



The Supreme Court of New South Wales

Annual Review 2000



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Cover Photography: For the first time in its history, the Court of Criminal Appeal sat in rural NSW. The Court sat in the Wagga Wagga Court House to hear an appeal of local significance. This picture was taken by the Daily Advertiser and appeared on its front page.

Supreme Court of New South Wales

Sydney 2000

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Introduction

The ability of courts to ensure the efficient and expeditious disposition of proceedings has been at the forefront of judicial administration for many years. During the course of the year 2000, the Supreme Court of New South Wales adopted a number of measures with a view to improving the Court's performance in this respect. These include:

- adopting a formal overriding purpose in the Rules: to facilitate the just, quick and cheap resolution of the real issues in dispute;
- creating an obligation on the Court to give effect to the overriding purpose when exercising its powers, an obligation on parties to civil proceedings to assist the Court to further the overriding purpose and an obligation on legal practitioners to refrain from engaging in conduct which causes the party to be in breach of these duties;
- creating an obligation on all parties to refrain from making allegations, or maintaining issues, unless it is reasonable to do so, with attendant costs sanctions;
- specifying in the Rules a wide range of directions which the Court may make, including the imposition of time limits;
- empowering the Court to direct a legal practitioner to give to a party an estimate of its costs exposure and to specify the maximum costs that may be recovered by one party from another;
- empowering the Court to order costs to be payable forthwith and to order a person to pay costs because of failure to comply with a direction of the Court;
- amending the Rules and issuing a Practice Note concerning the circumstances in which a legal practitioner may be ordered to pay costs;
- promulgating new Rules and a Code of Conduct for expert witnesses, which establish that the paramount duty of an expert witness is to the Court and which create a mechanism for conferring between expert witnesses;
- adopting time standards for processing of cases within the Court;
- creating a Possession List to administer the large volume of cases involving claims for possession of land;
- adopting a new practice with respect to arraignments in criminal trials so that this may occur within one month after committal, rather than four months;

- adopting a new Practice Note for the Defamation List, to simplify and expedite the conduct of such cases;
- adopting a new practice that every case will be listed in the Court within six months of filing;
- amendment of the Supreme Court Act, empowering the Court to compel parties to engage in mediation of civil disputes.

Over the course of the year, the Court made progress in reducing delays. This was made possible by additional resources in the form of two new Judges - one allocated to the Court of Appeal and one to the Common Law Division - as well as significant funding for Acting Judges. The Court's policy is that only former Judges will be appointed as Acting Judges. A number of former Judges of this Court, and of the Federal Court, served in this capacity during the year.

As at the end of December 2000, virtually every case in the Court that was ready for hearing had been allocated a date. Furthermore, the flexibility that the Court has acquired through having a significant number of Acting Judges has meant that past practice in the Common Law Division with respect to cases that exceed their hearing estimates has been changed. Previously these cases were adjourned for further hearing, usually many months later.

This substantially increased costs to the parties. The Court is now in the position to insist that a case that exceeds its time estimate will proceed.

I anticipate that these gains will be consolidated during the course of 2001.

The Honourable J J Spigelman AC
Chief Justice of New South Wales

The Judges of the Court

Section 25 of the Supreme Court Act 1970 provides that the Court shall be composed of a Chief Justice, a President of the Court of Appeal, and such other Judges of Appeal and Judges as the Governor may from time to time appoint.

The Governor is also empowered to appoint qualified persons as Acting Judges or Acting Judges of Appeal.

The Supreme Court Act also provides that, for the more convenient dispatch of business, the Court shall be divided into the Court of Appeal and certain specified Divisions. The Chief Justice is, by virtue of his office, a Judge of Appeal and the senior member of the Court of Appeal. The other members of the Court of Appeal are the President and the other Judges of Appeal. The Judges of the Court are assigned to particular Divisions, and ordinarily confine their activities to the business of those Divisions. The Judges of the Common Law Division of the Court are the Judges who also normally deal with the first instance criminal trial work.

As at 31 December 2000 the Court was composed of the following Judges:

Chief Justice

The Honourable James Jacob Spigelman AC

President of the Court of Appeal

The Honourable Keith Mason

Judges of Appeal

The Honourable Lancelot John Priestley

The Honourable Roderick Pitt Meagher

The Honourable Kenneth Robert Handley AO

The Honourable Charles Simon Camac Sheller

The Honourable Philip Ernest Powell AM

The Honourable Margaret Joan Beazley

The Honourable Paul Leon Stein AM

The Honourable Roger David Giles

The Honourable Gerald Edward Fitzgerald AC

The Honourable John Dyson Heydon

Chief Judge in Equity

The Honourable David Hargraves Hodgson

Chief Judge at Common Law

The Honourable James Roland Tomson Wood AO

Judges

The Honourable Michael Brian Grove RFD

The Honourable Peter Wolstenholme Young

The Honourable John Purdy Bryson

The Honourable Timothy James Studdert

The Honourable Brian Thomas Sully

The Honourable James Moreton Neville Rolfe

The Honourable Bruce Meredith James

The Honourable William Victor Windeyer AM RFD ED

The Honourable David Daniel Levine RFD

The Honourable John Robert Dunford

The Honourable Robert Shallcross Hulme

The Honourable Barry Stanley John O'Keefe AM

The Honourable Geza Francis Kim Santow OAM

The Honourable Carolyn Chalmers Simpson

The Honourable Robert Leslie Hunter

The Honourable John Robert Arthur Dowd AO
 The Honourable Theodore Simos
 The Honourable Harold David Sperling
 The Honourable Peter John Hidden AM
 The Honourable Graham Russell Barr
 The Honourable John Perry Hamilton
 The Honourable Clifford Roy Einstein
 The Honourable Gregory Reginald James
 The Honourable Michael Frederick Adams
 The Honourable David Kirby
 The Honourable Robert Peter Austin
 The Honourable Patricia Anne Bergin
 The Honourable Virginia Margaret Bell
 The Honourable Anthony Gerard Joseph Whealy
 The Honourable Roderick Neil Howie.

During 2000 the following persons held office as Acting Judges of the Court:

The Honourable J E H Brownie QC
(Acting Judge of Appeal)

1 January 2000 to 31 December 2000

The Honourable J D Davies QC
(Acting Judge of Appeal)

1 January 2000 to 31 December 2000

The Honourable M L Foster QC
(Acting Judge of Appeal)

1 January 2000 to 31 December 2000

The Honourable D K Malcolm AC, Chief Justice of Western Australia
(Acting Judge of Appeal)

15 May 2000 to 14 June 2000

The Honourable Mr Justice B H McPherson CBE, Court of Appeal,
Supreme Court of Queensland
(Acting Judge of Appeal)

15 May 2000 to 14 June 2000

The Honourable Mr Justice W F Ormiston, Supreme Court of Victoria
(Acting Judge of Appeal)

15 May 2000 to 14 June 2000

The Honourable M J R Clarke QC
(Acting Judge of Appeal)

5 June 2000 to 30 June 2000

The Honourable R F Smart QC
1 January 2000 to 31 December 2000

The Honourable K J Carruthers QC
1 January 2000 to 31 December 2000

The Honourable P A McInerney QC*
1 January 2000 to 31 December 2000

The Honourable J Badgery-Parker QC
1 January 2000 to 31 December 2000

The Honourable M D Ireland QC
14 June 2000 to 31 December 2000.

** While the Honourable P A McInerney QC held a commission he did not sit as an Acting Judge following his appointment in December 1999 as Commissioner for the Special Commission of Inquiry into the Glenbrook Rail Accident.*

APPOINTMENTS AND RETIREMENTS

John Dyson Heydon QC was appointed a Judge of the Court and a Judge of Appeal on 14 February 2000.

Anthony Gerard Joseph Whealy QC was appointed a Judge of the Court on 26 June 2000. His Honour Judge Roderick Neil Howie QC of the District Court of New South Wales was appointed a Judge of the Supreme Court on 11 October 2000.

The Honourable Morris David Ireland retired as a Judge of the Court on 13 June 2000. The Honourable Alan Richard Abadee RFD retired as a Judge of the Court on 4 October 2000.

The Honourable Peter James Newman RFD retired as a Judge of the Court on 5 November 2000.

The Masters

Pursuant to section 111 of the Supreme Court Act 1970 the Governor may appoint Masters of the Court. They are ordinarily assigned either to the Common Law Division or to the Equity Division, although, in the interests of flexibility, they are given power to act outside the Division to which they are primarily assigned.

As at 31 December 2000 the following Masters were in office:

Bryan Arthur Malpass
John Kennedy McLaughlin
Richard Hugh Macready
Joanne Ruth Harrison.

The main work of the Common Law Masters is the trial (without a jury) of personal injury and possession cases and the trial (without a jury) of other proceedings referred to the Masters by a Judge or by the Court of Appeal.

The main work of the Equity Masters is the determination of proceedings under the Family Provision Act 1982 and the Property (Relationships) Act 1984, proceedings under the Companies (NSW) Code and the Corporations Law especially for the winding up of companies, and the trial of other proceedings referred to the Masters by a Judge or by the Court of Appeal. The Masters also on occasion deal with inquiries as to damages, and matters of accounts referred to them by a Judge of the Equity Division, as well as applications relating to the administration of trusts.

In addition to the foregoing trial work, the Masters deal with most interlocutory matters falling outside the jurisdiction of a Registrar. The Masters' principal interlocutory work consists of dealing with applications for orders for summary judgment,

summary stay or dismissal, the striking out of pleadings, the extension of time to commence proceedings under various Acts, hearing appeals from costs assessors' decisions and the review of a decision made by a Registrar.

The Registrars

Pursuant to section 120 of the Supreme Court Act 1970 the Governor may appoint Registrars of the Court of Appeal and of each Division and such other officers as necessary. In the interests of flexibility, however, they are also authorised to exercise the powers of any other Registrar as required.

The Principal Registrar of the Court is Mrs Nerida Johnston. The statutory duties of the Prothonotary were undertaken by Mr Edward Irwin until 13 March 2000, when Mr Steven Jupp assumed that role upon his appointment as Manager, Court Services.

Registrar of the Court of Criminal Appeal

Peter John Schell

Registrar of the Court of Appeal

Edward Charles Irwin

Registrar in Equity

Grahame James Berecry

Registrar

Jonathan Edward Finlay (Probate)

Assistant Registrar, Common Law

Bruce Russell Howe

Senior Deputy Registrars

Deborah Valerie Robinson

Paul Studdert

Deputy Registrars

Geoffrey Noel Haggett

Emoke Ildiko Durkin

Bhaskari Siva (acting)

(Recruitment action was in train for three additional Deputy Registrars.)

The Registrars are empowered by the Supreme Court Rules to perform specified duties, some of which were formerly undertaken by Judges and Masters. These powers were expanded during 2000 by amendments to the Supreme Court Rules gazetted on 24 November 2000.

The work of Registrars includes defended applications in relation

to security for costs, interrogatories, the provision of particulars, subpoenas and party costs (where it is unlikely, in the opinion of the Registrar, that the costs will exceed \$10,000). Registrars deal with unopposed applications for removal of matters to or from the District Court, conduct examinations under the Corporations Law, Proceeds of Crime Act 1987 (Commonwealth) and other Acts and hear evidence on commission. Applications for orders under many of the provisions of the Companies (NSW) Code and the Corporations Law are also dealt with by Registrars.

In the Court of Appeal the Registrar deals with most interlocutory applications other than applications to stay judgments pending an appeal. The Registrar also case-manages and lists most appeals and applications for leave to appeal, other than those matters which have been referred to a Judge of Appeal for special case management.

The duties of the Registrars in connection with the Court of Criminal Appeal and Equity Division are discussed elsewhere in this Review.

The powers which are specifically assigned to them by the Supreme Court Rules permit Registrars to directly assist the Judges in case management. In the Differential Case Management system the Registrars are involved in conducting status conferences and final conferences. At status conferences, the Registrar gives directions to ensure the matter is ready for hearing by the compliance date.

Registrars are now able to make costs orders against legal practitioners when appropriate.

Any trial, hearing or matter a Master may conduct or deal with, may be referred to a Registrar by a Master by order.

Supreme Court matters may also be mediated by Registrars who are qualified mediators. Currently, there are six Registrars qualified as mediators.

Deputy Registrars act, on a rostered basis, as Duty Registrar and in that capacity provide information on the Court's procedures. They also attend to the issue of court orders and writs of execution and other miscellaneous matters.

The Common Law Division

The Common Law Division deals with all criminal and civil actions which may be brought at common law, subject to jurisdictional limits which assign certain categories of cases to other courts such as the District Court. It also deals with limited appeals on questions of law from Magistrates and certain appeals from other bodies.

Criminal matters dealt with by the Judges of the Division include murder, manslaughter, bail applications and proceedings concerning the confiscation of the proceeds of crime. Civil work includes claims for damages for personal injury arising out of accidents, claims in relation to professional negligence, possession of land and defamation. The Division also includes the Administrative Law List which reviews some decisions of Government and some of administrative tribunals. By their extensive participation in the administration of criminal justice, the Judges of the Common Law Division form the major source from which the Chief Justice selects members of the Court of Criminal Appeal.

ORGANISATION OF BUSINESS

The Common Law Division is the larger Division of the Supreme Court, and comprises the Chief Judge at Common Law and 21 other Judges. In addition to the Judges, there are two Masters who specifically assist in the disposal of litigation. Registrars may also hear a limited range of matters.

As well as hearing cases in Sydney, Common Law Division Judges travel throughout NSW on circuit to hear civil and criminal matters. During 2000, civil circuits were conducted in the Central West, Goulburn, Newcastle, Northern Rivers, Northern Tablelands, Riverina and Wollongong regions. Criminal trials were conducted at Albury, Broken Hill, Coffs Harbour, Dubbo, Forbes, Gosford, Goulburn, Griffith, Katoomba, Lismore, Newcastle, Tamworth and Wollongong.

List Judge

The List Judge is responsible for the efficient allocation of the Division's judicial hearing time. Justice David Kirby was the List Judge during 2000. The List Judge monitors the availability of Judges within the Division to hear cases and directs listing to maximise the number of civil and criminal cases which can be heard. He or she takes into account the proportion of cases that are likely to settle and the potential for some cases to exceed their estimated hearing time, while ensuring that a minimum number of cases are "not reached" (unable to be heard because the Court cannot provide a Judge). In 2000 fewer than 5 per cent of the Division's civil cases listed for hearing were "not

reached". The List Judge also conducts call-ups to list matters for hearing, hears any applications to adjourn hearing dates and conducts default conferences where a party has failed to comply with directions.

Duty Judge

Each of the Judges of the Common Law Division can be rostered to act as the Duty Judge for a week at a time during the law term. A Vacation Judge is rostered during the law vacation. The Duty Judge hears urgent applications, including applications for interlocutory injunctions, throughout the week and outside normal court hours, as required.

The Duty Judge also conducts an applications list each Monday. The applications in this list are matters which cannot be determined by a Master and include stated cases, applications for restraining orders, applications for declaratory relief and applications to dispense with a jury. Matters which cannot be heard on a Monday may be specially fixed to be heard by the Duty Judge later during that week.

The Duty Judge determines interlocutory applications restraining assets and issuing examination orders under the Confiscation of Proceeds of Crime Act 1989, Criminal Assets Recovery Act 1990 and Proceeds of Crime Act 1987 (Commonwealth). The Duty Judge also considers, in chambers, applications seeking authorisation of warrants under the Listening Devices Act 1984.

Lists

Matters to be heard by Judges are placed into particular lists. These lists are the Administrative Law List, Defamation List, Professional Negligence List, Possession List (which commenced on 1 February 2000), criminal list and bails list.

During 2000, the following Judges were responsible for the management of the Common Law Division lists: Mr Justice Dunford (Administrative Law List), Justice David Levine (Defamation List), Justice Abadee until his retirement in October 2000 followed by Mr Justice Studdert (Professional Negligence List), Justice Greg James (Possession List) and Justice Graham Barr (criminal list).

A brief description of each list and other key areas of the Division's caseload follows:

Administrative Law List

The Administrative Law List reviews decisions of government, public officials and administrative tribunals such as the Fair Trading Tribunal and the Residential Tribunal.

Bails list

Applications for bail or to review bail determinations can be made to the Supreme Court by any person accused of any offence, even if the trial will not be heard in the Supreme Court. These applications are listed throughout the year, including the court vacation. Common Law Division Judges are rostered to determine these applications.

