Supreme Court of Tasmania

2008-2009 Annual Report

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SUPREME COURT HOBART

THE CHIEF JUSTICE'S ANNUAL REPORT

FOR

THE SUPREME COURT OF TASMANIA
2008 - 2009

This report is submitted in accordance with s194H of the *Supreme Court Civil Procedure Act 1932*, pursuant to which the Chief Justice is to provide a report to Parliament. This report is to include details as to the administration of justice in the Court during the current year and any other matters that the Chief Justice considers appropriate.

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THE YEAR AT A GLANCE

- **SUPREME AND FEDERAL COURTS JUDGES CONFERENCE**
  95 judges from Australia and overseas attended this conference which was held in Hobart in January 2009.
- **ROLE OF A JUDGE IN THE COMMUNITY**
  The Judges are involved in a number of committees and organisations outside their role in the courtroom.
- **NEW CRIMINAL PROCEDURES**
  A preliminary review shows that the new procedures commenced on 1 February 2008 have reduced court delays.
- **MEDIATION IN THE SUPREME COURT**
  The nature and development of mediation since its introduction in the Court.
- **BUILDING MAINTENANCE**
  The holding cells and the foyer of the criminal building in Hobart have been refurbished.
- **BUDGETARY RESTRICTIONS**
  The Court is reviewing procedures to identify areas where changes can be made to reduce expenditure.

THE YEAR AT A GLANCE

CRIMINAL JURISDICTION

Originating matters	772
Appeals	36
Total matters lodged	808
Finalised First Instance	770
Finalised Appeals	25
Total matters finalised	795

CIVIL JURISDICTION

Personal Injury	304
Debt Recovery	118
Corporations Law	10
Winding up Applications	4
Registered Judgments	3
Other Proceedings	569
Total Lodgments	1008
Total Appeal Lodgments	80
Total Finalised First Instance	981
Total Finalised Appeals	93
Total matters finalised	1074

PROBATE

Grants of Probate	1961
Grants of Letters of Administration	162
Reseal	33

MEDIATION

Personal Injuries Motor Vehicle	41
Personal Injuries Industrial	17
Contract	20
Testator Family Maintenance	20
Relationship Act	52
Building	5
Other	72
Total conducted	227
Total settled at mediation	120

Chief Justice Crawford

The Judicial Year in Review

The Court has provided mediation for civil disputes since 1993, which has resulted in many civil matters being settled without the need for a trial. In this report I reflect on the beginnings of our mediation program and the way it has developed. A more recent development has seen changes to committal procedures and pre-trial criminal case management and some preliminary observations are made about the effects of those changes. Other developments during the year included the refurbishment of part of the Court buildings and the holding of a judicial conference in Tasmania which attracted attendance from a wide range of jurisdictions.

Supreme and Federal and Courts Judges' Conference

In January the Supreme and Federal Courts Judges' Conference was held in Hobart. This is an annual conference held for the judiciary which provides an opportunity for judges of Australian Supreme and Federal Courts and the New Zealand High Court as well as judiciary from other countries to meet and discuss topical legal issues, and to hear addresses on matters of current interest.

Justice Alan Blow served on the conference committee and was instrumental in directing arrangements for the conference. Other members of the Court, such as Justice Tennent, assisted with some of the conference organization and judges, the Registrar and members of the legal profession assisted by hosting visiting members of the judiciary to dinner in their homes.

Approximately 95 judges attended the conference from the High Court of Australia, the Supreme Courts of other States and Territories, the Federal Court, the New Zealand High Court and some overseas countries, namely Singapore, the Solomons, the Philippines, Tonga and Timor Leste.

Conference speakers included retired High Court Justice Michael Kirby AC CMG, academics and members of other professions such as the Inspector General of Intelligence and Security. Topics discussed ranged from Antarctic Law to management of complex civil litigation.

The conference committee received positive feedback from the delegates who attended (I note that I was unable to attend, but all the other judges of this Court did) and I thank Justice Blow and others for the work they did to ensure its success.

Previous Chief Justices have recorded their commitment to judicial education in Annual Reports, most recently Chief Justice Underwood in his report for the year 2004-2005. Meeting with other judges in the context of a conference, sharing ideas and experiences with them and gaining new perspectives and insights into academic research are invaluable opportunities. Such occasions enable the members of the Court to keep abreast of the world outside the isolation of their daily tasks.

Judges' Conference: The Hon Shane Marshall, Judge, Federal Court of Australia, Judge Duarte Soares Tilman, District Court of Dili and Justice Francis Mwanesalua, High Court, Solomon Islands.

