



*Royal Association of
Justices of Western Australia (Inc)*

2007 Annual Conference

Opening Address

The Hon Wayne Martin
Chief Justice of Western Australia

21 July 2007
Central Law Courts

I would like to commence my remarks by acknowledging the traditional owners of these lands, the Nyoongar people, and by paying my respects to their Elders.

It is a great pleasure and an honour to deliver the opening speech at the Association's annual conference. I might observe at the outset that I have the pleasure to also share with you appointment as a Justice of the Peace of this State, as one of a number of office-holders, including the judges and magistrates of our various courts, to hold that distinction.¹

Royal Association of Justices of WA (Inc)

There are more than 3500 Justices of the Peace in this State, who volunteer their services to provide an integral link in the judicial system.² The demography of our State, particularly those vast areas that are sparsely populated, makes it essential for the justice system to rely upon the services of prominent and respected members of local communities for the efficient administration of justice. Even in the metropolitan area and regional population centres, there is much that simply can't be done by our limited number of salaried magistrates. The Royal Association of Justices of WA (Inc) serves to promote this critical role you play in our judicial system.³ With some 20 branches of the association throughout the State – and importantly 13 of those in rural and remote regions of the State,⁴ the Association provides an important service, both in representing your interests in Western Australia as well as providing educational and other services to ensure that you are best able to perform your important

¹ *Justice of the Peace Act 2004*, s 12.

² DOTAG website.

³ DOTAG website.

⁴ DOTAG website.

judicial and administrative functions as an integral part of our justice system.

The Association has a long and impressive history, beginning in 1916 when the Justices Association of WA was formed, and becoming the Royal Association of Justices in May 1964.⁵

Justices of the Peace - History

However, as many of you with an interest in matters historical will know, your office is one whose origins are of far greater antiquity. The title "Justice of the Peace" derives from the fourteenth century, in the reign of Edward III,⁶ with the passage of the *Justices of the Peace Act 1361*. Although this legislation formally recognised the office, the origins of the role are even more ancient. An Act of 1327 had referred to "good and lawful men" to be appointed in every county in the land to "guard the Peace",⁷ but the role is ultimately traceable in Britain to the twelfth century, when in 1195 Richard the Lionheart commissioned certain knights to preserve the peace in unruly areas; known then as *custodes pacis* (keepers of the peace).⁸

Justices of the Peace served communities in the United Kingdom for more than half a millennium. Recognising this vital role, they were introduced in Western Australia with the founding of the colony in 1829, when Captain James Stirling appointed eight justices of the peace, originally referred to as 'conservators of the peace', to "inquire into the

⁵ DOTAG website.

⁶ As noted at <http://www.hmcourts-service.gov.uk/aboutus/history/magistrates.htm>, as at 2 July 2007.

⁷ As noted at <http://www.hmcourts-service.gov.uk/aboutus/history/magistrates.htm>, as at 2 July 2007.

⁸ As noted at http://www.justice.sa.gov.au/justices_history.htm, as at 2 July 2007.

truth of felonies, poisonings, enchantments, sorceries, arts-magic, trespasses, forestallings, regratings, ingrossings and extortions whatsoever".⁹

Nature of the role

An appointment as a Justice of the Peace is an honourable and noble appointment, from its earliest history seeking "good and lawful" persons who provide their services voluntarily and without remuneration. As your State President, Mr Colin Beauchamp, recently observed when he asked "why Justices of the Peace continue to do what we do without getting paid and without getting proper recognition":

He said:

"I believe that we as Justices of the Peace have dedicated ourselves to ensuring where possible a level playing field for all of our fellow citizens regardless of age or nationality. I also believe that in our dealings with the Police, especially in the area of search warrants we are there to ensure that only under strict guidelines as provided within the Act, can they invade someone's privacy."¹⁰

Mr Beauchamp also observed that the "work load of Justices of the Peace in Western Australia continues to grow".¹¹ In particular, while Justices of the Peace have an important role in our larger cities, it is in country and regional Western Australia that they have a vital role - providing services, in areas where salaried magistrates can only visit occasionally. It was in recognition of this role that new legislation regulating Justices of the

⁹ As noted in http://www.justice.wa.gov.au/H/history_of_jps_in_wa.aspx?uid=5224-1452-0549-1056, as at 2 July 2007.