Criminal list

Arraignment hearings are normally scheduled once a month. The aim of the arraignment procedure is to minimise the number of trials vacated after being listed for hearing or because a plea of guilty is entered immediately prior to or on the day of commencement of the trial. Both instances result in a loss of available judicial time for the criminal list. This procedure involves counsel at an early stage of the proceedings. This allows both the prosecution and defence to consider a range of issues which may provide an opportunity for an early plea of guilty or shorten the duration of the trial.

Practice Note No 103 sets out the arraignment procedure and a four-month period was initially set as the time from committal to the arraignment hearing. During 2000 the Court reduced this period to one month (Practice Note No 112). By doing this the Court expects to achieve even earlier disposal of criminal cases.

During 2000 the Court continued to pilot a system of listing a number of back-up trials to determine whether, with an additional allocation of judicial resources to its criminal list, this can be adopted as a permanent feature. There were 19 matters listed as back-up trials during 2000, one of which was also listed on a second occasion as a back-up trial, giving a total of 20 listings. In only one case the Court was not able to provide a Judge to hear a back-up trial when the parties were ultimately ready to proceed. Re-scheduling of

back-up trials has otherwise occurred only when a party has successfully applied for an adjournment.

Defamation List

Defamation matters are considered to be appropriate for their own system of pre-trial case management. The Defamation List is managed by Justice David Levine with the assistance of Justice Carolyn Simpson. During 1999 the Court began to implement the provisions of section 7A of the Defamation Act 1974. That section sets out the respective functions of the Court and the jury in defamation proceedings. This results in an initial hearing before a jury to determine whether the matter complained of carries the imputation alleged and, if it does, whether the imputation is defamatory. A separate later hearing takes place before a Judge to determine whether any defence can be established and to assess damages. This is only required if the jury makes a finding that the matter complained of was defamatory. The addition of this procedure operates to simplify and reduce pre-trial interlocutory disputes and, in those cases that are dismissed at the section 7A hearing, saves court time.

Differential Case Management (DCM) list

The DCM list consists of all civil cases that are not included in either the Administrative Law, Defamation, Professional Negligence or Possession Lists and which cannot be disposed of within the Duty Judge list. Most of the Court's personal injury accident cases are in the DCM list. These matters are

case-managed by Registrars who conduct status and final conferences.

Possession List

The Possession List commenced on 1 February 2000. This List was developed to improve the management and disposition of proceedings for the recovery of possession of land. The List is managed by Justice Greg James to encourage early resolution through settlement, mediation and individual case management.

Professional Negligence List

The Professional Negligence List deals with matters arising from claims against medical practitioners, allied health professionals (such as dentists, chemists and physiotherapists), hospitals, solicitors and barristers. The List was managed by Justice Abadee until his retirement in October 2000, when Mr Justice Studdert became the Professional Negligence List Judge. Assistance has been provided by Justice Sperling. The legal profession appears to be responding well to the more intensive case management provided under Practice Note No 104 which contains special provisions relating to the jurisdiction and for the calling of expert evidence.

Costs Assessment Scheme

Since July 1995 the Costs Assessment Scheme has been the exclusive method of assessment of legal costs for most jurisdictions. The purpose of making a costs assessment application is to enable an assessor to determine costs disputes between practitioners and clients, between practitioners and

practitioners, and between parties to legal proceedings. The Scheme is administered by officers of the Court. However, there is provision to appeal decisions to the Court, as of right on questions of law and otherwise by leave. These appeals are heard by Masters in the Division as civil matters. This Scheme is described in more detail in the chapter titled “Executive and Related Services”.

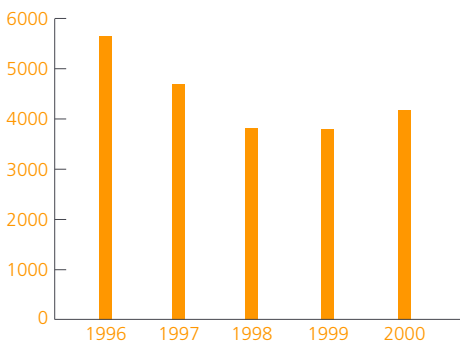
OPERATIONAL STATISTICS

New filings

Civil matters

The number of cases commenced in 2000 was 4177, compared with 3817 in 1999 (refer to Figure 1). Broadly speaking, the workload of the Division has stabilised since the significant drop in filings during 1997 and 1998. That reduction is principally attributed to the increased jurisdiction of the District Court. The civil caseload of the Division is now generally confined to complex cases, including matters in which a large monetary sum is in issue, test cases, and professional negligence, possession and defamation cases.

Figure 1. Common Law Division civil filings



Includes administrative law filings which were shown separately in previous years.

Administrative Law List

There were 83 new cases commenced in 2000 compared with 99 in 1999, 128 in 1998 and 131 in 1997.

Defamation List

In 2000, there was a total of 72 new matters filed in the List, compared with 57 in 1999, 74 in 1998 and 99 in 1997.

Possession List

Proceedings for possession of land form a large proportion of the Common Law Division filings each year. There were 2151 statements of claim seeking possession of land filed since the commencement of the List, representing 51.5 per cent of new civil filings in the Division.

Professional Negligence List

In 2000, there was a total of 127 new matters filed in the List and an additional 184 matters were transferred from the DCM list. From April 1999 (when the List commenced) to December 1999, there were 119 new matters filed and an additional 547 matters were transferred from the DCM list.

Criminal matters

Criminal list

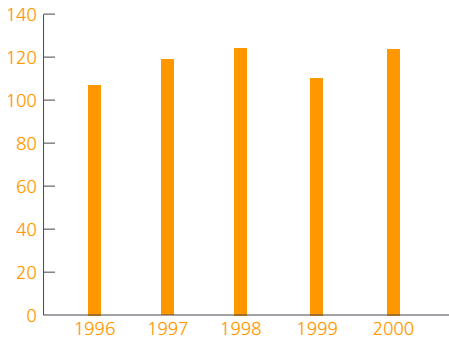
The Judges of the Common Law Division preside over the trial of serious criminal charges such as murder and manslaughter as well as certain other cases involving serious criminality or particular difficulty, or test cases in which there is particular public interest. Indictments for matters other than murder are presented to the Supreme Court following an application by the

Director of Public Prosecutions pursuant to Practice Note No 98. Commonwealth prosecutions can also be tried in the Supreme Court upon the Chief Justice granting such an application by the prosecuting authority.

In 2000, there were 11 matters heard in the Supreme Court (pursuant to Practice Note No 98) which normally would have been heard in the District Court.

The total number of new filings in the criminal list during 2000 was 123, compared with 110 in 1999, 124 in 1998 and 119 in 1997. Figure 2 shows a relatively stable number of filings over the last five years.

Figure 2. Criminal list new filings



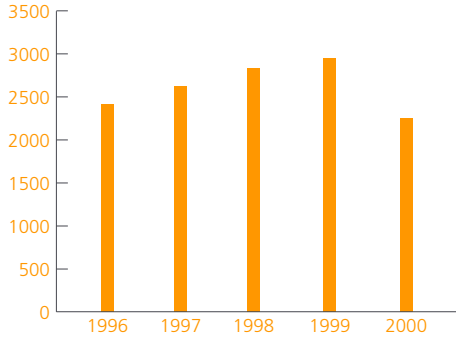
New filings in the criminal list are committals for trial or sentence, ex officio indictments and matters where a separate trial has been ordered.

Bails list

Bail applications are heard by Judges of the Division, who may grant bail to a person accused of any offence even when the trial will not be heard in the Supreme Court.

The number of bail applications lodged in 2000 was 2257 compared with 2948 in 1999, a reduction of 23 per cent. This is shown in Figure 3.

Figure 3. Bail applications lodged



The Court's video link with Silverwater Metropolitan Remand and Reception Centre, which enables Judges to hear bail applications without the need to transport prisoners to the Court, was not in operation for most of 2000 because the line of sight between Silverwater and the Court was broken by new construction in the CBD. The Department of Corrective Services was able to restore the video link from mid-September 2000. When the link was operational, it provided the means of hearing over 90 per cent of bail applications.

Duty Judge

Applications under the Listening Devices Act 1984

The work of the Duty Judge includes the consideration of applications for authorisation of warrants under the Listening Devices Act 1984. There were 1235 such applications lodged in 2000

compared with 1554 in 1999, 1500 in 1998, 753 in 1997 and 883 in 1996.

Other new filings

Applications and examinations under the Confiscation of Proceeds of Crime Act 1989, the Criminal Assets Recovery Act 1990 and the Proceeds of Crime Act 1987 (Commonwealth)

Applications under these Acts are made in the Common Law Division initially before the Duty Judge. If a hearing is required the application is fixed for hearing without further case management, before a Judge. The number of applications under these Acts for 2000 was 94.

Examinations under these Acts are conducted by a Registrar. During 2000 the NSW Crime Commission applied for 110 examinations which proceeded over fifteen weeks. In 1999 there were 76 such examinations proceeding over sixteen weeks. The Commonwealth Director of Public Prosecutions applied for 2 examinations which proceeded over two days. In 1999 there were 5 such examinations which proceeded over five days.

Disposals

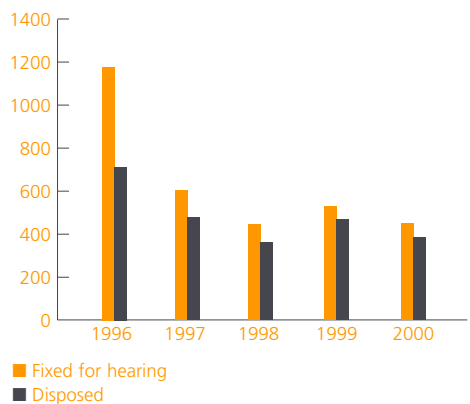
Civil matters

During 2000, 4702 civil matters were finalised by judgment, settlement or dismissal of inactive proceedings pursuant to Part 32A of the Rules. In 1999 there were 1750 such disposals. Additionally, during 2000, 1211 matters were disposed of by entry of default judgment, compared with 1139 in 1999.

In July 2000, 3560 cases (the majority of claims in a large class action concerning breast implant product liability) were discontinued.

Figure 4 shows the total number of Common Law Division civil cases including, from 1998, administrative law cases, listed for hearing in Sydney, together with the number of these cases that were disposed of, whether by hearing or some other method. In 2000 there were 449 matters fixed for hearing and 384 disposals. In 1999 there were 526 matters fixed for hearing and 470 disposals and in 1998 there were 446 matters fixed for hearing and 359 disposals.

Figure 4. Common Law Division disposals of civil matters listed for hearing in Sydney



Includes administrative law cases listed for hearing in Sydney from 1998.

The large number of cases listed for hearing in 1996 arose from the "Sydney Circuits" program which was conducted in order to reduce the backlog of Active Case Management (ACM) matters, which are those civil matters commenced

before 31 January 1994. In that program there were 798 matters fixed for hearing with 432 disposals. The disposals for 1997 do not include 2448 matters transferred to the District Court or otherwise disposed of through the District Court transfer program, nor do the disposals for 1998 include 858 matters similarly transferred or disposed of.

In addition to matters heard in Sydney, Judges of the Court sat on circuit for a total of 15 weeks to hear civil cases (refer to Annexure A).

Administrative Law List

There were 96 matters disposed of during 2000, compared with 93 matters in 1999, 58 in 1998 and 54 in 1997.

Defamation List

There were 107 matters disposed of during 2000, compared with 87 in 1999 and 127 in 1998.

Possession List

Most of the cases in this List are finalised by default judgment, however defended proceedings are specially case-managed in the List. Any default matters that are not finalised within five months are audited and, unless the plaintiff can persuade the Court otherwise, dismissed. Enhancements to the Registry's Courtnet computer system were introduced at the beginning of 2000 to assist in the tracking and management of cases in the Possession List.

The List commenced on 1 February 2000, and by December 2000 had finalised 62 defended cases and 1230 undefended cases.

Professional Negligence List

Early impressions are that case management is being kept brief and matters are being made ready for hearing sooner than would have been the case under DCM. The use of mediation is particularly encouraged for matters in the List. Mediations have already produced positive outcomes in terms of settlement or narrowing or resolving issues.

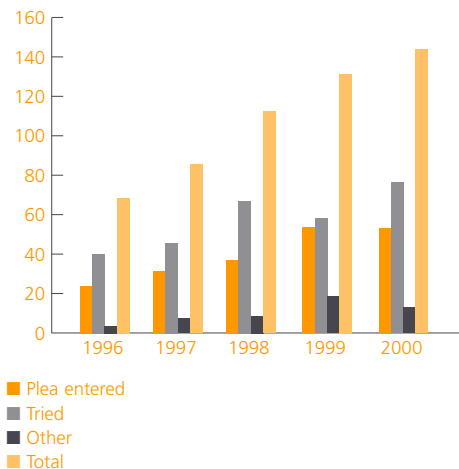
There were 423 disposals from this List during 2000, compared with 61 between 1 April 1999 (when the List commenced) and 31 December 1999.

Criminal matters

Criminal list

During 2000, 144 criminal matters were finalised (refer to Figure 5). The disposal rate has steadily improved over the past four years. The increase in disposals during 2000 was 9 per cent, or 12 matters more than in 1999. The disposals include criminal cases heard in Albury, Broken Hill, Coffs Harbour, Dubbo, Forbes, Gosford, Goulburn, Griffith, Katoomba, Lismore, Newcastle, Tamworth and Wollongong.

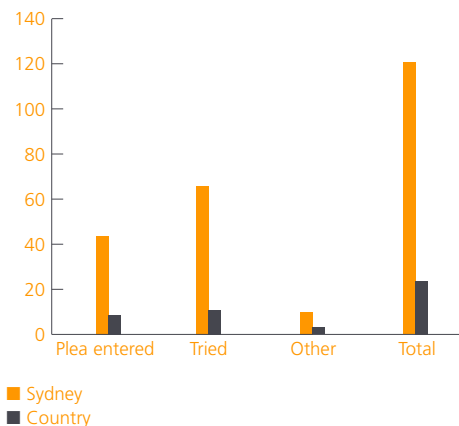
Figure 5. Criminal list disposals



"Other" includes matters transferred to the District Court and successful No Bill applications.

Figure 6 shows the number and type of disposals of criminal matters, in Sydney and at circuit venues. There were 120 matters disposed of in Sydney during 2000 compared with 24 at the circuit venues.

Figure 6. Criminal list disposals - Sydney and circuits

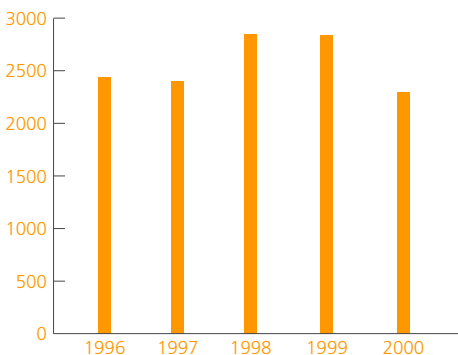


The significant increase in the total number of cases disposed of can be attributed to prudent listing of back-up trials and the new arraignment procedure that was introduced from November 1998. This procedure encourages the early entry of pleas and also allows cases which should be transferred to the District Court to be identified at an early stage.

Bails list

The number of bail applications heard in 2000 was 2306, compared with 2839 in 1999. Figure 7 shows the number of bail applications heard over the last five years. The reduction in the number of bail applications heard reflects the decline in lodgements (see Figure 3).

Figure 7. Bail applications heard



Duty Judge

Matters before the Duty Judge are usually dealt with immediately. If they are not, they are listed for hearing as soon as is practicable.

Alternative dispute resolution

During 2000, 44 civil matters were referred for arbitration (refer to Table 1).

This small number, which is similar to figures for 1999 and 1998, was due primarily to the impact of the District Court Amendment Act 1997 which saw the transfer of a large part of the Court's personal injury caseload to the District Court.

Mediation has been and will continue to be encouraged as an alternative to a contested hearing. The use of mediation has been particularly encouraged in the Professional Negligence List and the Possession List. Several of the Registrars are trained as mediators and are available to conduct mediations for no additional fee.