The Judicial Year in Review

Other Roles of Judges

While I am on the subject of connections between judges and the world outside their courtrooms, I mention something of the various other roles and tasks undertaken by them.

All judges of the Court have held, or do hold, positions as members of various organisations in the judicial, legal and general community. These organisations include:

- Council of Chief Justices of Australia and New Zealand;
- Committee of the Australian Association of Women Judges;
- United Nations Human Rights Committee;
- Council of Law Reporting;
- Board of Legal Education;
- Law Admissions Consultative Committee;
- Governing Council of the Judicial Conference of Australia;
- Cross-Vesting Monitoring Committee;
- Centre for Legal Studies;
- Committees for the Harmonisation of Rules referable to corporations, subpoenas, litigation funding, service, discovery and interest rates;
- Tasmanian Law Reform Institute; and
- University and school councils.

In addition to membership of such organisations it has become a tradition that several of the judges teach a part of the Legal Practice Course relating to appearances in the Supreme Court and preside over appearances by the trainees. Court rooms in the Supreme Court are devoted to this purpose at certain times of year. Justice Blow currently directs the teaching of this part of the training course and Justices Evans, Tennent and Porter and Associate Justice Holt give their time to preside over trainee appearances. Justice Porter also conducts a series of formal lectures on advocacy. I add that Justice Blow gave his time to speak at two Melbourne workshops on the Uniform Evidence Act conducted by the Judicial Commission of Victoria.

The Court views the education and support of future members of the profession very seriously. This is also demonstrated by the Court's support for elements of the University of Tasmania's law degree program and associated events. For example, twice yearly the Court provides court rooms to the Law School for the purpose of conducting moots, which are mock court hearings.

In July 2008, the Australian Law Students' Association conference and competitions were held in Hobart. Over 400 delegates from 40 different law schools across Australia New Zealand and South-East Asia attended. The Court was one of the venues for the competitions and housed some of the competition finals. Justices Slicer, Blow, Tennent and Porter and the Registrar helped judge the various competitions.

It is also something of a tradition that a judge presents a court awareness session through the Adult Education program. The session gives members of the public an insight into the workings of the Court and a rare opportunity to view behind the scenes of a court room, including the judges' chambers area.

OPENING OF LEGAL YEAR 2009

The Judicial Year in Review

Official Visitors to the Court

The Court is pleased to receive visits from overseas judges. This year, Justice Daisaku Kaneko from the Tokyo High Court visited in February to observe criminal court procedures, particularly those relating to juries. The Chief Justice, or next senior judge if he is unavailable, also receives calls from visiting diplomats, in the year under report from the ambassadors of Russia, Italy, Switzerland, Japan and the Republic of Korea, the British Consul-General in Melbourne, the United States of America Consulate General in Melbourne, the Bangladesh High Commissioner and the Consul General of Japan.

The New Criminal Procedures

Last year's Annual Report referred to the introduction of new criminal procedures on 1 February 2008. These procedures were introduced by way of legislative changes to the *Justices Act* 1959 and to the *Criminal Code*, and by administrative changes in case handling within Tasmania Police, the office of the Director of Public Prosecutions and the courts. The procedures were intended to reduce delays between the first appearance of a defendant in the Magistrates' Court and the first appearance in the Supreme Court and, ultimately, the speedier resolution of criminal cases. Sufficient time has passed to justify preliminary comment on whether those objectives are being achieved.

A comparison has been conducted between a sample of Supreme Court files finalised prior to the introduction of the new procedures (83 files, which is approximately 15% of the total number of files finalised duting 2007-2008) and a sample of files finalised since the introduction of the new procedures (84 files). Sample files were selected on a random basis. The sampling of files gave us the opportunity to look at each and determine whether there were any particular complications or delays, however, we are conscious that sampling, by its nature, will not include all files before and after the introduction of the new system. It should be noted that the new system has not been running long enough for complex cases to be finalised. Such cases inevitably take longer and therefore our figures may be understating the median finalisation time since the introduction of the new system.

Nevertheless, the results of the comparison of files indicate that the aim of reducing delays is being achieved. The samples suggest that the median number of days from first appearance in the Magistrates Court until finalisation in the Supreme Court under the new system is 166 days compared to 299 days prior to the introduction of the new system, a difference of 44%.

As expected the median number of days from first appearance in the Magistrates Court until committal order under the new system is 66 days compared to 198 days for the sample prior to the introduction of the new system, a difference of 67%.

