

**LOCAL COURTS OF NSW CONFERENCE 2011**  
**Amora Hotel, Sydney**  
**2 June 2011**

In many respects, Magistrates are the public face of the law.

They are the main players in the first experience that many people have of a court. And most hope – despite the many pleasant faces I see here today – that it's their last.

Magistrates preside over Local Courts, which hear the majority of criminal and civil proceedings in NSW. They deal with summary and committal proceedings in criminal matters, civil actions involving claims of up to \$60,000, and other matters such as children's care proceedings, coronial inquests, mental health inquiries, applications for apprehended violence orders, traffic and other minor offences.

The workload can be crushing.

Yet In 2008/09 NSW Local Courts continued to rank first in Australia for timeliness.

When you also consider that nearly 90 per cent of the criminal matters in NSW being are finalised in the Local Courts, they are the workhorse of our judicial system.

It can be tough work, and very often you do it without the assistance of the legal profession. Self-represented litigants can represent particular challenges.....

Professional magistrates carried a major share of the responsibility for the administration of civil and criminal justice from the earliest days of settlement.

Yet around 50-60 years ago, there started being debates about whether magistrates should stay within the public service- and be subject to its system of recruitment, grading and remuneration – or whether they should accept the independence associated with judicial status.

These discussions took place in the background of international human rights movement, and pressure for countries to adopt international standards when it came to the administration of justice.

I am sure many of you would have heard Murray Gleeson speak on this issue at the 2008 edition of this conference.

I will quote the former chief justice: “What stake is not some personal or corporate privilege of judicial officers; it is the right of citizens to have their potential criminal liability, or their civil disputes, judged by an independent tribunal ....

“Plainly, independence in the exercise of criminal jurisdiction includes independence of the executive government, because the executive government itself is a party to most criminal proceedings.

“The position concerning civil justice is essentially the same, although perhaps less obvious. The executive government, in one or other of its manifestations, is frequently a party to civil litigation. The rule of law does not require that all controversies about rights and liabilities be decided by courts.

“The exercise of judicial power is only one of the ways in which controversies are resolved; in some respects it is one of the least satisfactory ways.

“Other kinds of dispute prevention or resolution, more or less formal or informal, have more to commend them; and administrative decisions, whether or not subject to judicial review, affect the rights of most citizens more than judicial decisions.

“Yet the right to go to court, even if only as a last resort, is a vital safety net. It may be the only way of standing up for your rights, or forcing others to face up to their responsibilities.”

So – as far as expectations of the public go - the bar has been set fairly high.

Perhaps we can blame programs such as *Rafferty's Rules* who present the jolly face of the law (you added Rumpole of the Bailey).

It is not enough to be simply civil, any more. The public, rightly or wrongly, now think there is an obligation on magistrates to act in an almost saintly fashion.

The scrutiny can be intense. Proceedings are not simply recorded by shorthand writers, but by tape recordings and sometimes video. And then there is the Media.

What performance standards do you set for yourself. For example, do you reflect at the end of each day on this issue - whether, if you had been the person appearing in court would have you enjoyed the experience?

Perhaps "enjoy" is too high a bar. Let's settle for "walking away feeling you had been treated with courtesy and respect".

You - indeed all of us - should never be frightened to admit we are under pressure. Are if we are to go and get help.

Don't wait for continual complaints to be lodge and then seek help. There are good people you can seek out, such as the Chief Magistrate.

I know he has open door policy that respects confidences – and the stresses you are under – and accepts that some of you, will ... from time to time ... be overwhelmed.

I have worked with a lot of good people in our courts, and many of them have been magistrates. That you are now recognised as judicial officers – rather than public servants – is testimony to your importance to the administration of justice in New South Wales. I thank you for your contribution.

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I trust you'll have an enjoyable conference, and I will see you at dinner tonight.