Pending caseload

Civil matters

The pending caseload of these matters held at the Sydney Registry at the end of 2000 was 4716 and includes the Administrative Law List, which was previously reported separately. The figure also includes certain proceedings which may be determined by entry of a default judgment, mainly in currently

undefended proceedings for possession of land or for a liquidated sum of money or cases commenced by summons. There are presently 1753 such matters lodged at the Court. These cases have not been included in previously published statistics. The pending civil caseload of the Division is analysed in Table 2. Thus the pending caseload figures published in previous years are not comparable with the figure published this year. It is not possible to recalculate the figures for previous years because the Court's computer system does not retain data to enable this.

All pending caseload figures reported to date do not include matters held at regional registries as these cases have not been part of the Sydney case management system. Audits have commenced of Supreme Court cases held at those registries and active proceedings will be case-managed from the Sydney Registry. This will mean that, from 2001, all Supreme Court proceedings, regardless of where commenced or the venue for hearing, will be managed from Sydney and included in all statistical reporting.

Table 1. Civil arbitrations

	2000	1999	1998	1997	1996
Referrals	44	47	53	664	500
Settled at arbitration	25	20	19	279	167
Heard	14	21	24	313	286
Other orders (including adjournments)	5	6	10	72	47
Applications for re-hearing	8	12	29	169	127
Re-hearings	4	1	13	31	31
Settlements before re-hearing	5	13	18	103	53

Matters commenced before 31 January 1994 were managed using ACM. The Court's remaining ACM matters (excluding the class actions) were transferred to DCM during 1998 so that one system of case management would apply to ordinary civil matters in the Division. An ordinary civil matter is one not included in any specialist list. Before February 2000, defended cases for possession of land were included in the DCM civil matters list.

Administrative Law List

The number of pending Administrative Law List matters at the end of 2000 was 63, compared with 76 matters in 1999 and 134 in 1998.

Defamation List

At the end of 2000, there were 162 cases being case-managed or pending in this List. At 31 December 1999, there were 139 matters in case management.

Possession List

At the end of 2000, there were 984 pending cases in the List.

Professional Negligence List

At the end of 2000, there were 539 pending cases in this List. As at 31 December 1999, 599 matters were pending.

Criminal matters

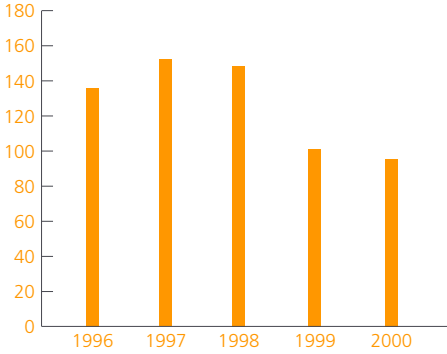
Criminal list

The pending criminal caseload at the end of 2000 was 95 matters compared with 101 matters at the end of 1999 (refer to Figure 8). The average length of trials heard in Sydney during 2000 was 13.5 sitting days. There were seven re-trials during 2000 arising from the necessity to discharge the jury before completion of the trial. During 1999 there were 13 such re-trials.

Table 2. Common Law Division pending civil caseload (as at 31 December 2000)

Administrative Law List	63
Defamation List	162
Differential Case Management list	1746
Professional Negligence List	539
Possession List	984
Summons matters	573
Class actions (lodged prior to 31.1.94)	612
Applications	37
Total	4716

Figure 8. Criminal list pending caseload (as at 31 December)



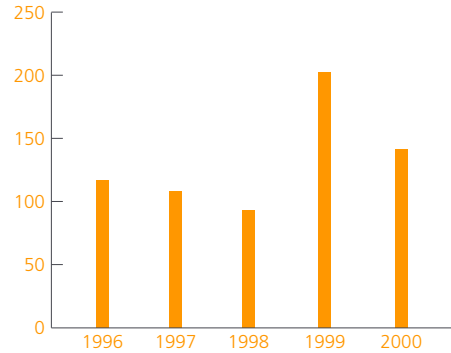
Almost all criminal cases in the Supreme Court are long trials involving a charge or charges of murder or manslaughter. Other trials may be heard by the Supreme Court pursuant to Practice Note No 98 (see also pages 17 and 18 under criminal list new filings).

Trials for offences such as sexual assault, assault resulting in serious physical injury, robberies and presentments in drug cases are generally shorter and are dealt with by the District Court unless an exemption is granted under the Practice Note.

Bails list

There were 143 pending bail applications at the end of 2000 compared with 204 applications at the end of 1999 (refer to Figure 9). The average pending caseload throughout 2000 was 128.

Figure 9. Bails list pending caseload (as at 31 December)



Time standards

Criminal list

The Court announced time standards for disposal of criminal list cases during 2000. These are shown in Table 3 together with performance against the standards.

As most of the cases dealt with in the criminal list are murder or manslaughter trials, the period between verdict and sentence is not time critical. In measuring performance against time standards, the time to finalisation is the time between commencement and a plea or verdict being entered or other disposal.

Where a new trial occurs by reason of a hung jury or successful appeal, commencement is measured from the date of the order for a new trial.

The time standards adopted by the Court for 2000 and 2001 have proven to be unrealistic. It has not been possible to shorten the delays as quickly as was hoped. Nevertheless, delays have been reduced and the Court plans further reductions.

Table 3. Performance against time standards

Time from commencement to finalisation	Standard	Disposals achieved
within 9 months	75 per cent	40 per cent
within 12 months	85 per cent	62 per cent
within 15 months	100 per cent	78 per cent

Table 4. Sydney median criminal trial delays (in months)

	2000	1999	1998	1997	1996
Accused in custody	11	13	14	17	15
Accused on bail	10	18	22	24	20-22

For 2000, delay is the time between commencement and plea, verdict or other disposal. For previous years, delay was measured between commencement and the date of the first trial.

The new time standards adopted for 2001 are: 50 per cent of criminal list cases to be disposed of within 9 months, 70 per cent within 12 months, 90 per cent within 15 months and 100 per cent within 18 months.

The time standards for 2002 will be 50 per cent of criminal list cases to be disposed of within 9 months, 75 per cent within 12 months, 95 per cent within 15 months and 100 per cent within 18 months.

Table 4 shows the waiting times for Sydney trials (calculated from the date of committal for trial or for sentence). Where the accused was in custody, median waiting time decreased from 13 months in 1999 to 11 months in 2000. The median waiting time for trials where the accused was on bail decreased from 18 months in 1999 to 10 months in 2000.

The complexity and length of the Court's criminal matters limit the ability to list back-up trials or matters on short notice, although the Court has continued to list a number of such trials.

The continued reduction in waiting time for criminal trials has been achieved through increased allocation of judicial resources to criminal trial work and the number of early pleas encouraged by the new arraignment procedure, along with prudent listing of back-up trials, which permit more effective use of the allocated judicial time.

Bails list

Table 5 shows that the waiting time for bail hearings at the end of 2000 was similar to that at the end of 1999 and 1998, namely two to three weeks from filing. The waiting time in December of each year is not reflective of the average waiting time during the rest of the year

Table 5. Bail hearing delays (in weeks) as at 31 December

	2000	1999	1998	1997	1996
Delay	2-3	2-3	2-3	1-2	1-1.5

Delay is the time between lodgement and hearing.

because the number of applications filed increases significantly as the end of the year approaches. For most of 2000 the waiting time was between one and two weeks.

Civil matters

The Court has determined that it will develop time standards for the disposition of its civil trial work. The standards will apply to all of the Division's civil trial work, combined with all Equity Division matters.

The Court is not able to publish time standards until improvements are made to computer-based case management systems which will enable the Court to monitor and measure the case management process with a speed and precision not presently available.

Civil cases in specialist lists* are placed into a call-up list to obtain a hearing date as soon as the judicial officer case-managing that case determines the matter to be ready for hearing. Table 6 shows the waiting times for these cases.

DCM list civil matters are case-managed in accordance with the DCM practice note (Practice Note No 88). Where the parties are ready, at the time of commencing proceedings, to start case management, comply with the DCM

case management timetable, do not seek an adjournment at any stage and accept the earliest hearing date, the case can be heard 24 months after commencement.

REGISTRY SUPPORT

The Registry provides support by creating files when documents are lodged, processing fees and payments, listing matters for hearing and issuing listing notices. The Registry staff secure the custody of court documents including exhibits and documents produced under subpoena, ensure that court files are maintained and delivered to court for call-overs and hearings, record all listing results and other decisions, issue warrants, provide information about court procedures and liaise with litigants and the legal profession. The Registry also ensures that legislative and rule requirements are met and review and, where necessary, amend procedures within the Registry to accord with changes in legislation or Rules.

Audit of inactive cases at Sydney Registry and transfers to the District Court

In previous years the Registry has conducted audits of DCM cases to identify inactive cases and those cases which may be transferred to the

* *Administrative Law List, Defamation List, Professional Negligence List and Possession List.*

Table 6. Median delays for civil cases in specialist lists

Administrative Law List	6.3 months
Defamation List	30.2 months
Professional Negligence List	49.2 months
Possession List	
Default	6.8 months
Defended	4.1 months

Delay is the time between commencement and final disposal.

District Court. Registrars monitor cases throughout the case management process to identify those which are suitable for transfer to the District Court and the Registry monitors cases that have become inactive. This monitoring now forms part of the Registry's regular work.

From early 2000 the Registry conducted an audit of cases in the summons list and pending default possession cases. The audit identified those proceedings where no step had been taken for over 12 months. A notice was forwarded to the plaintiffs in those cases stating that their proceedings would be dismissed pursuant to Part 32A of the Rules unless they applied to show cause why the case should not be so dismissed. This procedure is now regularly applied to the Division's caseload. Inactive cases in which an application to show cause has been made are listed before the Chief Judge at Common Law. These cases are either dismissed, transferred to the District Court or directions are made to ensure that the

matter is placed back on an appropriate case management track.

New cases filed in the Possession List (from 1 February 2000) are identified for possible dismissal if a defence or an application for default judgment has not been filed within five months of filing the statement of claim.

Audit of cases at regional registries

During 2000 the Registry conducted an audit of all pending cases which were filed at the Court's regional registries. The intent of this audit was to determine which cases were still active. Cases which could be heard in the District Court were identified and transferred. Inactive proceedings were dismissed. Those remaining cases that were still active, and which had not already been fixed for hearing, were transferred to Sydney and placed into a case management list to be made ready for a hearing at an appropriate venue. Since that audit was completed all new cases commenced at regional registries

are centrally recorded at the Sydney Registry. Any cases that are defended are allocated to an appropriate list and case-managed in a similar way to cases filed in Sydney. From early 2001 the Court will be offering parties, in cases filed at, or to be heard in, a region and not allocated to a specialist list, the option of status conferences being conducted by telephone conference.

Monitoring of pending cases

On a monthly basis, a report is compiled of all cases pending in the Administrative Law, Defamation, Professional Negligence and Possession Lists, recording their status, so that any delayed or inactive cases can be identified and called up for judicial intervention. This is regarded as an essential management tool so that the Court can work towards meeting planned time standards.

Pending applications in the bails list are monitored on a weekly basis so that additional judicial resources can be allocated, when necessary, to minimise delay. The status of cases in the criminal list is monitored on a weekly basis to ensure that cases are listed promptly and that all listed cases are heard.

OTHER ASPECTS OF THE DIVISION'S WORK

During 2001 the Court's computer system will be enhanced to provide the necessary computerised support for the introduction of a revised Differential Case Management (DCM) practice note. The new DCM practice note

will provide a more flexible system of case management for those cases not allocated to a specialist list. A practice note will be developed for the Administrative Law List to improve the management and disposition of proceedings assigned to that List.

The Court's commitment to reduce delay in determining proceedings will continue to be supported in the Division during 2001 by initiatives such as:

- eliminating the waiting time for civil cases between the establishment of readiness and the allocation of a hearing date;
- reviewing the time allowed under Part 32A of the Supreme Court Rules so as to shorten the period of inactivity permitted to parties in proceedings prior to intervention by the Court;
- assigning judicial officers to case-manage complex litigation such as class actions;
- maintaining availability of Court Registrars to conduct mediations in civil cases; and
- assigning Acting Judges on a needs basis for short periods to assist Judges of the Division in the disposition of matters listed before the Court which might be otherwise not reached.

The Equity Division

The Equity Division deals principally with civil cases in which claims are made for remedies other than recovery of debts or damages. Claims for injunctions to prevent wrongful conduct, to have contracts enforced or set aside, to rights of property (including land and intellectual property), and claims relating to the administration of corporations, partnerships, trusts and deceased estates are dealt with by the Division. Applications under numerous statutes including the Corporations Law, Family Provision Act 1982 and Property (Relationships) Act 1984 are also brought in the Division. The workload of the former Admiralty, Commercial, Family Law, Probate and Protective Divisions is dealt with by Equity Judges, as is the Construction List.

ORGANISATION OF BUSINESS

The judicial work of the Division is carried out by 12 Judges, two Masters, two Registrars, and a number of Deputy Registrars. Three of the 12 Judges are dedicated to the Construction, Commercial and Admiralty Lists.

From time to time, the Division also receives assistance from Acting Judges.

Apart from applications for probate, most summonses and notices of motion are listed before a Registrar who may give directions and may refer the matter to a Judge or Master. The Registrar may refer a matter to the Duty Judge, the Judge dealing with the Corporations List, or a Master, or place it in the general list or the short notice list or, if appropriate, hear the matter personally.

Most applications for the winding up of corporations are dealt with by a Registrar or Deputy Registrar. On Monday to Thursday each week, a Deputy Registrar sits to deal with subpoenas or notices to produce. Contested subpoenas or notices to produce are referred to the Registrar for hearing.

Lists

There are a number of lists dealing with specialist areas of the Division's work. Particular Equity Division Judges are responsible for each of these lists. They are Mr Justice Young (Probate and Protective Lists); Justice John Bryson (Adoptions List); Mr Justice Rolfe (Commercial, Construction and Admiralty Lists); and Justice Santow (Corporations List).

Admiralty List

The Admiralty List deals with maritime and shipping disputes. It is administered by the same Judges and in the same manner as the Commercial List.

Adoptions List

This List deals with applications for adoption orders and for declarations of the validity of foreign adoptions under the Adoption of Children Act 1965. When all supporting affidavits are filed, most applications are unopposed and are dealt with by Judges in the absence of the public and without the attendance of applicants or their lawyers. Unopposed applications require close attention for compliance with formal requirements, but there is little delay. A small number of contentious hearings take place in court in the absence of the public. Most of these relate to dispensing with consents to adoptions. Requests for information under the Adoption Information Act 1990 are dealt with by the Registrar in Equity.

Commercial List

The Commercial List is concerned with cases arising out of transactions in trade or commerce. The case management and hearing of matters in this List are usually allocated to Mr Justice Rolfe, Mr Justice R L Hunter and Justice Clifford Einstein. The rigorous judicial case management regime, which was developed in the former Commercial Division, ensures that, by attention to the true issues at an early stage, timely exchange of witness statements and overseeing the preparation of every case, matters are brought on for hearing quickly. There is

also adherence to the allotted hearing dates and the policy has been adopted of continuing hearings, even though time estimates may be exceeded, to conclusion.

Construction List

The Construction List deals with disputes arising out of building or engineering contracts. It is administered by the same Judges and in the same manner as the Commercial List.

Corporations List

The work of this List is carried out mainly by Justice Santow and Justice Austin. A Judge sits each Monday to hear short applications under the Corporations Law and related legislation. The Judge will also give directions and monitor preparations for hearing in longer matters, as well as in other complex corporate matters. Cases managed in this List are generally given a hearing date when ready. This List is now the busiest in Australia, accounting for approximately half the reported cases in the specialist law reports.

Probate List

The work performed by the Judges and the Probate Registry consists of both contentious and non-contentious business. The majority of non-contentious cases are dealt with by the Registrar and Deputy Registrars. This includes the granting of common form probate where applications are in order and unopposed.

Both the Probate List Judge and the Registrars have procedures whereby some supervision is kept over executors in the filing of accounts and ensuring beneficiaries are paid. This supervision is usually by way of "spot checks" or after receiving a complaint.

The Registrar sits in court twice each week to consider routine applications and applications concerning accounts. Should a routine application require a decision on a matter of principle, the application is referred to the Probate List Judge, usually for hearing the same day.

The Probate List Judge sits once a week to deal with complex applications. If an application can be dealt with quickly it is usually heard immediately. Others are set down for hearing, normally within a month.

Contentious business, particularly disputes as to what was a testator's last valid will, is monitored by either the Registrar or a Judge. When these cases are ready to proceed, they are placed in the call-over list to receive a hearing date before an Equity Judge.