The Judicial Year in Review

Overall, timeliness has also been improved in the Supreme Court, although not for all categories of matters. The samples suggest that the median number of days from first appearance in the Court until finalisation under the new system is 25 days, compared to 70 days for the sample prior to the introduction of the new system, a difference of 64%.

However, the samples indicate an increase in the median number of days in the Court for matters finalised by trial since the introduction of the new system: 136 days under the new system, compared to 105 days prior to the new system's introduction, a difference of 30%. That increase is explained by the need for preliminary aspects of matters to be dealt with in this Court rather than in the Magistrates' Court and is compensated by the decline in the time during which matters are before the Magistrates Court.

The samples suggest that for matters finalised by trial, the median number of days from first appearance in the Magistrates' Court until finalisation in this Court under the new system is 299 days, compared to 338 for the sample prior to the introduction of the new system, a difference of 12%.

The samples also indicate that a much smaller proportion of cases have preliminary proceedings (6% of the new system sample) than used to go to a committal hearing (49% of the old system sample).

While it is still relatively early days in the life of the new criminal procedures, and bearing in mind that the quantitative results above are derived from a small proportion of matters, the indications that matters are being finalised earlier than they would have done prior to the introduction of the new procedures are extremely encouraging.

Early in 2009 I asked participants in the process to comment on its progress. Within the replies received from the Director of Public Prosecutions, the Acting Deputy Commissioner of Police, the Bar Association, the Director of the Legal Aid Commission and the Chief Magistrate are some suggestions for further improvement of the procedures. Discussions are planned and I am confident that with the continued co-operation of all concerned improvements can be made.

FOYER IN CRIMINAL COURT BUILDING

THE JUDICIAL YEAR IN REVIEW

Mediations

The Court provides mediation services to assist in the resolution of civil matters as an alternative to the traditional course of trial and judgment. Mediation has become a significant part of the Court's business, so I will take some space in this Report to explain its nature and development.

The term "mediation" has different nuances in different contexts. Annual Reports of the Court used the term "assisted dispute resolution processes", which was replaced by the term "mediation" in the Annual Report of 2004-2005 and in those thereafter, as a consequence of the Australian and New Zealand Council of Chief Justices settling upon the use of that term. The *Australian and New Zealand Council of Chief Justices Position Paper and Declaration of Principle on Court-annexed Mediation (1998)* observed that there is a "purist view" of mediation as being "confined to a non-compulsory and non-directive process, whereby parties are assisted by a neutral mediator or mediators to a mutually acceptable agreement". The Paper went on to note that "in most … courts, mediation is used as an all embracing term to describe a number of processes, that may range from the purist model described above to compulsory and directive processes aimed at defining the issues in dispute between the parties to the process, identifying for both parties and the Court substantive and procedural difficulties that may be faced in the prosecution of any litigation, as well as resolving the particular dispute without resort to litigation". The Council adopted the broader definition and this has been the definition of "mediation" adopted by this Court.

In this Court, mediation sessions fall into three basic types:

- Preliminary conferences: These occur prior to the main mediation session. They are quick hearings held to determine the form and extent of the mediation, that materials required by the mediator have been provided and that the matter is ready to proceed to its main mediation session.
- Longer mediation sessions: These are attended by the parties and their legal representatives and the mediator. The mediator assists the parties to identify the issues that are in dispute and reach an outcome with which the parties can agree. These sessions tend to be longer than other mediation sessions, sometimes lasting a full day, and involve greater personal input from the parties than other types of mediation sessions.
- Shorter mediation sessions: The sessions are often held in personal injury cases where liability is not an issue. They are attended by the parties and their legal representatives and the mediator. The mediator assists the parties through a structured negotiation process to reach their own resolution of the matter, for example through a process of offer and counter-offer. These sessions generally last for 1-2 hours.

Currently, a high proportion of civil matters, particularly claims for personal injury, go to mediation. They are either directed by the Court to go to mediation or the parties consent to attending a mediation session. Most matters going to mediation do so once both parties have exchanged the information necessary for negotiations. This situation has developed over time.

The Judicial Year in Review

Mediation started in this Court over 17 years ago. In late 1992, the judges agreed to trial the use of what was then called "settlement conferences". These conferences were held only with the consent of the parties once all materials had been filed and the matter had been certified as ready for trial - in other words late in the life of proceedings – and, initially, were used only in personal injuries cases arising out of motor vehicle accidents. There was a large backlog of cases waiting to go to trial at that time, a significant proportion of which were motor vehicle accident cases, with which the Motor Accidents Insurance Board (MAIB) was concerned. The question for determination was usually confined to quantification of damages. The settlement conferences were intended to explore whether the parties could come to an agreed amount to settle the matter without resorting to a trial, or without doing so at the last minute before the looming trial date.

