin again the upward path from savagery. The rule of law is not maintained by force; it is maintained by confidence. For 100 years, that confidence has been preserved by the Central Judges. If it were otherwise, we would not be here tonight. But we are here tonight, and we give thanks for the service of the Central Judges who have brought the peace and order which are essential to our society.

[1](#) History of English Law, (7th ed), vol 1, 284.

[2](#) Hansard of the Legislative Assembly of 21 November 1895 p.1744.

[3](#) Hansard of the Legislative Assembly of 5 December 1895 p.1951.