The Probate List Judge meets with Registrars on a regular basis to discuss the efficient working of the List.

Protective List

The work of this List is to ensure that the affairs of people who are incapable of looking after their property or themselves are properly managed. The List also deals with appeals from the Guardianship Tribunal of NSW.

The Protective List Judge also deals in chambers with applications by the Protective Commissioner for advice as to the administration of estates.

Most matters are dealt with pastorally with a minimum of legalism. However, when there is a dispute which cannot be solved in this way, it is decided according to law.

The Deputy Registrar sits in court one day a week and almost all cases are listed in front of her. The Deputy Registrar may submit a case to be determined by the Judge without further appearance or adjourn a case into the Judge's list. A Judge sits once a week to deal with any referred cases. Most cases are considered on the Judge's usual sitting day as soon as the parties are ready but longer cases are specially fixed, normally within a month.

The Protective List Judge meets with the Deputy Registrar each month to discuss the efficient working of the List.

Other lists

Other lists in the Equity Division which appear in this report are the expedition, short notice, Masters' and general lists.

Expedition list

Each year two Judges of the Division are designated to sit exclusively in the expedition list. In 2000 the expedition list Judges were Justice Hodgson and Justice Bergin. They heard all applications for expedited hearings. A matter is expedited when sufficient urgency is shown. When the application is granted,

the Judge gives directions and monitors the preparations for hearing. The same Judge hears the matter when it is ready to proceed.

Short notice list

Cases in this list are fixed for hearing before Judges when judicial time becomes available at short notice. A Registrar maintains this list, which includes cases that will be ready for hearing with three days' notice. These are mostly cases of a less complex kind and can usually be disposed of within one day.

Masters' list

The work of the Equity Division Masters includes dealing with contested procedural applications and conducting inquiries directed by Judges. Their independent work includes the hearing of most applications under the Family Provision Act, the Property (Relationships) Act and certain provisions of the Corporations Law. The chapter titled "The Masters" also describes the work of Masters.

Each month cases to be heard by a Master are called over and hearing dates about two months ahead are given. Each morning one of the two Masters takes matters referred by the Registrar and determines such of them as can be dealt with immediately, before proceeding to hear matters previously fixed for hearing.

General list

Other cases are placed in a general list when set down for hearing

(if commenced by statement of claim) or when considered ready for hearing (if commenced by summons). Four times a year the Registrar conducts a call-over of matters which have been in the general list for the longest period. The Registrar gives provisional fixtures for hearing (about three months ahead) and nominates a Judge to hear the matter. A pre-trial directions hearing (about one month ahead) is also appointed before the same Judge. At that pre-trial directions hearing the Judge monitors the preparations for hearing, gives directions and endeavours to ensure that the matter will be ready to be heard on the date fixed.

Duty Judge

At all times there is an Equity Division Judge acting as the Duty Judge. The Duty Judge mainly hears urgent interlocutory applications and uncontested or short matters, sometimes outside normal court hours. Judges of the Division act as Duty Judge on a roster system, for two weeks at a time. Where the Duty Judge considers there would be a substantial saving of the Court's time if a certain case was given an early final hearing, the Duty Judge may (within certain limits) fix an early hearing date and engage in pre-trial management of the case. The work covers an enormous range, including such matters as urgent applications by the Department of Community Services to intervene where a child's welfare is involved, as well as property and commercial disputes.

Registrars

Registrars also deal with procedural applications of various kinds and with applications under the Adoption Information Act 1990. The work of the Equity Division Registrars is referred to throughout this chapter. The chapter titled "The Registrars" also describes the work of Registrars. The Probate List Judge is supported by a Registrar who also manages non-contentious probate proceedings.

Alternative dispute resolution

The Equity Division encourages the settlement of disputes by alternative means, such as mediation. The Supreme Court Rules specifically provide for the referral of proceedings to mediation or neutral evaluation processes with the consent of the parties and referrals for mediation may now also be made without such consent. An information package has been prepared by the Registry which provides information in relation to mediation and neutral evaluation and includes a list of mediators and evaluators to whom Supreme Court proceedings may be referred under Part 7B of the Supreme Court Act 1970. The Registrar of the Division, the Probate Registrar and the Senior Deputy Registrars are also qualified mediators.

In the Commercial, Construction and Admiralty Lists orders are frequently made in appropriate cases referring to suitably qualified experts technical questions for inquiry and report. Sometimes the whole matter is referred out. On receipt of the report

the Court determines whether and to what extent it should be adopted. This procedure enables the speedier resolution of many technical questions.

OPERATIONAL STATISTICS

New filings

Admiralty List

There were 9 proceedings commenced, compared with 21 in 1999 and 27 in 1998.

Adoptions List

There were 150 applications filed, compared with 159 in 1999 and 189 in 1998.

Commercial List

There were 174 proceedings commenced, compared with 173 in 1999 and 150 in 1998.

Construction List

There were 45 proceedings commenced, compared with 47 in 1999 and 57 in 1998.

Corporations List

There were 2316 proceedings commenced under the Corporations Law and Companies Code, compared with 2242 in 1999 and 2271 in 1998.

Probate List

During the year 20,672 probate applications were filed (including 101 contentious matters), compared with 20,086 (including 86 contentious matters) in 1999 and 20,305 (including 126 contentious matters) in 1998. In 2000, 19,559 probate applications were filed by way of summons without

a return date, 18 by summons with a return date, 44 by statement of claim and 1051 by other methods. Matters were filed at a relatively constant rate throughout the year. Applications for a grant of probate came from the following sources: 17,697 from solicitors (17,102 in 1999), 1258 applications by the Public Trustee (1290 in 1999), 421 personal applications (434 in 1999) and 183 private trustee company applications (216 in 1999). The 2000 figures represent approximately 90.5 per cent, 6.4 per cent, 2.15 per cent and 0.95 per cent, respectively, of all applications for grant of probate.

Trustee companies filed 815 elections (785 in 1999) to administer estates of less than \$50,000. An election is a statutory power to “elect” to administer an estate and is restricted to trustee companies. In these types of cases it operates as an alternative to applying for a normal grant.

Protective List

There were 107 applications filed, compared with 128 in 1999 and 180 in 1998.

Other Equity Division new filings

Property (Relationships) Act matters

There were 48 proceedings commenced, compared with 55 in 1999 and 76 in 1998.

Family Provision Act matters

There were 440 proceedings commenced, compared with 464 in 1999 and 465 in 1998.

Other matters

There were 1311 other proceedings commenced, compared with 1470 in 1999 and 1278 in 1998.

Disposals

Admiralty List

In 2000, 18 cases were disposed of, compared with 24 in 1999.

The statistics for the time taken from commencement to disposal is set out in Table 7.

Table 7. Admiralty List disposals

Time	Number of cases
0-6 months	6
6-12 months	5
12-18 months	5
18+ months	2
Total	18

Adoptions List

In 2000, 152 orders were made, compared with 157 in 1999 and 179 in 1998. It is estimated that over 70 per cent of the applications were disposed of within four months of commencement. The time taken is measured from the date of filing the summons.

Commercial List

In 2000, 139 cases were disposed of, compared with 159 in 1999. The statistics for the time taken from commencement to disposal by final judgment or order, settlement or discontinuance, is set out in Table 8.

Table 8. Commercial List disposals

Time	Number of cases
0-6 months	48
6-12 months	35
12-18 months	18
18+ months	38
Total	139

Twenty-seven per cent of cases took more than 18 months to be disposed. A survey was conducted to identify which of these cases had been on appeal and subsequently returned to the List for a re-hearing, and other cases where lengthy periods had been allowed for the implementation of commercial settlements. In the first category of case, no new starting time has been noted when the cases are returned to the List. In the second category, the finishing dates are not recorded when the settlement is announced, but when the settlement is concluded. Despite this, 35 per cent of cases were disposed of within 6 months, 25 per cent within 12 months and 13 per cent within 18 months. Having regard to the length and complexity of many of the cases this is regarded as satisfactory.

Construction List

In 2000, 38 cases were disposed of, compared with 67 in 1999. The statistics for the time taken from commencement to disposal is set out in Table 9.

Table 9. Construction List disposals

Time	Number of cases
0-6 months	4
6-12 months	10
12-18 months	7
18+ months	17
Total	38

Probate List

A total of 21,967 grants were made in 2000. The most common grant was the grant of probate in common form (19,760). Other categories of grant were: administration (1346), administration with will annexed (622), reseal (210) and probate in solemn form (29).

In 2000, 129 contentious matters were completed. The statistics for the time taken from commencement by filing of an application for probate to disposal by final order are set out in Table 10.

Of the 101 contentious matters commenced in 2000, 47 were completed during the year.

Some matters in the Probate List were disposed of using alternative dispute resolution. In 2000, Probate Registrars conducted 43 mediations including probate and non-probate issues. Approximately two-thirds (67 per cent) were settled by mediation. Sixteen per cent of matters settled either subsequent to the mediation or on a second mediation date.

Protective List

All but three applications filed in 2000 were disposed of during the year. The three remaining matters will be finalised in February 2001. All cases are disposed of within two months of commencement (which is by summons) unless the parties require further time to obtain medical or financial evidence. Some finalised matters later require further consideration by the Court as the health and asset position of the person concerned change with time. If this occurs, the file is re-opened and not recorded as a new filing.

Table 10. Probate List disposals

Time	Number of matters	Percentage of total
Within 6 months	44	34
7-12 months	19	15
13-24 months	51	39
More than 24 months	15	12
Total	129	

Other disposals

Other matters, including disposal of cases in the Corporations List, Property (Relationships) Act matters and Family Provision Act matters, were dealt with by the making of final orders. These types of other matters were disposed of by a judicial officer or Registrar, as shown in Table 11.

Table 11. Other disposals 1998-2000

	2000	1999	1998
Judges and Masters	444	724	867
Registrar	2753	2113	2193

Alternative dispute resolution

Some cases were disposed of as a result of alternative dispute resolution. In 2000, there were 143 non-probate mediations conducted in the Equity Division.

Overall, 79 per cent of mediations settled. Of these, 12 per cent settled either subsequent to the mediation or on a second mediation date.

The majority of mediations involved Family Provision Act matters. The range of matters mediated in 2000 was broader than in 1999 and mediations were conducted in the following areas of law: Family Provision Act, partnership, Property (Relationships) Act, declaratory relief, section 66G of the Conveyancing Act, easements, trusts, mortgagor/guarantee, cy pres scheme, taxation, costs, debt, leases, nuisance, building disputes, breach of duty, specific performance and probate.

In a number of matters the dispute included more than one of the above categories and in some cases the mediation embraced disputes not apparent on the face of the court documents.

It is expected that the demand for registrar-conducted mediations in 2001 will not diminish. Statistics show that on average more than two judge-days per matter are saved.

Pending caseload

Admiralty List

There were 10 cases pending at the end of 2000, compared with 19 in 1999 and 22 in 1998.

Adoptions List

There were 54 cases pending at the end of 2000, compared with 57 in 1999 and 43 in 1998.

Commercial List

There were 207 cases pending at the end of 2000, compared with 174 in 1999 and 160 in 1998.

Construction List

There were 68 cases pending at the end of 2000, compared with 56 in 1999 and 70 in 1998.

Probate List

Whilst there were no non-contentious probate applications pending at the end of the year, there was a total of 92 contentious matters pending. Of this number, 56 were commenced in 2000 (60 per cent of these are within the time period to be completed within 6 months of filing).

Protective List

There were four applications pending at the end of the year, which was the same figure as for 1999 and 1998.

Other pending caseload

At present, it is not possible to report separately on pending caseload in the Corporations List, Property (Relationships) Act matters, Family Provision Act matters and other matters.

There were 3291 proceedings of these classes pending at the end of 2000, compared with 4093 in 1999. Prior to 1999, the full pending caseload was not reported, only those cases ready for hearing before a Judge or Master.

Time standards

The Court has determined that it will develop time standards for the disposition of its civil trial work.

The standards will apply to all of the Division's civil trial work combined with all Common Law Division civil matters.

The Court is not able to publish time standards until improvements are made to computer-based case management systems which will enable the Court to monitor and measure the case management process with speed and precision not presently available.

Admiralty List

The case management procedures adopted in this List mean that all cases come before a Judge approximately four weeks after the originating process is filed. This enables the Court to assess the matters in issue and any urgency.

Directions hearings are held which state procedures and deadlines to be met by the parties to ready their case for final hearing. Interlocutory applications are heard generally on a Friday.

A hearing date is allocated when the application is ready to be heard. Once before the Court, urgent matters can be accommodated within a very short period of time.

Adoptions List

There is no significant waiting time for hearing contentious adoption matters.

Commercial List

The position is similar to the Admiralty List.

Construction List

The position is similar to the Admiralty List.

Corporations List

Most Corporations List matters are heard within a short time after the case is fully prepared.

Probate List

In contentious proceedings, summons matters are listed before a Registrar on a date within three to four weeks of filing. Statement of claim matters are immediately listed before the Registrar once pleadings have closed. Urgent orders which can be made by the Registrar, such as orders for special grants to continue the operation of a business or legal action, are made on the day of filing.

Contested matters where all evidence has been filed and are ready for hearing are placed in the general list for the next available call-over. The Registrar then nominates the Judge who is to hear the matter, gives a hearing date (about three months ahead) and a date for a pre-trial directions hearing (about one month ahead).

For non-contentious probate applications the time between the filing of an application and the making of the grant is usually two working days. For the months of September, October and November this increased to four working days due to the Olympic period and a shortage of staff.

The time taken from the date of grant to the date of posting the parchment is normally three working days, however this time too was exceeded, for the same reasons, during the months of September (six days), October (five days), November (six days) and December (nine days).

Protective List

All short applications were heard when ready. Longer matters, when ready, are given a special fixture within a month.

Other lists

There is no appreciable delay in the expedition list or the work of the Duty Judge.

For short notice list matters there is a waiting time of up to three months between the time of placement in this

list and hearing. At the end of 2000, there were 19 matters in the short notice list awaiting hearing.

For matters in the Masters' list, approximately three months elapse between the date the matter is placed in the list and the date of hearing.

For contested matters not in any other list, where the parties comply with procedural requirements there is normally a waiting time of approximately six months between the date when the matter is placed in the general list (to be allocated a hearing date) and the date of hearing.

As at the end of 2000, there were 82 matters in the Masters' list and 12 matters in the general list which had not been allocated a call-over date. A further 268 matters had been allocated dates for hearing or call-over.

Other aspects

Interlocutory applications in the Commercial, Construction and Admiralty Lists

The procedures for listing interlocutory applications in these Lists on Fridays have minimised inconvenience to the parties. Directions are generally given for written submissions. These shorten the actual hearing time and permit the Judge to read them prior to hearing and frequently enable extempore judgment to be given. Unless it is anticipated that an interlocutory application will last for more than two hours, the parties proceed on the basis that, once

directions for the hearing have been met, the matter will be heard on a Friday.

Practitioners with cases in the directions lists, which involve non-contentious directions, provide short minutes of consent orders to the Judge hearing that list prior to the Friday mention. This enables the making of orders in chambers, meaning another court attendance is unnecessary. This procedure saves parties time and inconvenience.

Electronic technology

Judges continue to encourage the utilisation of electronic technology, and steps are proceeding, with the assistance and co-operation of the legal profession, to plan for electronic filing of documents in the Court, electronic capture of documents to be exchanged between parties, electronic bulletin boards for straightforward consent orders and electronic provision of subpoenaed documents. These steps are well understood by the larger firms of solicitors, but the Court must keep in mind the necessity to provide available and affordable justice for all litigants.

Other Probate List work

During 2000, Probate List work also included the Registrar considering 50 applications for commission by executors and administrators and making 144 declarations of the Court with respect to applications concerning informal wills, while the Deputy Registrar (Accounts) vouched accounts in 133 estates and moderated or assessed bills of costs

in 99 estates. The Probate Office also prepared 3241 exemplifications (official copies of a grant of probate issued under the Court seal) and 1974 office copies of wills.