In the first year of settlement conferences, 65% of motor-vehicle cases going to a conference were settled. This, in turn, resulted in a reduction of the backlog of civil cases waiting for trial dates and in fewer court-steps settlements. Last minute settlements have always been a source of frustration for the Court and for those parties who are waiting to be allocated a hearing date. They are often the product of delay, they result in increased costs being incurred and settlements immediately before a scheduled trial invariably are too late for parties in other matters waiting for trial to be ready to fill the gap.

In the beginning Court mediations were a consequence of the MAIB's active support of the idea; the willingness of the judiciary to allow a trial of their use to go ahead; the support of senior members of the profession, such as John Kable and Ken Levis, who recommended such a course to their clients; and finally, the championing of the process by the then Registrar.

Satisfaction with the use of settlement conferences in motor vehicle accident cases led to requests for their use in other types of matters. By 1994, the judges agreed to the drafting of rules enabling directions to be given to parties to attend mediation conferences. The capacity of the Court to so direct the parties is advantageous. Our adversarial system creates circumstances in which a suggestion of mediation by a party may be interpreted as indicating a weakness in the case of that party, rather than coming from a pragmatic desire to resolve the matter efficiently and in a different manner than by way of a trial. Directing parties to attend a mediation session eliminates this potential barrier.

The Judicial Year in Review

In 2001 the Court's use of mediation was formalized and extended by the *Alternative Dispute Resolution Act* 2001. The Act is stated to be "an Act to provide for mediation of disputes as an alternative to litigation". It allows the Court to direct that parties attend a mediation session, provides for the apportionment of costs of mediation and for the confidentiality of mediation sessions and materials relating to them and protects mediators from liability for things done for the purpose of mediations.

The gradual evolution of mediation in this Court to what it is today is due to the flexibility and support of all involved, but it is particularly due to the then Registrar, Ian Ritchard. With no additional resources in the initial stages, he set up the service, conducted a large proportion of the mediations and encouraged and facilitated research into the process.

As mediation became established, the Registrar was assisted in the conduct of mediations by the Deputy Registrar and by the Supreme Court's Legal Officer, with the latter, Mrs Merrin Mackay, conducting the bulk of the mediations after the first few years.

Mrs Mackay resigned from the Court in June 2009 to take up a position as a conciliator in Melbourne. Changes have been made to the role of the Legal Officer (with the position being termed "Assistant Deputy Registrar"), however, it is intended that the majority of mediations still will be conducted by the Assistant Deputy Registrar and that some will continue to be done by the Registrar, the Deputy Registrar, the Launceston District Registrar and external mediators.

Since mediation was first conducted in the Court, courses in alternative dispute resolution of various types have sprouted up all over the country; books have been written; methods have been tried, challenged and varied; expertise has been gathered; and accreditation schemes have been set-up. Within the constraints of limited resources, it is the intention of the Court to work towards further improving its mediation practices by developing mediation guidelines and consolidating data collection relating to mediation with other data management systems in the Court.

Significant Remedial Works

The Court acknowledges the Department of Justice's continuing allocation of funds to maintain the Court buildings in Hobart and Launceston and the shared complex in Burnie. Aside from ongoing maintenance two significant projects were completed during the year.

The holding cells in the Hobart criminal court building were upgraded over the last Christmas recess. Work included the holding cells, general floor finishes, the officers' station and restroom facilities and the security systems. A significant improvement in safety and security has been achieved.

Much needed work was undertaken in the foyer of the Hobart criminal building. It included improved lighting, installation of glass panels for improved security and replacement of worn furnishings. In the absence of funds to undertake major structural work the improvements have created a better environment with improved security for staff, parties and others who come to the Court. The size of the foyer and facilities available, however, remain inadequate at a time when both criminal courts are sitting – both jurors and defendants frequently share the same waiting area.