¹⁰ As noted in the President's Report (available at <http://www.rajwa.org.au/content.asp?Rowid=5>, as at 2 July 2007).

¹¹ As noted in the President's Report (available at <http://www.rajwa.org.au/content.asp?Rowid=5>, as at 2 July 2007).

Peace was enacted in 2004, ensuring that the role will continue to be a central part of our system for the administration of justice in our contemporary community and into the future. As our Attorney General, Mr Jim McGinty, observed in the second reading speech to that legislation:

"Given their roles and responsibilities, it is important that our community has confidence in persons who are appointed as JPs and, correspondingly, that JPs have the requisite training. ... They are men and women who perform a wide range of services for the community and who are involved in the justice system.

...

The Bill retains the very best traditions of JPs and their role. In doing so, the Bill will replace the 101-year-old legislation with dedicated new legislation that better defines the role of a JP for our modern community."¹²

Today's conference is an important aspect of the continuing education program which will help you keep up to date with our ever changing laws and justice procedures.

Your appointment by the Governor authorises you to carry out a wide range of administrative and judicial duties in our community:

"As well as presiding in the Magistrates Court, justices of the peace are regularly called upon by the WA Police to sign search warrants and authorise the issuing of summonses. The administrative tasks include witnessing affidavits and documents such as wills and statutory declarations."¹³

¹² Legislative Assembly, *Hansard*, 4 December 2003 (available at <http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Bills++All>, as at 2 July 2007).

¹³ DOTAG website.

And most commendable of all, you voluntarily discharge these important functions, in a role that often does not receive the public recognition that I believe it properly deserves.

Regional Australia

Most important of all perhaps is your work in regional Western Australia. It is predominantly in regional areas that you will be required to preside in Magistrates Courts.¹⁴ As Mr Beauchamp has observed:

"Justices of the Peace who preside in Courts in Country WA, when considering the distances involved, around 3500 klms from one end to the other, face a difficult task. Magistrates in some areas only visit a locality once a month. This places a great deal of responsibility on the local JPs to ensure availability and on the Association to make available up to date sound knowledge of changes to West Australian laws."¹⁵

Indigenous issues

Given the amount of your work which is conducted in regional areas, you would have a better picture than most about the numbers of Aboriginal people coming before our courts, and the issues they face. Despite decades of well-intentioned effort, the over involvement of Aboriginal people in the criminal justice system is increasing, rather than decreasing. We are looking at alternative ways to deal with this issue. One important achievement has been the opening of the Kalgoorlie Community Court. Although its success has yet to be formally assessed, the initial indications are that it will both reduce recidivism and increase the

¹⁴ DOTAG website.

¹⁵ As noted in the President's Report (available at <http://www.rajwa.org.au/content.asp?Rowid=5>, as at 17 July 2007).

confidence of the Indigenous community in the court process - a process which in the past has been seen as largely irrelevant to indigenous people. This is the most recent of a range of problem solving Courts within the Magistrates jurisdiction, including the Drug Court, Family Violence Court, Intellectual Disability Diversion and the Mental Health List.

These developments present rays of hope in improving the relevance and effectiveness of our criminal processes. Ultimately of course there is a limit to your capacity (and of the courts generally) to reduce the over-involvement of Aboriginal people in the criminal justice system. That is because criminal behaviour is often the symptom of a raft of underlying causes. With Aboriginal people, those underlying causes often include poor health, education, housing, social and cultural dislocation, lack of employment opportunity and substance abuse. Unless and until those issues are addressed by other agencies of Government, I fear there is not a great deal the courts themselves can do to reduce Aboriginal offending. However, the recent attention given to these issues by a range of Governments gives cause for optimism in this area.

In all of this, your efforts are vital. It is through your efforts that the justice system operates as efficiently as it does in such a diverse and vast jurisdiction. Central to assisting each of you in the discharge of these important functions is the Association, which discharges its functions with a small but dedicated administrative staff. I would like to thank the Association for the invitation to address you conference this morning.