Other Corporations List work

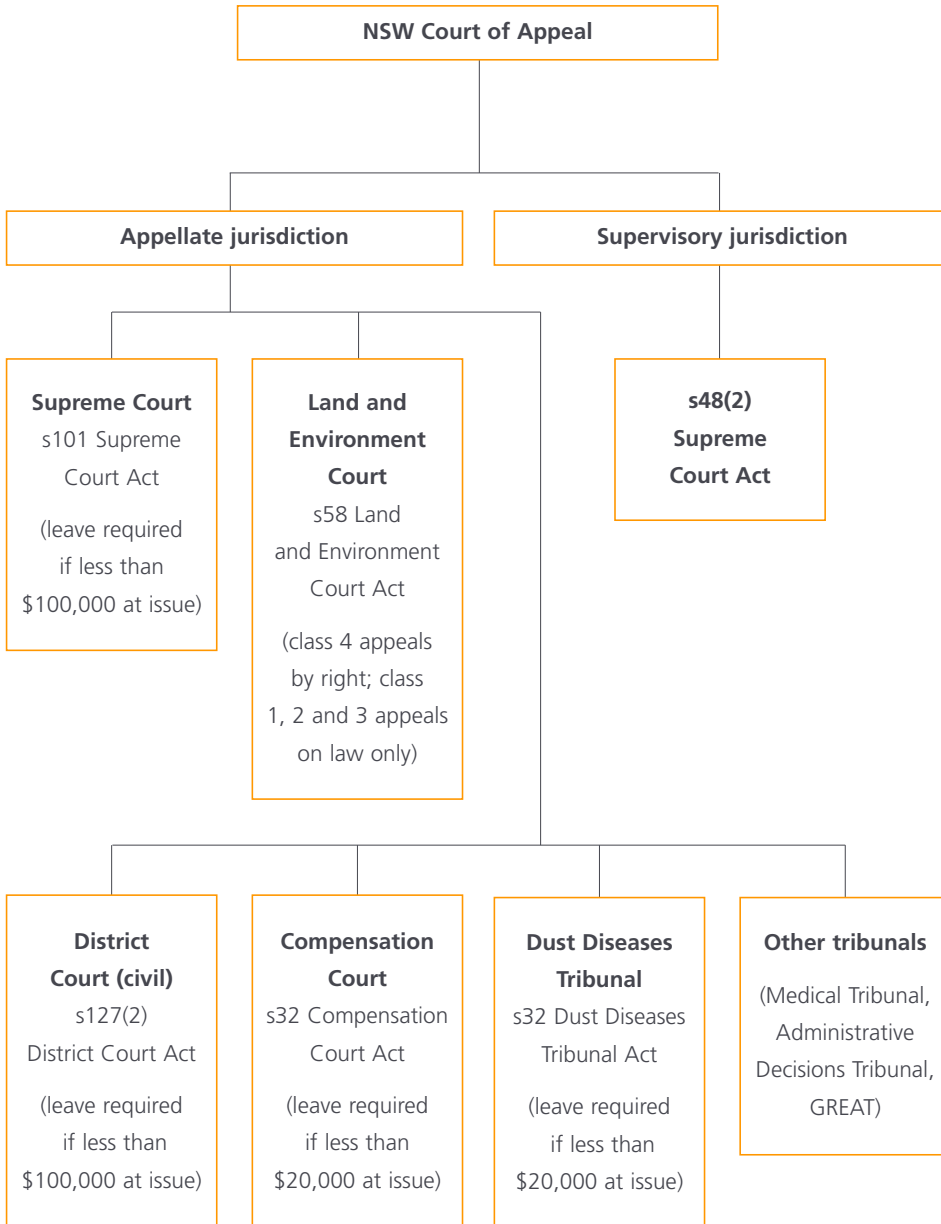
During 2000, Deputy Registrars conducted 53 examinations under the Corporations Law, occupying a total of 28 weeks. Two Deputy Registrars heard examinations from September to the end of term.

The Court of Appeal

The Court of Appeal determines civil appeals from most State courts and applications for judicial review in relation to "specified tribunals". Proceedings involving constitutional and other matters of general public importance may be commenced in the Court, or referred to it for hearing at first instance. Figure 10 depicts the gateways for appeals from final judgments and orders and the Court's supervisory jurisdiction.

The Court of Appeal comprises the Chief Justice, the President and Judges of Appeal. The appointment of Justice J D Heydon in February 2000 took the permanent number of Judges of Appeal to 10. The Chief Judge at Common Law and the Chief Judge in Equity are ex officio members of the Court who sit from time to time.

Figure 10. Gateways from which the Court of Appeal's caseload is derived



During 2000 the Honourable J E H Brownie QC, the Honourable M J R Clarke QC, the Honourable J D Davies QC and the Honourable M L Foster QC held commissions as Acting Judges of Appeal and served as additional Judges during various periods. Judges of the Supreme Court were appointed ad hoc from time to time as additional Judges of Appeal. For the hearing of *Heydon v NRMA & Ors* [2000] NSWCA 374, three senior interstate judges were appointed as Acting Judges of Appeal. They were the Honourable D K Malcolm AC (Chief Justice of Western Australia), the Honourable B H McPherson CBE (a Judge of Appeal of the Supreme Court of Queensland) and the Honourable W F Ormiston (a Judge of Appeal of the Supreme Court of Victoria).

The President and Judges of Appeal sat in the Court of Criminal Appeal for a total of 114 sitting days in 2000. This meant that 169 judge-days were allocated to the Court of Criminal Appeal because of the practice of allowing one day's reading time for each sitting day wherever practicable.

Mr E Irwin was appointed Registrar of the Court of Appeal in April 2000.

ORGANISATION OF BUSINESS

New matters are initially scanned for competency and, if necessary, referred back to legal representatives to prove competency or seek leave to appeal. Unrepresented litigants who have filed inappropriate process are sent a letter explaining the Court of Appeal's

procedures as well as suggesting that legal advice be sought.

Applications for leave to appeal are examined to see whether they are suitable to be heard concurrently with the argument on the appeal. The option of filing a holding notice of appeal or a holding summons remains popular with litigants and their advisers: it offers a "cooling off" period and an opportunity to obtain considered advice before launching a substantive proceeding.

Appeals are assigned to lists for the case management of matters before the Court. The general list is the largest. Others include workers compensation matters, District Court (quantum only) matters and family law matters. From June 2000, amendments to the Rules required parties to file submissions within fixed times after initiating a non-holding appeal. In December the holding list was abolished and, instead, the Court offers hearing dates as soon as an appeal is ready for hearing.

OPERATIONAL STATISTICS

The Court of Appeal maintains a database of statistics to monitor the caseload and performance of the Court.

New filings

There are three types of new filings: notices of appeal, summonses for leave to appeal and summonses for other relief (usually administrative law review). New filings exclude holding notices of appeal and holding summonses. Holding notices of appeal and holding summonses for

Table 12. Inputs to the Court of Appeal

Month	Notices of appeal	Summonses	Other	Total
January	23	1	1	25
February	30	1	0	31
March	50	3	1	54
April	32	1	0	33
May	27	0	0	27
June	37	3	2	42
July	41	3	1	45
August	54	2	3	59
September	31	0	0	31
October	35	1	1	37
November	44	4	0	48
December	50	1	0	51
Total	454	20	9	483

leave are not treated as an input into the Court's workload for statistical and time-management purposes. There were no returns from the High Court to the NSW Court of Appeal in 2000.

Table 12 shows the numbers of matters filed each month during 2000. The Court has no control over the number of matters with which it must deal.

By way of comparison, the total filings (including all holding appeals and summonses) received by the Court of Appeal from 1996 to 2000 is shown in Figure 11.

Disposals

Since January 2000, disposal statistics include only matters in which a substantive notice of appeal was filed. A comparison of these figures with those published in previous years is, therefore, not appropriate. The disposal statistics

are reported on a monthly basis and reviewed at Court of Appeal Judges' meetings which occur approximately monthly.

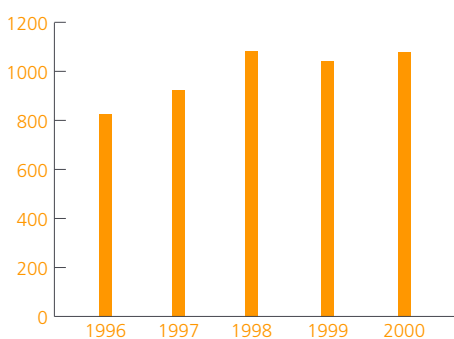
Figure 11. Total filings for 1996-2000

Table 13 shows the number and types of disposals recorded during 2000.

Pending caseload

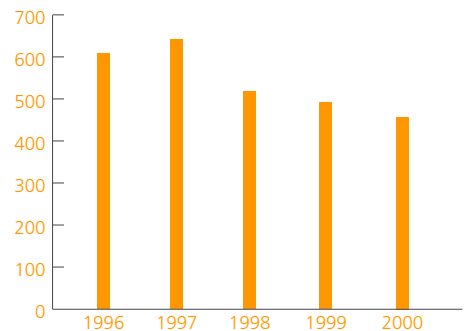
For a number of years the Court of Appeal tracked its pending caseload by counting inputs and outputs. At the

Table 13. Court of Appeal disposals during 2000

Month	Reserved judgments	Extempore judgments	Settled	Discontinued	Struck out	Other
January	0	0	1	4	0	0
February	11	7	6	6	3	2
March	38	8	12	3	3	2
April	18	8	5	10	7	2
May	21	3	8	11	4	5
June	12	9	17	4	1	3
July	19	6	4	1	8	2
August	36	10	4	6	5	0
September	15	6	2	2	1	0
October	20	8	9	2	4	1
November	29	9	4	11	3	0
December	18	6	2	4	6	0
Total	237	80	74	64	45	17

beginning of 2000, holding appeals were excluded, giving an active caseload at 1 January 2000 of 494 matters.

Prior to 2000, the published pending caseload statistics were partly based on holding appeals and those holding appeals deemed discontinued. These are not included in the 2000 statistics because they do not reflect any delay within the control of the Court. The pending caseload figures for 1996-1999 have been recalculated to exclude those matters to enable a comparison. Figure 12 reveals the trend over the past five years.

Figure 12. Court of Appeal pending caseload 1996-2000

Time standards

In January 2000 the Chief Justice announced that the performance of the Court of Appeal was to be measured against time standards. During 2000, disposals from the date of initiating process (excluding holding appeals and holding summonses for leave) were to meet the standards set out in Table 14.

Table 14. Performance against time standards

Time from commencement* to finalisation	Standard (%)	Actual achievement (%)				Number of cases disposed
		Appeals	Summonses for other relief	Leave applications	Total	
within 6 months	50	23	50	63	32	210
within 12 months	80	51	83	97	62	407
within 18 months	90	84	100	100	85	558
within 24 months	100	97	100	100	98	642
Total						656

* Commencement is defined as the filing of the substantive notice of appeal or, if leave to appeal is required, the summons for leave to appeal.

The Court of Appeal achievement against those standards is also shown. Those disposal figures have been broken down for each class of input to show waiting times. The reporting against time standards includes unsuccessful leave applications, which are excluded from reporting in Table 13.

The standards previously announced for 2001 have proved too optimistic in light of the Court's general practice of dealing with the oldest cases first.

It is proposed that the standards for 2001 will be the same as those for 2000. The standards for 2002 will be as previously announced for 2001 (that is, 50 per cent disposed of within 6 months, 85 per cent within 12 months and 100 per cent within 18 months).

Other aspects of the Court's work

The judgments of the Court of Appeal are available on the Supreme Court's web page or via the AustLII database.

The High Court granted special leave in 16 matters from the NSW Court of Appeal during 2000.

The Court of Criminal Appeal

The bulk of the Court of Criminal Appeal's work is to determine appeals from proceedings in the Supreme and District Courts challenging convictions and/or seeking to modify sentences imposed at trial.

When determining appeals, the composition of the bench is three or more Judges as the Chief Justice directs. Since 1994, the Court of Criminal Appeal's bench may be two Judges when hearing certain sentence appeals where no issue of principle is disputed.

Generally, the Judges who sit in the Court of Criminal Appeal are the Chief Justice, the President and Judges of the Court of Appeal, and the Chief Judge and Judges of the Common Law Division.

ORGANISATION OF BUSINESS

Sittings of the Court are organised on a roster basis, having regard to the regular judicial duties and commitments of those who sit.

During 2000, sittings of either two or three weeks' duration were rostered for each month. Additional sittings were arranged where circumstances demanded and judicial resources were available.

The listing of appeals is fixed by the Registrar who conducts a regular call-over of cases, usually at fortnightly intervals. The Registrar also gives directions for the filing of written submissions and preparation of other material prior to hearings.

Registry staff attend to the processing of all documentation, both prior to and following the hearing of each appeal, as well as maintaining all files and records concerning the operation of the Court.

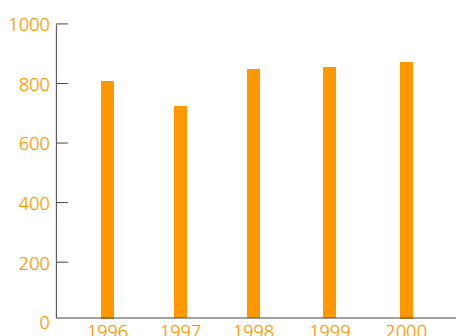
OPERATIONAL STATISTICS

New filings

An analysis of the types of work coming to the Court during 2000, compared with that in 1999, is given in Table 16.

Total new filings in the Court of Criminal Appeal from 1996 to 2000 are shown in Figure 13.

Figure 13. New filings 1996-2000



Disposals

Table 15 shows an analysis of the types of matters finalised by the Court of Criminal Appeal during 2000 compared with those in 1999. Figure 14 shows total finalisations for the years 1996 to 2000.

Table 15. Disposals

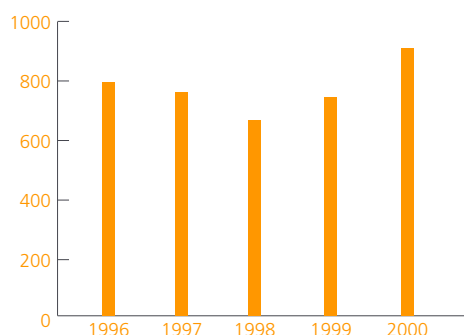
Type of appeal/application	2000	1999
Conviction and sentence	181	135
Severity only	270	239
Crown appeals	87	57
Abandonments	250	202
Section 5A appeals*	1	0
Section 5F appeals**	31	29
Stated cases	6	4
Summary dismissals	81	77
Applications by Attorney General	0	1
Parole Board applications	0	2
Total number of disposals	907	746

* Section 5A of the Criminal Appeal Act refers to submissions of questions of law.

** Section 5F of the Criminal Appeal Act refers to appeals from interlocutory judgments or orders.

Table 16. New filings

Originating jurisdiction and appeal/application type	2000	1999
Supreme Court	63	58
Conviction and sentence	34	27
Severity only	17	22
Crown appeals	5	5
Section 5F appeals	7	4
Land and Environment Court	3	8
Conviction and sentence	0	1
Severity only	1	1
Crown appeals	0	3
Stated cases	2	3
District Court	795	783
Conviction and sentence	216	220
Severity only	473	451
Crown appeals	77	75
Section 5A appeals	1	0
Section 5F appeals	27	32
Stated cases	1	4
Applications by Attorney General	0	1
Local Court	1	0
Section 5F appeals	1	0
Parole Board	5	5
Applications	5	5
Total number of filings	867	854

Figure 14. Disposals 1996-2000

Pending caseload

There was a 20 per cent increase in the number of sitting days during 2000. This enabled the Court to dispose of a higher number of appeals in comparison with 1999. However, because of the maintenance of an historically high level of new filings, the reduction of the pending caseload was not as great as was anticipated. Revised rostering arrangements will be in place for 2001 to meet the demands of new time standards and achieve a significant reduction in the number of outstanding appeals.

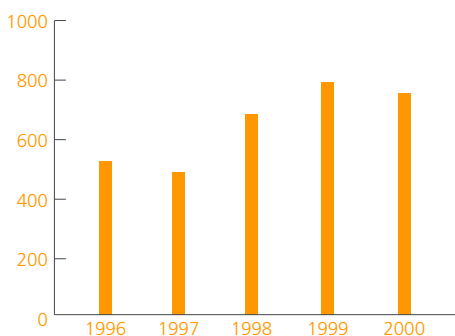
The pending caseload as at the end of 2000 is analysed in Table 17 and compared with that for 1999.