The Judicial Year in Review

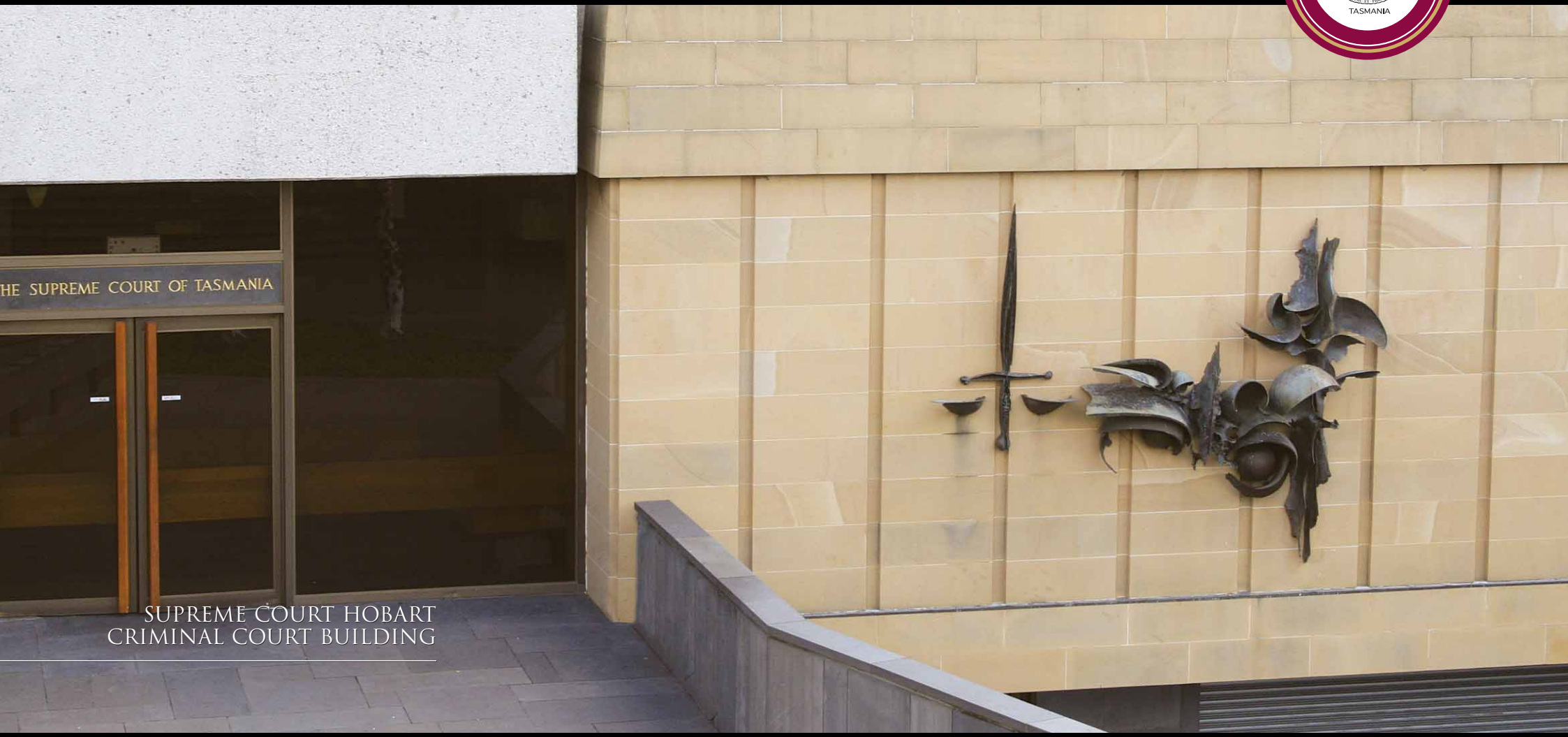
The Court is hopeful that funding will be available to provide a similar refurbishment in the civil foyer, which is greatly needed.

The Hobart court buildings were completed in 1979. While many aspects of them have stood the test of time it is to be expected that funds will be needed to maintain their integrity and functionality. An example of this is water penetration during wet weather which requires replacement of the roof membrane on both buildings to rectify the problem. A report was completed during the year on the status of the general condition of the building fabric. This identified a number of areas of concern including the water penetration issues. It is hoped that necessary funds will be made available.

Budgetary Restrictions

As a consequence of constraints upon funding the Court commenced a review of its expenditure this year in order to identify areas where it might be reduced. The achievement of savings is difficult in that the global financial crisis does not mean that the Court has less work to do than in other years. Lodgment rates in the civil and criminal jurisdictions have increased from last year. It is fair to say that the Court was already a place with a culture that encouraged great care of its budget and was not profligate in its spending. Areas where the purse strings could be pulled a little tighter without jeopardising the proper administration of justice were identified. One was to reduce the number of transcripts the court produces in criminal trials. In future they will not be produced for cases in which the evidence will last no more than a day, unless the judge orders otherwise on the making of a special request by the parties.