Table 17. Pending caseload (as at 31 December)

Status	2000	1999
Awaiting delivery of reserved judgment	10	19
Fixed for hearing	160	235
Awaiting listing	580	536
Total pending appeals	750	790

Total pending caseload as at 31 December since 1996 is shown in Figure 15.

Figure 15. Pending caseload 1996-2000 (as at 31 December)



Time standards

This year, for the first time, the Court of Criminal Appeal adopted time standards for the disposal of proceedings. Performance against the standard during 2000 is set out in Table 18.

The Court has announced standards for 2001 as follows: 50 per cent within 6 months; 90 per cent within 12 months and 100 per cent within 18 months. These standards will also apply to the year 2002.

The ability of the Court to achieve its time standards is adversely affected by delays in other parts of the criminal justice system. Criminal appeals are generally filed immediately after the first instance trial. Indeed, section 20 of the Criminal Appeal Act requires an appeal to be filed within 28 days of conviction or sentence. Few cases are ready to take hearing dates when the appeal is filed. Most appeals require legal aid. An assessment of merits is

Table 18. Performance against time standards

Time from commencement to finalisation	Standard	Disposals achieved
within 6 months	40 per cent	32 per cent
within 12 months	80 per cent	74 per cent
within 18 months	100 per cent	91 per cent

made before legal aid is granted. Before that assessment can occur, the transcript must be prepared and the summing up to the jury and/or remarks on sentence settled by the trial judge. It sometimes takes months for this to occur. Thereafter the assessment process may often result in an amended notice of appeal being filed. The measurement of time taken to dispose of criminal appeals starts from the date of filing the original notice of appeal, even though for many months the Court would not have been able to set down the matter for hearing, for the reasons given above.

Other

In October 2000 the Court released a guideline judgment (R v Thomson; R v Houlton (2000) 49 NSWLR 383; [2000] NSWCCA 309) which addressed factors to be considered when discounting a sentence for a guilty plea in relation to State offences. This guideline judgment is the fifth issued by the Court of Criminal Appeal. The first was delivered in October 1998 regarding aggravated dangerous driving occasioning death. Judgments were released in 1999 for the offences of breaking, entering and stealing, armed robbery and drug importation.

A sitting of the Court was held at Wagga Wagga in March and was given wide coverage in the local media. Further sittings at regional centres will occur when sufficient cases of local interest are able to be listed.

Executive and Related Services

Administrative and clerical support to the Court is provided by its Executive Office and Registry, managed by the Court's Chief Executive Officer and Principal Registrar, Mrs Nerida Johnston. This includes general registry support, provision of staff for judicial officers, assistance to the Rule Committee, administration of the costs assessment and pro bono schemes and, with the assistance of the Attorney General's Department, support in relation to accommodation, finance and information technology management.

In consultation with the Chief Justice and the other Judges, the Chief Executive Officer is responsible for managing the resources provided to the Court by the Attorney General's Department. The Chief Executive Officer also provides executive support to the Judges and Masters and develops policies and strategies for improving delivery of services to the Court and its users. In that capacity the Chief Executive Officer represents the Court on a range of committees and is a director of Law Courts Limited, the company that manages the Law Courts Building.

Ms Jeannie Highet, Policy and Research Officer, was responsible for co-ordinating the preparation of responses to correspondence directed to the Executive Office. Ms Highet also provided editorial guidance in the preparation of publications including the 1999 Annual Review and provided support for the Director General of the Attorney General's Department in relation to the Department's Annual Report, the briefing of the Attorney General in relation to the Parliamentary Estimates Committee hearings and the provision of House Folder Notes. Ms Gina Towney relieved as Policy and Research Officer from July to October and co-ordinated the collection of data for the Productivity Commission's 2001 Report on Government Services.

STAFF OF JUDGES AND MASTERS

The staff of each Judge includes an associate and a tipstaff. Each Master has an associate. The Chief Justice has the additional support of a secretariat

and a research officer and the Public Information Officer. The President of the Court of Appeal also has a research assistant. Additional research assistants, four in all, are available to the Court of Appeal, each of the Common Law and Equity Divisions and to the Judges of the Equity Division handling commercial cases.

The Deputy Chief Executive Officer, Mr John Castellan, continued to oversee the staffing of judicial officers and provision of support services. That was achieved with the valued support of the Executive Assistant, Ms Margaret Gaertner. From September, however, Ms Julie Weske, Judicial Support Co-ordinator, has undertaken those responsibilities. Ms Weske, with the assistance of Mr John Grant, also co-ordinates in-court support to judicial officers and juries by court officers.

The Court's Public Information Officer is a member of the Chief Justice's personal staff and is responsible for increasing public awareness of the operations of courts by providing specialist media advisory expertise to the NSW judiciary and courts, as well as community liaison assistance. In this position Kimberley Ashbee is the principal media contact and spokesperson for the Court and assists the media with access to court files, information about particular issues that arise and a range of enquiries covering all other NSW courts. She also organises education activities so that members of the public, including groups of school children and especially secondary legal studies students, can

visit the Court and develop a better understanding of the Court's role in society and the work of the judiciary.

During 2000, the Public Information Officer handled approximately 15-20 enquiries daily from the media concerning access to court documents and other information. Most are dealt with at the time of request. The number of enquiries and amount of time dealing with each enquiry varies. The suppression order notification system developed in 1999 has been well accepted by journalists, in-house counsel at media organisations and solicitors retained by them. The present system relies on the co-operation of the parties involved in a trial or hearing where orders are made, as well as judicial staff.

Approximately 50 school tours and educational tours were conducted during 2000. Feedback from teachers and students was positive and demand for tours remained constant throughout the year.

REGISTRY

The Registry provides administrative and clerical support to enable the Court to manage its work. Registry staff check and accept documents filed at the Court, list matters for hearing, issue court process, attend to the information needs of the Court's users by providing information and guidance in relation to procedures, maintain the Court's files and computer records and ensure that all necessary facilities are provided for hearings.

New Registry structure

During the year the Registry's new operational structure was implemented. Ms Jaleen Caples, Manager, Staff and Organisational Development, was responsible for finalising job evaluations and completing recruitment action. The progressive filling of positions has necessarily involved some disruption associated with staff movements in a period of considerable change. While the Registry operated as usual during the 2000 Olympic Games, Ms Marina Shevlin was seconded as a protocol officer and a number of other Registry staff and court officers assisted as volunteer workers for the Games.

Registry staff have maintained a high level of commitment to their responsibilities, guided and supported by the managers and supervisors of the various work areas (refer to Annexure B). The Registry's Business Plan 2000-2001 is underpinned by workplans developed in each of these operational sections.

Key sections in the new reporting structure and responsibilities are as follows:

Court Services

The Court Services section of the Registry includes the following functional areas:

Listing Services

This area provides general list office services such as management of common law and other civil listing, records hearing outcomes, organises civil circuits and manages the arbitration program. Listing Services also assists

those with adoption applications and applications for access to information about adoptions. Several Registrars and Deputy Registrars in the Court Services section undertake pre-trial case management, hear certain interlocutory applications and preside over examinations under the Corporations Law and for recovery of criminal assets.

Listing Services also provides registry support for processing committals, bail applications, applications under section 474D of the Crimes Act 1900 and Common Law Division criminal summary jurisdiction proceedings.

Court of Appeal Registry

The Court of Appeal Registry provides general registry facilities for the Court of Appeal including the registration of appeals, listing, issue of process, custody of records, co-ordination of appeal book preparation, liaison with lower courts, recording of results and public information services.

Court of Criminal Appeal Registry

The Court of Criminal Appeal Registry provides similar registry services to those described for the Court of Appeal Registry. It also enforces orders of the Court of Criminal Appeal concerning custody of prisoners.

Duty Registrar

The Court Services section provides a duty registrar service. The Duty Registrar enters default judgments and writs, considers various applications in chambers and provides information and procedural assistance.

Secretary of the Rule Committee and Advisings Officer

The Secretary of the Rule Committee is the Manager, Court Services. He and the Advisings Officer provide secretariat and administrative support and advice to the Rule Committee, liaise with Parliamentary Counsel to arrange drafting or rule amendments approved by the Rule Committee and research any such amendments.

Client Services

The primary role of the Client Services section is to plan and co-ordinate the development, implementation and review of policies, strategies and procedures aimed at ensuring the Registry's timely delivery of quality client services and guaranteed customer service standards. Such responsibility embraces the short term need to focus on improving the overall systems of records management and in particular, the records search and inspection services.

Client Services co-ordinates the Registry Users Group meetings and consider avenues available to enhance the effectiveness of services for users. The section has responsibility for co-ordinating the preparation of information publications and brochures and the compilation and review of website information and contact details. This area also has a call centre and undertakes major Registry public contact functions, including the document lodgment and exhibits counters and the management and maintenance of court files.

Probate Office

The Probate Office processes applications for granting of representation in deceased estates, attends to the registration and safe custody of wills, safely stores and provides ready access to probate records. It also approves executors' accounts and estate management.

Information Technology

The Information Technology section of the Registry is responsible for developing, implementing and monitoring information technology (IT) strategies for the Court, with regard to the overall IT strategic plan of the Attorney General's Department. The section is also responsible for ongoing maintenance and enhancement of existing court systems. It provides helpdesk facilities and supports the operation of the new technology courtrooms.

Budget and Resources

The Budget and Resources section is responsible for financial management and resourcing the needs of the Court. It also provides a range of direct services concerning building services, furnishing and equipping the chambers of judicial officers, and preparing and staffing courtrooms for hearings. This section is also responsible for management of assets and the Court's budget.

Costs Assessment

The Costs Assessment section undertakes the day-to-day administration of the Costs Assessment Scheme. Its tasks include the receipt of applications, their

allocation and post-assessment action, liaison between parties and assessors, administrative support for review panels, preparation and supervision of related correspondence as well as monitoring appeals and distributing judgments to relevant courts and assessors. The Manager, Costs Assessment, also provides secretarial support to the Costs Assessors Rules' Committee, which meets monthly and distributes a monthly newsletter to costs assessors.

Costs Assessment Scheme

The Costs Assessment Scheme is the exclusive method of assessment of legal costs for most jurisdictions. A costs assessment application enables an assessor to determine costs disputes between practitioners and clients, between practitioners and practitioners, and between parties to legal proceedings. The Scheme is administered by Registry staff with applications being determined by external assessors who are appointed by the Chief Justice. All assessors are members of the legal profession and educational seminars are arranged for them each year by the Costs Assessors Rules' Committee. Changes in legislation in 2000 requiring reasons for determinations and the introduction of the GST were the focus of training during 2000. Expenses associated with both of these areas referred to have increased the cost of administering the Scheme. Mr Robert Benjamin, solicitor, chaired the Costs Assessors Rules' Committee during 2000.

In 2000, 2347 applications were lodged. Of these, 1921 (82 per cent) related to costs between parties, 156 (7 per cent) were brought by clients against practitioners, 257 (11 per cent) were brought by practitioners and 13 (less than 1 per cent) related to costs as between practitioners. The review process, which is intended to be relatively informal in nature, is carried out by two assessors of appropriate experience and expertise and is conducted along similar lines to that undertaken in the original assessment process. The review panel can vary the original assessment and is required to provide a short statement of its reasons. There were 39 applications for review filed in 2000. There is still provision to appeal the review panel's decision to the Court, as of right on questions of law and otherwise by leave. These appeals are heard by Masters in the Common Law Division and form part of its civil caseload. There were 16 such appeals filed in 2000.

Pro bono scheme

During 2000 the commencement of Part 66A of the Supreme Court Rules saw a pro bono scheme established with support of both the NSW Bar Association and the Law Society of NSW. The scheme enables unrepresented litigants who are considered by the Court to be deserving of assistance to be referred through the Executive Office to a barrister and/or a solicitor who will assist them. The few referrals made in 2000, involved the provision of legal advice and, in some cases, an appearance at a subsequent hearing. The assistance of practitioners

who have volunteered to participate in the scheme is greatly appreciated. During 2001, protocols to govern the operation of the scheme will be settled in consultation with the legal profession.

INFORMATION TECHNOLOGY

Computer systems

The Court's commitment to improving computer systems has been supported by the Attorney General's Department and significant progress has been made in a number of areas. These include:

- network communications - especially in allowing judicial officers and staff to access information electronically from home or while on circuit;
- voice recognition software - this enables judicial officers to prepare judgments and other documents and is being piloted within the Court;
- enhancement of the Court's case management system, Courtnet;
- provision of specialised case management features for the Possession and Defamation Lists and to allow matters filed outside Sydney to be actively case-managed by the Sydney Registry; and
- flexibility in the distribution of judgments - the Court issued a large judgment on CD-ROM in three formats saving both time and money in the preparation of copies of judgments.

Specifications for each of the Courtnet enhancements stated above were prepared and tested by Ms Bettina Papazoglou, Manager, Caseload Analysis.

The Manager, Information Technology, prepared a comprehensive funding submission for upgraded computer equipment and software for all judicial officers and their staff and upgraded or new equipment for all Registry staff. This was approved by the Director General of the Attorney General's Department and a roll-out will commence in 2001.

Electronic Judgments System

From 1 January 1999 the Supreme Court, Court of Appeal and Court of Criminal Appeal have tested a system of court-designated medium neutral citation for all judgments given. This medium neutral citation is in line with guidelines agreed to by the Council of Chief Justices, with the Supreme Court adopting a citation pattern similar to that used by the High Court of Australia.

A review of the system was conducted in late 1999. The resultant recommendations brought improvements during 2000 to the system and the manner in which the Court uses it. Further training in preparation of judgments was provided to staff to enable the Court to meet its target of timely delivery of the judgments on the Supreme Court's website. These judgments are available on the Internet at www.lawlink.nsw.gov.au/caselaw/caselaw.nsf/sc.

Table 19 shows the number of judgments recorded during 2000 in the Supreme Court (2000 NSWSC), Court of

Appeal (2000 NSWCA) and Court of Criminal Appeal (2000 NSWCCA) sequences.

Table 19. Judgments recorded on the Electronic Judgments System

Judgment sequence	Published	Restricted*
2000 NSWSC	1206	8
2000 NSWCA	364	1
2000 NSWCCA	534	0

* Note that "restricted" judgments are those with non-publication orders attached. They are not provided to the Internet or commercial publishers.

Technology courtrooms

A pilot of products available in the Court's technology courtroom (Court 12A) started on 17 July 2000 when the hearing of *Idoport and Anor v National Australia Bank and Ors* began. The case is expected to run at least 30 months. In the *Idoport* matter, a total of 111,878 images (equivalent to the same number of A4 pages) have been copied into electronic form and are readily accessible to the Judge, the parties and their legal representatives who may be either in the courtroom or, as part of a wider legal team, at a remote location. The technology courtroom includes:

- facilities for video-conferencing, remote recording and remote evidence taking;
- information storage and presentation using specialist document management software;
- multi-media PCs including external access to research tools; and

- ability for concurrent (real time) computer assisted transcript (CAT) including the ability for participants to mark an individual computerised copy of a transcript.

The use of these technologies is seen as being able to assist in reducing delays currently created by the need to locate and handle paper documents during trials as well as to reduce the use of paper. The cost of multiple copying of documents currently imposed on parties is also likely to be significantly reduced.

The second of the technology courtrooms was completed in July 2000. This courtroom was initially used by the Special Commission of Inquiry into the Glenbrook Rail Accident.

Bail hearings

A videolink has now been re-established between the Court and the Metropolitan Regional Remand Centre at Silverwater for bail hearings. This facility enabled the Court to continue bail hearings during the Olympic Games without the need for special transportation arrangements for prisoners through congested city traffic.

Case management systems

While the Attorney General's Department continues to explore options for a new case management system which offers comprehensive caseload management information, ad hoc enhancements to the current system are being approved. The inflexibility of the present system makes any improvement costly and protracted. The latest enhancement to be approved by the Attorney General's

Department will facilitate an overhaul of the Differential Case Management system in the Common Law Division. The enhancements will not, however, be completed until July 2001.

FINANCE

The operations of the Supreme Court are funded by the NSW Parliament through the Consolidated Revenue Fund and form part of the budget allocated to the Attorney General's Department. Supplementation was provided during the year for implementation of the Registry's staffing restructure, conference travel for Judges, development of the Registry's Business Plan and the engagement of additional Acting Judges. Funding of \$329,000 for Acting Judges was provided in the 2000-2001 budget and additional amounts of \$200,000 and \$50,000 were provided in January and December 2000. Each year the Department publishes its audited financial statements which include appropriations (both revenue and expenditure) for the Supreme Court.