I take this opportunity to record formally the Court's thanks to Mrs Mackay for her contribution to the mediation program and to Mrs Rosemary McHugh and Mr Ed Fry, two long serving members of staff, who retired this year. I record my appreciation and thanks to the staff of the Court for their continued support and dedication, particularly in these times of budgetary restrictions.



SUPREME COURT HOBART
CRIMINAL COURT BUILDING

COURT ADMINISTRATION - PERFORMANCE

Overview

The work of the Court is divided into two major jurisdictional areas – crime and civil. Unlike many other Supreme Courts, the Court is not divided into divisions. All judges hear matters at first instance and on appeal, in both jurisdictions. In addition, the Court sits in three regions within the State; Hobart, Launceston and Burnie.

The workload of the Court is subject to fluctuations that are beyond the ability of the Court to control. The nature of the legal process requires it to hear any matter falling within the jurisdiction of the Court that is brought before it. As the jurisdiction of the Court expands and contracts with statutory changes and social conditions, so does its workload.

The Court's Performance

The overall objectives for Court Administration for the reporting year were:

- To be open and accessible
- To process matters in an expeditious and timely manner
- To provide due process and equal protection before the law
- To be independent yet accountable to Parliament for performance

A National framework of performance indicators adopted by the Court supports the objectives of the Court and the two principal indicators are summarised as follows:

Backlog Indicator
This is a measure of timeliness that relates the age of the Court's pending caseload to timeliness standards.

Clearance Rate
A measure of whether the Court is keeping up with its workload.

The Results

Backlog Indicator

The backlog indicator is a measure of timeliness and delay. This indicator specifically measures the Court's pending caseload against national time standards. The national time standards have been set as follows:

- No more than 10% of lodgments pending completion are to be more than 12 months old
- No lodgments pending completion are to be more than 24 months old

COURT ADMINISTRATION - PERFORMANCE

Backlog Indicator Criminal Jurisdiction

For the year ending 30 June 2009, the pending caseload (excluding bench warrants) for criminal matters at first instance increased only marginally.

First instance lodgments for the year were 772 which is an increase of 79 matters or just over 11% from the previous year's figure of 693. In 2007-2008, 551 matters at first instance were finalised. It is pleasing to report an increase in finalisations this year by 219 matters to 770 or almost 40%.

The first instance pending caseload for matters less than 12 months old is 282 matters or 90% of all pending matters. Of them, 229 matters or 73% are less than six months old. There has been only a marginal increase in pending matters over 12 months old, notwithstanding a substantial increase in lodgments over both of the last two years.

Only one criminal appeal matter is greater than twelve months old. Due to delay in the prosecution of this appeal the Court has case managed it and has initiated directions hearings to move it forward.

Supreme Court Criminal First Instance

	2006-07	%	2007-08	%	2008-09	%
Total Pending Caseload	180	100	307	100	312	100
Pending < 12mths	156	84	283	92	282	90
Pending > 12mths and < 24mths	20	11	13	4	21	7
Pending > 24mths	4	2	11	4	9	3

Supreme Court Criminal Appeal

	2006-07	%	2007-08	%	2008-09	%
Total Pending Caseload	11	100	13	100	24	100
Pending < 12mths	11	100	13	100	23	96
Pending > 12mths and < 24mths	0	0	0	0	1	4
Pending > 24mths	0	0	0	0	0	0

COURT ADMINISTRATION - PERFORMANCE

Backlog Indicator Civil Jurisdiction

In the civil jurisdiction, the first instance pending caseload remained static as the Court has finalised approximately the same number of matters as were instituted during the year. With the introduction of the new civil case management system during 2007-2008, efforts have continued to check data quality. This is an ongoing task for the registry but is necessary to ensure that the data in the system is accurate.

The number of appeals pending at the end of June decreased, as did the number lodged during the year (118 lodgments in 2007-08; 80 in 2008-09).

The Court has a limited ability to affect the pending caseload. Presently, it does not case manage personal injury cases until the parties signify that they are ready for trial or they seek court intervention by way of case management. In all other cases the Court manages the litigation as soon as the defence has been filed.