During the year the Court receipted \$26,788,326 in court fees. This followed amendments to the Justices (Fees) Regulation 1999 formalising postponement and waiver policies for people whose sole source of income is a pension and for small corporations. Court fees were adjusted on 1 July 2000 to reflect the CPI increase of 2.8 per cent. Court fees are, however, GST exempt.

During 2000, preliminary planning and systems development commenced to cover ongoing management of debt

recovery should this be handed over by the State Debt Recovery Office.

ACCOMMODATION

During 2000, restoration work continued on Court 2 in the King Street complex and the jury deliberation room attached to it, which was severely damaged by fire and smoke in 1998. The facility with enhanced prisoner access is expected to be back in use early in 2001. Access to the Probate Office has been possible throughout the work although its ease has been impaired. Work has also commenced on a jury assembly facility in the King Street complex. Repairs to the exterior of the King Street complex have continued, including restoration of the King Street facade and repairs to chimneys. Difficulties with access for building contractors during the Olympics period extended the time required to complete the work.

Supplementary funding provided by the Attorney General's Department for removal of asbestos in the staff areas enabled a fit-out to proceed on Level 4 and for part of Level 5 of the Law Courts Building better suited to the Registry's structure. Refurbishment of Registry accommodation will be completed in 2001. Upgraded amenities on Level 5 include a baby change room in the public toilets and wheelchair access for staff toilets and counter areas.

Re-carpeting of courtrooms, chambers and public areas on Level 10 of the Law Courts Building commenced in December 2000 and was completed during the law vacation.

During the year worksite assessments were carried out by occupational health and safety consultants on workstations for staff of some judicial officers.

Adjustments were made, including the provision of furniture and equipment.

In December a plaque commemorating the High Court's use of Court 7 in the Darlinghurst complex prior to its move to Canberra was presented to the Chief Justice by the Honourable A M Gleeson AC, Chief Justice of the High Court of Australia.

COURT VISITORS

During 2000, the Supreme Court received a number of visits from foreign judicial officers, prosecutors and court administrators. These visits involved meetings with Judges of the Court, including the Chief Justice and the President, as well as observing sittings of the Court of Appeal, civil and criminal trials and the technology courtrooms (Courts 12A and 10A). Visits to the Law Courts Library and the King Street court complex were also arranged.

These visits were from representatives of the following courts:

Supreme Court, Philippines (March)

District Courts, Indonesia (May)

Hiroshima High Court, Japan (May)

High Court, Taiwan (May)

Supreme Court, Hubei, China (June)

High Court, Shanghai, China (July)

Court of Appeal of Noumea,
New Caledonia (November)

Supreme People's Court and High People's Court, China (December)

Supreme Court, Bangladesh (December).

OTHER SUPPORT SERVICES

The NSW Attorney General's Department provides the Court with essential support services including:

- information technology support to the judiciary and Registry;
- human resource management services such as the payment of salaries, staff recruitment and training;
- court reporting services through the Reporting Services Branch;
- security and jury management services through the Sheriff's Office; and
- library facilities through the Joint Law Courts Library (see also the chapter titled "Library Services").

The Court thanks the Department's Director General, Mr Laurie Glanfield AM, for the support both he and his Department have given during the year. Assistance was also received from the Federal Court of Australia in the form of access to its courtroom-based video-conferencing facilities when the Supreme Court's own facility was not available. The Supreme Court thanks the Honourable M E J Black AC, Chief Justice of the Federal Court, for making those facilities available. The Court also acknowledges the support provided by Mr Garry Donnelly, the Chief Executive Officer of Law Courts Limited, and his staff in co-ordinating refurbishment works, maintaining the Law Courts Building facilities and providing assistance to court users.

Thanks are also extended to the Judicial Commission of NSW for support provided in training of judicial staff and the planning and running of the Court's annual conference. The assistance in venue arrangements and liaison with guest speakers for the conference provided by Mrs Charlotte Denison and Ms Ruth Windeler, in particular, is acknowledged.

Library Services

The Law Courts Library was established as a legal resource and information centre and to provide legal source material in a fast and accurate manner to the following courts and tribunals located in the Law Courts Building: the High Court of Australia, Federal Court of Australia, Supreme Court of New South Wales, Federal Police Disciplinary Tribunal, Defence Force Appeals Tribunal, Australian Competition Tribunal and Copyright Tribunal.

The Library serves approximately 120 Judges, Acting Judges, Masters and Registrars. Legal practitioners, litigants in person and librarians may apply for access (excluding the borrowing of materials) to the Law Courts Library collection and services on a user-pays basis.

Legal practitioners and litigants requiring material for court are permitted to borrow free of charge on the day the matter is heard.

ORGANISATION OF BUSINESS

The Law Courts Library is jointly funded by the NSW and Commonwealth Governments. Matters of policy relating to the Library are the responsibility of the Law Courts Library Management Committee. The work of the Committee is reported separately in this chapter.

Reporting to the Librarian in Charge are the Library's four divisional managers in the areas of Reader Services, Technical Services, Systems and Administration. Each division has its own staff. The Law Courts Library currently employs 19 staff.

SIGNIFICANT MATTERS AND OVERVIEW OF 2000

Ms Brenda McConchie was contracted by the Federal Court of Australia to assist Jacqueline Elliot, Court Librarian, High Court of Australia, to conduct a review of the Federal Court's library services. As part of the review a number of matters concerning the Law Courts Library in Sydney were raised, in particular the continuing funding shortfall. To address these concerns the Registrar of the Federal Court commissioned Ms McConchie to develop a draft proposal for a new funding arrangement and management agreement between the Commonwealth and NSW Governments. Ms McConchie presented her report and recommendations to the Law Courts Library Management Committee in November.

The Law Courts Library assumed full responsibility for the management and maintenance of the Supreme Court Judges' chamber and floor collections.

A full-time Senior Library Technician was employed for 12 months to convert all manual records to electronic format and to add details of the floor collections to the on-line catalogue.

The introduction of the GST had a major impact on the work of all sections of the Library. Access payments have now become a financial year charge with the fees for 2000 collected in two stages to accommodate the introduction of the GST mid-year. The Law Courts Library also abandoned the library voucher system as a means of paying for inter-library loans and document delivery.

The Librarian in Charge wrote to all external borrowers advising that the following collections would no longer be available for loan: superseded Commonwealth and NSW legislation, English legislation, standard English texts and all looseleaf services.

The Law Courts Library maintained a full library service to all primary readers throughout the Olympic period.

Lack of space became a major issue during 2000. All the secondary storage belonging to the Federal Court and used by the Library has been reclaimed by the Court. This stored material has been relocated to the Library's main premises on Level 14 but there is insufficient shelf space to accommodate the hardcopy materials previously kept on Level 1.

PRIMARY USERS

The Law Courts Library has two categories of readers:

- primary readers are the Judges, Masters, Presidential Members and Registrars together with their associates, researchers and tipstaves;
- secondary readers are members of the legal profession, litigants and librarians who have access to the Library's collection and services on a user-pays basis.

The funds raised from access fees are used for the ongoing maintenance of the Library collection.

SERVICES

The services provided by the Law Courts Library include:

- introductory Library tours
- research and reference services
- legal research web resources
- conference database
- training sessions and workshops
- document delivery and inter-library loan services
- a series of guides to the Library and resources including hint sheets and training materials
- on-line index to the Hansard including reading speeches and assent and commencement details for NSW and Commonwealth Bills
- on-line index to the judgments of the High Court, Federal Court and Supreme Court of NSW including details of reported citations
- current awareness service

- provision of authorities for use in the courts and tribunals located within the Law Courts Building.

Library staff

During 2000 the Reader Services Officer took 12 months leave without pay. The resultant vacancy was filled on a three-monthly rotational basis. The rotation program created vacancies in the inter-library loans, legislation and judgments areas and provided all para-professional staff with opportunities to gain experience in each of these areas.

The Administration Manager was on secondment to the Public Defenders Office throughout 2000. His position has been filled on a temporary basis by a member of the Attorney General's Library staff. The Administrative Assistant vacancy resulting from the retirement of the incumbent was filled on a temporary basis throughout 2000. The Technical Services Manager acted as the Librarian in Charge of the Attorney General's Library from July to September.

Reader Services Division

The introduction of the GST had a major impact on the work of the Reader Services Division during 2000. In January all external readers were advised that from July 2000 the access fee would be charged per financial year rather than for the previous calendar year, to bring it into line with the Library's other financial processes and prepare for the transition to the GST. The year 2000 charges were collected in two stages: the first covered the period 1 January 2000 to 30 June 2000, the second covered the period

1 July 2000 to 30 June 2001 and included the 10 per cent GST.

The introduction of the GST has also resulted in the Law Courts Library abandoning the library voucher system as a means of paying for inter-library loans and document delivery. Payment is made by cash or cheque. This change in procedures has led to an increase in the administrative workload for Reader Services staff as all transactions now require a GST compliant invoice/receipt to be issued at the time the payment is received. There is a slight reduction in usage and number of loans for 2000 which can be attributed to the Library being closed to external readers during the Olympic period and the closure of the courts. During 2000, readers accessed the Library approximately 35,000 times.

The Reader Services and Systems staff answered 8894 enquiries from primary and secondary readers and the public. The Library requested 998 items from other libraries via the Inter-Library Loan system at a minimum cost of \$26.40 per request. The Library supplied a total of 2642 items to other libraries, 482 of which were made via the Document Delivery Service, the majority at fast-track rate.

Judicial officers and court staff (on behalf of judicial officers) borrowed a total of 27,812 items from the collection.

Technical Services Division

During 2000 the Technical Services Division ordered 175 new titles for the

Supreme Court and 10 for the joint law courts collection. From the material donated to the Library during 2000, 500 monographs were added to the collection. From serial subscriptions a total of 2014 bound serial issues (which included legislation) were added to the collection.

The emphasis for the Technical Services Division during 2000 was to clear the backlog of uncatalogued and donated material. This project has taken several years to complete but has provided an invaluable source of older material not previously held by the Library. Surplus items have been offered to other law libraries throughout the country.

A previously uncatalogued collection of plans and documents relating to the planning and construction of the Law Courts Building has been processed and details added to the Library's on-line catalogue. This collection has been classified "restricted access". A collection of photographs has also been catalogued and housed in special archival photograph albums.

Systems Division

Training was the Systems Division's primary focus during 2000. The Law Courts Library now provides over 87 databases in the form of CD-ROM titles and on-line subscription services to the desktop via the network. Over 110 judicial officers and court staff were trained to use the Library's electronic resources and the Internet during the year. Hint sheets have been developed to complement the five training programs offered by the Library.

A second series of hint sheets has also been developed to assist readers in searching the Library catalogue.

The Systems Division also developed and conducted a series of training sessions for Supreme Court Registry staff about the Infolink and Lawlink on-line services provided by the Attorney General's Department.

A number of Law Courts Library staff nominated for the Attorney General's Department's web author training. At the completion of the course a Library web working group was formed to review and update the Library's existing website and its services being offered via the Internet.

The Systems Division was also involved in testing for Y2K and preparing Library software for the implementation of the GST.

Administration Division

The workload of the Administration Division also increased during 2000 with the introduction of the GST. The staff of the division attended a series of workshops and training sessions to ensure that both staff and systems would be ready for the July 2000 start.

The Library's allocation from the State for 1999/2000 for books and subscriptions was \$375,693. Actual expenditure for the period was \$428,000.

For the 2000/2001 financial year the Library's allocation from the State for books and subscriptions is \$380,956, an increase of \$5,263 on the previous year.

LAW COURTS LIBRARY MANAGEMENT COMMITTEE

Purpose of the Committee

The purpose of the Committee is to determine Library policy and to oversee the expenditure of funding allocated by the Commonwealth and State Governments to develop the collection and services.

Work of the Committee in 2000

The major issues for consideration by the Committee during 2000 were:

- the shortfall in Commonwealth funding
- the effect of additional subscription cancellations
- the draft proposal for a new funding arrangement and management agreement between the Commonwealth and NSW Governments
- the impact of the GST on the Library's access fees and document delivery charges.

Committee members during 2000

The Honourable Justice Priestley
(Presiding Member)

The Honourable Mr Justice Sheller

The Honourable Justice Lindgren
(Federal Court)

The Honourable Justice Burchett
(Federal Court, retired September 2000)

Mrs N Johnston

Mr W Soden
(Registrar, Federal Court - observer)

Ms L O'Loughlin
(Librarian, Law Courts Library - Secretary).

Admission to the Legal Profession and the Appointment of Public Notaries

The rolls of legal practitioners and public notaries are maintained by the Legal Practitioners Admission Board, a statutory corporation established by the Legal Profession Act 1987. The Board's responsibilities derive from provisions of the Legal Profession Act and the Public Notaries Act 1997 and from the Board's close relationship to the Supreme Court. Under provisions of the Legal Profession Act, the Board certifies whether applicants for admission as legal practitioners are suitable and of good fame and character. The Board also conducts examinations for persons seeking to be granted a Diploma in Law, assesses the qualifications of overseas applicants for admission and accredits academic qualifications and practical training qualifications issued by NSW tertiary institutions. Under provisions of the Public Notaries Act the Board certifies whether applicants for appointment as public notaries are suitable for appointment.

LEGAL PRACTITIONERS ADMISSION BOARD

The Board maintains the rolls of legal practitioners and public notaries and, on application, certifies that a given practitioner is enrolled. The Board's officers also assist the Court in the administration of ceremonies for the admission of legal practitioners.

In 2000 there were 1144 persons admitted by the Court as legal practitioners compared with 1440 in 1999 and 1341 in 1998. In addition 450 interstate and New Zealand practitioners were enrolled under the Mutual Recognition Act 1992 compared with 364 in 1999 and 329 in 1998. The Court appointed 27 public notaries compared with 38 in 1999.

The reduction in numbers registering to take the Board's examinations has continued. In 2000, 576 people registered compared with 743 in 1999 and 768 in 1998. Despite the reduction in numbers, the Board's course of examinations remains financially viable and, in co-operation with the University of Sydney Law Extension Committee, produces graduate-level legal education at a much lower cost per unit than is available elsewhere.

With the assistance of the Centre for Legal Education the Board has undertaken a major review of the following aspects of its operations: applications for exemption from practical training, admission of overseas lawyers, accreditation of academic and practical training courses, re-admission of practitioners whose names have been

removed from the Roll for disciplinary reasons, governance and management of the Board's academic courses and registration of probationary Students-at-Law. The Board has consulted widely with those affected by such matters and expects to finalise its review during 2001.

During 2000, the members of the Legal Practitioners Admission Board were:

The Honourable the Chief Justice

The Honourable Mr Justice Windeyer AM RFD ED (Presiding Member)

The Honourable Mr Justice Sully (Deputy Presiding Member)

The Honourable Justice Santow OAM

Professor D Barker

Mr C Cawley

Mr W Grant

Mr J Gormly (from 12 October 2000)

Mr I Harrison SC (until 12 October 2000)

Ms D Searle

Mr P Taylor SC

Professor R Woellner

Executive Officer and Secretary:

Mr R Wescombe.

LEGAL QUALIFICATIONS COMMITTEE

The Legal Qualifications Committee superintends the qualification of candidates for admission. The Committee meets seven times annually to deal with applications by students, applications by persons seeking exemption from the requirement to undertake a practical training course and applications by overseas qualified persons seeking exemption from the academic or

practical training requirements for admission in NSW. The Committee also reports to the Legal Practitioners Admission Board on matters associated with the accreditation of academic and practical training courses in law.

The Legal Qualifications Committee performs its work largely through its sub-committees, and is able to review decisions of its sub-committees when requested to do so by aggrieved applicants.

The Committee's Academic Exemptions Sub-Committee and Practical Training Exemptions Sub-Committee, which deals principally with applications from overseas qualified lawyers, determined 280 applications during 2000, compared with 294 in 1999 and 181 in 1998.

The Syllabus and Curriculum Sub-Committee's major responsibility is the consideration of annual notifications by NSW law schools and accredited practical legal training institutions about alterations or proposed alterations to the curricula of their law degrees or practical training programs. The Sub-Committee expressed concern about recent extensive changes to practical training courses, particularly with respect to electronic versions of the courses and co-operative arrangements between the teaching institutions and major law firms. Further consideration of this matter is planned for 2001.