Supreme Court Civil First Instance

	2006-07	%	2007-08	%	2008-09	%
Total Pending Caseload	1071	100	1042	100	1041	100
Pending < 12mths	729	68	695	67	691	66
Pending > 12mths and < 24mths	226	21	248	24	237	23
Pending > 24mths	116	11	99	9	113	11

Supreme Court Civil Appeal

	2006-07	%	2007-08	%	2008-09	%
Total Pending Caseload	63	100	67	100	57	100
Pending < 12mths	45	71	54	81	41	72
Pending > 12mths and < 24mths	18	29	13	19	16	28
Pending > 24mths	0	0	0	0	0	0

COURT ADMINISTRATION - PERFORMANCE

Clearance Rate (finalisations/lodgments) All Matters

Supreme Court % clearances (excluding probate matters)

	2006-07	2007-08	2008-09
Criminal Jurisdiction	110%	79.5%	98.4%
Civil Jurisdiction	107.9%	102.4%	98.7%
Total Court	108.6%	93.1%	98.6%

Clearance Rate

The Clearance Rate indicator is a measure that shows whether the Court is keeping up with its workload. The indicator denotes the number of finalisations in the reporting period expressed as a percentage of the number of lodgments for the same period. A result of 100% indicates the Court is finalising as many matters as it receives. A result greater than 100% indicates the Court is reducing its pending caseload.

The table highlights an overall result of 98.6% clearance rate for the Court. There has been a marked improvement in the clearance rate in the criminal jurisdiction with a slight reduction in the civil jurisdiction. Flexibility in the Court's sittings arrangements means that it can allocate more judge-time for a particular jurisdiction if necessary and this year efforts have been made to ensure adequate judicial time was allocated to criminal matters.

The Supreme Court of Tasmania in Profile

About the Court

The Supreme Court of Tasmania, created by the Charter of Justice in 1823, forms part of a multi-layered court system, which exercises both Federal and State jurisdictions. The Court is the superior court of the State and is equal in status to, but independent of, the Legislature and the Executive.

Currently six judges constitute the Court. The Associate Judge, Registrar and fifty two administrative staff support them.

The Structure of the Court

Court systems throughout Australia are hierarchical with most States adopting three levels of courts;

- Magistrates (or local) Courts
- County or District Courts
- Supreme Courts

In Tasmania, there are only two levels in the court hierarchy, the Magistrates Court and the Supreme Court.

The Court is divided into three broad areas of operation, namely criminal, civil and appeal matters.

Criminal matters are those in which an accused person is charged with an indictable offence. Upon entry of a plea of not guilty, an indictable offence is tried by a judge and jury of twelve persons.

In civil matters, the Court determines disputes involving sums in excess of $50,000. Trials are usually conducted by a judge sitting alone, although provision exists for some cases to be tried with a jury of five or seven people.

Appeals from the decisions of a single judge, or a judge and jury, are heard by a Bench of three or more judges, called a Court of Criminal Appeal when sitting in criminal matters and the Full Court when sitting in civil matters. There is provision for the hearing of appeals by only two judges should it be necessary.

The Jurisdiction of the Court

The Court exercises both original and appellate jurisdictions. Original jurisdiction is when a matter comes before the Court for a decision for the first time. Appellate jurisdiction is when the Court determines appeals from single judges, from the Magistrates Court, or from various tribunals where there exists a right of appeal to the Court.

The Supreme Court of Tasmania in Profile

Mediation

Only a very small percentage of civil cases require resolution by a hearing in the court. Most of these cases settle at mediation. The mediators are the Registrar and other court officers as well as selected legal practitioners where necessary. The Court has power to direct that a case be referred to mediation before it is listed for trial. Court-annexed mediation is a very popular and successful means of resolving civil disputes. It provides expedition, saves costs and produces just results. Without it, the Court would not be able to cope with its caseload.

The Registries of the Court

The Court operates civil, criminal, probate and district registries.

Civil Registry

The Civil Registry receives and processes all documents lodged in the civil jurisdiction of the Court and is the first point of reference for enquiries from the public and the legal profession. It also receives and processes appeals to the Full Court and single judge appeals. It has responsibility for the management of the Court's records and the listing and case management functions for the Court's original and appellate civil jurisdictions.

Criminal Registry

The Criminal Registry receives and processes documents lodged by the Director of Public Prosecutions, which initiate criminal proceedings, and lists criminal trials and other hearings. It receives and processes criminal appeals and applications for leave to appeal and prepares appeal documentation for use by the Court of Criminal Appeal. It also receives and processes applications to review decisions from the Magistrates Court and State tribunals.

Probate Registry

The Probate Registry deals with applications for grants of probate, letters of administration and other related matters. It is responsible for determining, on application for a grant of representation, what document or documents constitute the last will of the deceased and/or who is entitled to be the legal personal representative of the deceased.

Most of these applications are decided without a court hearing. If there is a dispute, it is heard and determined by the Court in a similar way to all other civil cases are heard. When determinations have been made, a grant is issued to the legal personal representative of the deceased.