In 2000, there were 4752 examination subject enrolments by the Board's Students-at-Law compared with 5310 in 1999 and 6168 in 1998.

During 2000, the members of the Legal Qualifications Committee were:

The Honourable Mr Justice Sully
(Chairperson until 30 June 2000)

The Honourable Mr Justice Dunford
(Deputy Chairperson until 30 June 2000,
Chairperson from 1 July 2000)

The Honourable Justice Carolyn Simpson
(until 30 June 2000)

The Honourable Justice Clifford Einstein
(from 1 July 2000, Deputy Chairperson)

The Honourable Justice Bergin
(from 1 July 2000)

Dr O Akindemowo (from 1 July 2000)

Mr F Astill

Dr J Ball

Mr C Cawley

Dr G Elkington

Professor A Finlay

Associate Professor B Fitzgerald

Associate Professor H Geddes
(until 30 June 2000)

Associate Professor A Goh

Dr P Hemphill (from 1 July 2000)

Associate Professor A Lamb

Associate Professor G Monahan

Ms C Needham SC

Ms J Oakley

Ms S Radnan

Ms K Sainsbury (until 30 June 2000)

Ms D Searle

Dr K F Sin

Mr C Stevens QC

Mr G Wiffen

Executive Officer and Secretary:
Mr R Wescombe.

Committees

Chief Justice's Policy and Planning Committee

Rule Committee

Supreme Court Education Committee

Supreme Court Building Committee

Supreme Court Information Technology Committee

Alternative Dispute Resolution Steering Committee

Jury Task Force

CHIEF JUSTICE'S POLICY AND PLANNING COMMITTEE

Purpose of the Committee

The Committee, chaired by the Chief Justice, meets monthly to determine high level strategic policy to be adopted by the Court in relation to its operations and consider matters on which its view has been sought, particularly in relation to procedural or administrative changes likely to affect the Court and its operational facilities.

Work of the Committee in 2000

The Committee monitored the Court's overall caseload, determined and reviewed the time standards for disposal of matters within Divisions, the Court of Appeal and Court of Criminal Appeal and monitored the flow of matters through the Court implementing, as appropriate, practices aimed at enhancing case flow. The Committee considers, to that end, issues such as demands upon court time and causes of delay. The Committee also monitored and considered the work and recommendations of specific working parties.

The Committee continued to monitor changes to relevant NSW legislation as well as Commonwealth legislation and that of other States and Territories. Its views on legislative reforms are conveyed to the Attorney General by the Chief Justice. A notable example was the review of the Council of Law Reporting Act 1969.

Committee members during 2000

The Honourable the Chief Justice

The Honourable the President

The Honourable Justice Priestley

The Honourable Justice Giles

The Honourable Justice Hodgson

The Honourable Justice Wood AO

The Honourable Mr Justice Michael Grove RFD (from 22 May 2000 to 21 July 2000)

Mrs N Johnston

Secretary: Mr J Castellan (until 11 September 2000)

Ms J Weske (from 11 September 2000).

RULE COMMITTEE

Purpose of the Committee

The Rule Committee is a statutory body and has the power to alter, add to or rescind any of the rules governing the Supreme Court contained in, or made under, the Supreme Court Act 1970.

The Committee constantly monitors the operation of the Supreme Court Rules with a view to increasing efficiency and reducing cost and delay so far as is consistent with the requirements of access to justice. For this purpose the Committee receives and considers proposals for change from its own members (who represent all Divisions of the Court and the legal profession) as well as senior court staff.

The Committee has nine members comprising seven Judges of the Court, one practising barrister and one practising solicitor, being the current

presidents of the Bar Association and Law Society respectively. The Manager, Court Services, performs the role of Secretary to the Committee. The Secretary is assisted by the Advisings Officer.

The Committee usually meets monthly. In between those meetings detailed work is done by the Advisings Officer and the Manager, Court Services, who consult with individual members and non-members where necessary, and by individual members and sub-committees.

Work of the Committee in 2000

During 2000 the role of drafting proposed rule amendments, previously done by the Secretary, has been undertaken by the Parliamentary Counsel's Office.

During the year the Committee made nine substantive amendments to the Supreme Court Rules. Some of the more significant amendments involve:

- streamlining of defamation procedures to accommodate claims in relation to publication, innuendo, malice, and truth as a defence;
- extending the power of Registrars to carry out duties formerly restricted to Judges and Masters; and
- adopting rules, for the purposes of uniformity on a national basis, facilitating the operation of the Harmonised Rules of the Court under the Corporations Law.

Committee members during 2000

The Honourable the Chief Justice

The Honourable the President

The Honourable Justice Priestley

The Honourable Justice Hodgson

The Honourable Mr Justice Michael Grove RFD (until 22 August 2000)

The Honourable Mr Justice Studdert (from 23 August 2000)

The Honourable Mr Justice Rolfe

The Honourable Mr Justice Hamilton

Ms R McColl SC

Mr N Meagher

Secretary: Mr S Jupp.

SUPREME COURT EDUCATION COMMITTEE

Purpose of the Committee

The Supreme Court Education Committee is responsible for continuing education for the Judges and Masters of the Court. The Committee organises an Annual Conference and arranges other programs as appropriate.

Work of the Committee in 2000

The Annual Conference was held from 23 to 25 June 2000, at short notice, at the Novotel, Wollongong. The keynote address, "Human Rights - the South African Experience", was given by Mr Justice Chaskalson, Head of the Constitutional Court of South Africa. Other topics included "Media and Contempt" presented by Professor Michael Chesterman and "Trial of Sexual Cases" presented by the Honourable Justice R O Blanch, with a commentary

by Dr Brent Waters. The dinner speaker, Mr Paul Brunton, Curator of Manuscripts at the State Library, provided an interesting and amusing overview of Matthew Flinders' life.

The Committee considers the evaluations of those attending the Conference and seeks to ensure adequate time for interaction and discussion.

Committee members during 2000

The Honourable Justice Handley AO
(Chairperson)

The Honourable Justice Giles

The Honourable Mr Justice Studdert

The Honourable Justice Santow OAM

The Honourable Justice Sperling

The Honourable Justice Austin

Master McLaughlin

Mrs N Johnston

Mr J Castellan
(until 11 September 2000)

Ms J Weske
(from 11 September 2000)

Secretary: Ms R Windeler
(Education Director, Judicial
Commission of NSW).

SUPREME COURT BUILDING COMMITTEE

Purpose of the Committee

The Committee provides advice to the Chief Justice on all matters affecting the buildings within the Darlinghurst court complex, the King Street and St James Road courts and the Law Courts Building. The Committee makes recommendations as to the maintenance

and restoration work to be carried out, determines priorities and monitors the work programs.

The Committee also identifies a range of facilities that are required to best meet courtroom purpose, such as cabling of courtrooms to enable computer access by judicial officers and parties to proceedings, as well as access to remote witness facilities in Australia and overseas.

Work of the Committee in 2000

The Committee's focus during 2000 was to monitor the ongoing restoration of King Street Court 2, the associated jury assembly room and a proposed area for educational displays.

Progress on the restoration of Court 2 was possible following approval of the Heritage Council for associated tunnelling work which would see the preservation of colonial drainage works. A new plant room for air conditioning in the King Street complex was completed and an upgrade of cell areas and prisoner interview rooms commenced following a tender process conducted by the Attorney General's Department.

Restoration of rooms added to the King Street complex in the 1850s to house the then Registrar General's offices presented a unique challenge when original tile work and ornate wall and ceiling friezes were exposed. Mr Johnson (Manager, Major Works, Attorney General's Department) has overseen the reinstatement of these original features.

In addition, chambers and adjoining rooms used for mediation have been upgraded. These were made available during the year to Mr Acting Justice McInerney who is conducting the Special Commission of Inquiry into the Glenbrook Rail Accident.

In the Law Courts Building, funds provided by the Attorney General's Department through Law Courts Limited for an asbestos removal program have been utilised to complete the containment and removal of asbestos on Level 4 and to begin similar measures on Level 5. Completion of this work will address containment in all Registry staff areas.

Cabling work to enable chambers attached to the Wentworth Chambers courts to operate from the Law Courts Limited PABX was also completed.

The Committee liaised with the Historic Houses Trust following the Chief Justice's approval of the Banco Courts in both the King Street complex and the Law Courts Building being opened to the public as part of the Sydney Open 2000 program on 5 November 2000.

The adequacy of insurance cover for working tools in chambers and of evacuation procedures in the Court's key buildings was also reviewed by the Committee during 2000.

Committee members during 2000

The Honourable Mr Justice Sheller
(Chairperson)

The Honourable Justice Giles

The Honourable Justice Wood AO
The Honourable Mr Justice Dunford
Mrs N Johnston
Mr W Brown
Mr B Johnson
Mr G Donnelly
Secretary: Mr J Castellan
(until 11 September 2000)
Ms J Weske (from 11 September 2000).

SUPREME COURT INFORMATION TECHNOLOGY COMMITTEE

Purpose of the Committee

The Chief Justice invested the Supreme Court Information Technology Committee in 1997 with the responsibility of overseeing the development and use of information technology in the Supreme Court – both in chambers and in the courtroom.

Work of the Committee in 2000

The Committee has focused on several main issues during the year, including:

Equipment

The Committee was presented with the Court's business case for upgrading and standardising IT equipment across the Court. The business case was approved by the Attorney General's Department. Installation of the equipment will proceed during 2001.

All chambers will be equipped with Pentium 3 (700 MHz) laptops and Pentium 3 (700 MHz) desktop machines for judicial officers, associates and tipstaves.

The Registry will be equipped with Pentium 3 (700 MHz) desktop machines. The provision of this equipment for Registry staff should assist efficient collation and movement of court information.

The standardisation of equipment is designed to improve the ability of the IT section to provide maintenance and support services to the Court. Upgraded software (including Windows and Office 2000) will be provided as part of the general upgrade.

Judgment production and distribution

The Committee approved in principle the introduction of a uniform judgment style template adopting the AJJA protocols for production of judgments. Changes to the template to give effect to that approval will be developed during 2001. The Committee also approved the request of the Library representative that a "reported citation" field in the electronic databases be created to allow for information to be cross-referenced to commercial publications.

An issue arose during the year as to the Court's policy concerning delivery of judgments with a medium neutral citation number, given the wide range of judgments delivered by the Court, including judgments on interlocutory matters. The Court's policy is that all final judgments and other judgments of importance be electronically recorded.

On-line tools – Caselaw search engine

One of the Committee members was actively involved in testing the electronic search engine for Caselaw (the databases of judgments delivered with a medium neutral citation number).

Judicial officers' email

The Chief Justice asked the Committee to investigate the creation of a separate email domain name for the judiciary to properly reflect the principle of the separation of constitutional powers. In this process, the Committee also developed guidelines on the standardisation of judicial email names.

Voice recognition software pilot

A pilot program for use of voice recognition software began in 2000 with four judicial officers. A further two judicial officers joined during the year.

Training

The Committee recognises that computer training for judicial officers and staff is an ongoing requirement and will need to be a matter of priority at the time of providing new equipment.

Transcript standards

One of the Committee members took part in a review of transcript standards undertaken by the Reporting Services Branch of the Attorney General's Department, aimed at developing standards applicable to all NSW courts and use of software compatible with all the State's courts.

Committee members during 2000

Permanent members

The Honourable Justice Margaret Beazley
(Chairperson)

The Honourable Justice Carolyn Simpson

The Honourable Justice Clifford Einstein

Master Macready

Mrs N Johnston

Mrs B Flett

Ms L O'Loughlin
(Librarian, Law Courts Library)

Ms J Taggart

Occasional members

(Attorney General's Department)

Mr J Ryan
(Director, Information Technology)

Mr R Cox (Director, Management
Services, in the absence of the Director,
Information Technology)

Occasional member

(Law Courts Library)

Ms J Pritchard (Systems Manager).

ALTERNATIVE DISPUTE RESOLUTION STEERING COMMITTEE

Purpose of the Committee

The purpose of the Alternative Dispute Resolution (ADR) Steering Committee is to:

- oversee the implementation of a pilot project with the aims of (i) using ADR to reduce existing case backlogs and (ii) establishing long-term ADR structures annexed to the Court, with emphasis on mediation;

- consider and make recommendations to the Chief Justice upon matters of policy such as accreditation, funding, training and the like; and
- liaise with other courts within Australia operating court-annexed ADR schemes with a view to developing common policy as to matters of training and accreditation and to establish structures for exchange of information and the mutual monitoring of programs.

While the pilot project referred to in the first objective was not able to be realised due to funding difficulties, its identified aims have nevertheless guided the work of the ADR Steering Committee.

Work of the Committee in 2000

The Committee met eight times during 2000. Meetings are held outside of court sitting hours.

The most significant work of the Committee during this year has been in relation to Part 7B and section 76B of the Supreme Court Act. Following recommendations noted in last year's Annual Review, a draft Bill was prepared in close consultation with the Committee to amend the Act, most notably to provide (i) a power for the Court to refer matters to mediation or neutral evaluation without the consent of all parties and (ii) expansion of the range of matters that may be referred to arbitration. While the Law Society supported the proposed changes, a special meeting was held in May with the Bar Association, which had expressed

concerns regarding these. The legislation was passed on 8 June 2000 and commenced on 1 August 2000.

Arising from the new Court powers, in November 2000 the Committee held a well-attended seminar, addressed by the Honourable Trevor Morling QC, the Honourable Alan Abadee QC, Mrs Sylvia Emmett and Registrar Berecny, who each spoke of their experience in mediation and fielded questions on many aspects of its process.

The new powers, together with issues raised at the seminar, prompted the Committee to recommend procedures to guide the referral of matters to mediation. A draft practice note, principally prepared by Registrar Berecny, was submitted by the Committee to the Chief Justice in December for this purpose.

During the year the Committee completed a review of the Chief Justice's lists of mediators and evaluators and made recommendations to him concerning persons currently appointed or seeking to be appointed. The Committee also reviewed the procedure for independent applicants seeking appointment to the Chief Justice's lists of mediators and evaluators. This resulted in the adoption of more detailed application forms, including a requirement for references. As at December there were 163 mediators and 87 evaluators holding appointment to the lists.

The work of the Committee could not have been done without the enthusiasm and dedication of the Secretary, Jeannie Hight.

Committee members during 2000

The Honourable Mr Justice Sheller
(Chairperson)

The Honourable Justice Wood AO

The Honourable Justice John Bryson

The Honourable Mr Justice Studdert
(from 5 December 2000)

The Honourable Justice Greg James
Master Harrison

Mrs N Johnston

Mr G Berecny

Secretary: Ms J Hight (Ms G Towney
from 27 June to 6 November 2000).

JURY TASK FORCE

Purpose of the Task Force

The Task Force was formed in 1992 to examine and report on matters relating to the welfare and well-being of jurors. The Task Force considers any matters relating to juries and jury service referred to it by a head of jurisdiction, the Attorney General, the Director General of the Attorney General's Department or the Chief Judge of the Common Law Division of the Supreme Court.

Work of the Task Force in 2000

The Task Force held regular meetings in 2000 concerning a number of matters, most particularly:

- taxation of jury allowances
- jurors with disabilities
- majority verdicts and reserve jurors
- jury fees/payments
- jury management
- prosecutions for prejudice of a juror
- juror support system
- topping up of allowances by employers
- penalties for juror absenteeism
- exemptions from jury service.

Committee members during 2000

The Honourable Justice Abadee RFD
(Chairperson until 16 August 2000)

The Honourable Justice Greg James
(Chairperson from 15 November 2000)

His Honour Judge Shadbolt

Mr R Cox

Mr B Kelly

Mr R McClelland

Mr J Castellan (until 16 August 2000)

Mr R Fornito

Ms J Weske (from 15 November 2000)

Secretary: Mr R Escott.

Annexure A

2000 CIRCUIT SITTINGS

The civil circuit sittings of the Common Law Division are listed below.

Circuit	Commencement date	Duration (weeks)
Central West (Venue: Dubbo)	14 August	2
Goulburn	27 March	1
Newcastle	27 March 14 August	2 3
Northern Rivers (Venue: Lismore)	22 May	2
Northern Tablelands (Venue: Tamworth)	17 July	1
Riverina (Venue: Wagga Wagga)	22 May	2
Wollongong	17 July	2

A sitting of the Court of Criminal Appeal was held in Wagga Wagga commencing 13 March 2000 for two days.

Criminal trials were held in places other than Sydney as and when the need arose.