District Registries

The Court maintains registries in Launceston and Burnie, to handle civil and criminal matters.

THE SUPREME COURT OF TASMANIA IN PROFILE

The Judges and the Associate Judge

Judges

Judges of the Supreme Court are appointed by the Governor on the advice of the Executive Council (a Council of State Ministers including the Premier). The *Supreme Court Act 1887* provides that the office of Judge may be held by a barrister of the Supreme Court of any State of the Commonwealth or New Zealand of not less than 10 years' standing.

The Bench of the Supreme Court currently consists of the Chief Justice and five other judges, known as puisne judges. This is an Anglo-French term meaning 'subordinate' and pronounced "puny".

Associate Judge

The Governor appoints the Associate Judge of the Supreme Court in the same manner as a judge. The Associate Judge assists the Judges in conducting the civil jurisdiction of the Court. For instance, the Associate Judge deals with interlocutory, that is procedural, applications in civil matters, before they come on for trial.

The Associate Judge can also hear and determine many cases that formerly could only be heard by a judge. This legislative change has assisted the capacity of the Court to manage its caseload.

The *Supreme Court Act 1887*, s2, provides that the Court consists of a maximum of seven judges. Six judges presently constitute the Court. Those presently holding office are:

The Chief Justice

The Honourable Ewan Charles Crawford

The Judges

The Honourable Pierre William Slicer

The Honourable Peter Etherington Evans

The Honourable Alan Michael Blow OAM

The Honourable Shan Eve Tennent

The Honourable David James Porter

The Associate Judge

The Honourable Stephen Holt

Operating Account - Effective Year ending 30 June 2009

RECEIPTS	Note	2007-08 Actual	2008-09 Actual
Recurrent Appropriation		4,001,171	4,490,788
Registry Fees & Collections		515,014	487,548
Provision of Transcript		24,606	12,451
Probate Fees & Charges		751,942	778,770
Mediation Fees		51,317	47,926
Sheriff's Fees		6,942	8,093
Court Reporting		61,630	45,470
Video Conferencing		15,028	26,558
Recoveries of Salary		0	0
TOTAL RECEIPTS		**5,427,650**	**5,897,604**

EXPENDITURE	Note	2007-08 Actual	2008-09 Actual
EMPLOYEE EXPENSES			
Salaries & Wages etc		2,371,909	2,582,260
Fringe Benefits Tax		20,096	20,101
Payroll Tax		159,086	174,735
Superannuation		236,476	256,853
Worker Compensation Insurance		22,686	15,896
Training		5,609	6,257
TOTAL EMPLOYEE RELATED		**2,815,862**	**3,056,102**

OPERATING ACCOUNT - EFFECTIVE YEAR ENDING 30 JUNE 2009

ADMINISTRATION & OTHER EXPENSES	NOTE	2007-08 ACTUAL	2008-09 ACTUAL
Fuel, Light & Power		167,528	193,645
Advertising & Recruitment		3,952	2,084
Rental		9,873	15,048
Communications		85,991	82,780
Travel	1	60,438	70,292
Consultancies		52,316	65,618
Printing & Stationery		34,234	30,193
Rates		143,483	150,584
Other Administration		139,408	171,806
Repairs & Maintenance		96,987	82,537
Minor Equipment	2	150,189	8,689
Library Materials		72,489	90,645
Computers & IT	3	337,531	200,564
Expenses of Witnesses		118,384	108,103
Expenses of Jurors		278,614	568,965
Other Expenses		18,768	53,595
TOTAL ADMINISTRATIVE & OTHER EXPENSES		1,770,185	1,895,148
TOTAL EXPENDITURE		**4,586,047**	**4,951,250**

OVERHEAD CONTRIBUTION BY THE DEPARTMENT OF JUSTICE

	NOTE	2007-08 ACTUAL	2008-09 ACTUAL
OVERHEAD CONTRIBUTION BY DOJIR		**596,848**	**680,232**

Operating Account - Effective Year ending 30 June 2009

RESERVED BY LAW PAYMENTS RECEIVED (SALARIES OF JUDICIAL OFFICERS)

	Note	2007-08 Actual	2008-09 Actual
Salaries & Other Entitlements of Judges		2,210,537	2,398,181
Salary & Other Entitlements of the Associate Judge		310,276	339,456
TOTAL		**2,520,813**	**2,737,640**

NOTES TO FINANCIAL STATEMENTS

Note 1 increase due to state service award increases

Note 2 2007-08 included u/grade expenditure - court room audio/video

Note 3 reduction of expenditure on CRMS