

Supreme Court Annual Review

The Supreme Court has embarked on the bold course of presenting an annual review of its activities designed both as an aid to the efficient management of its affairs and to provide to the community information in which it has a legitimate interest. The issue dealing with 1989 was launched by Chief Justice Gleeson on 18 July 1989. In the introduction the Chief Justice remarked:

"The primary concern of the members of the Court is, and must always be, with the quality of decision making in individual cases. A court's main interest is in due process and correct decisions rather than output. Concepts of productivity, which are relevant to an organisation whose objective is optimum output of goods or services, are difficult to relate to the operations of a court, whose members' duty is to make just and accurate decisions in cases brought before them for resolution... [T]he modern approach to the judicial function requires that [Judges] take an active role in relation to the management of the work of the Court and of the flow of pending cases. Undue and avoidable delay is itself a form of injustice and the manner in which the Court as an institution deals with its business is in some respects as important an aspect of the administration of justice as the way in which individual judges decide particular cases."

The Annual Review deals in great detail with the organisation and operation of the Court as a background both to the statistics contained in the report and for the purpose of later Reviews.

As might be expected, a great deal of the Annual Review is devoted to the effect of the case management procedures adopted in various Divisions of the Supreme Court. Thus it is pointed out that the effect of the delay reduction program in the Common Law Division has been to increase Court disposals in 1989 by over 100% and to reduce the waiting time for hearing from 4 years in December 1988 to 2 years and five months in December 1989. The Acting Judge program by which members of the Bar become Acting Judges for periods ranging from six weeks to three months has apparently played a significant part in the results.

The waiting time in the Equity Division for matters in the General List is about 2 1/4 years.

The case management procedures adopted by the Commercial Division have led to the remarkable statistic that of the active pending cases waiting in the list at 31 December 1989, 1% had been commenced prior to 1988, 10% had been commenced during 1988 and 89% had been commenced during 1989. Somewhat surprisingly, of the cases in the Commercial Division which ran to judgment, the majority involved amounts between \$100,000 and \$499,999. Only 8% were for amounts of \$1,000,000 or more.

Similarly the case management techniques employed in the Building and Engineering List administered by the Judges of the Commercial Division have proved very attractive to litigants in the construction area, with 72 matters being com-

menced in the 10 months ending 31 October 1989.

The figures for the Court of Appeal are also impressive. By the end of 1989 the minimum time between the filing of a Notice of Appeal and the hearing of the appeal was approximately 13 months. If expedition had been granted an appeal could be listed within a week. In the year ended December 1989 754 new appeals were lodged in the Court of Appeal and 550 appeals were disposed of.

The Annual Review details changes introduced in the Court of Criminal Appeal during 1989. The previous procedure of the Court sitting for a varying number of days every week has been replaced by a system where the Court sits every day for two weeks in each month. The purpose of the changes is to achieve a greater concentration of judicial activity both in the work of the Court of Criminal Appeal and in the work of the Common Law Division, from which most of the judges who sit in the Court of Criminal Appeal are drawn, although Judges of Appeal do now sit from time to time as members of the Court.

The Annual Review also points out that during 1989 filings in the Court of Criminal Appeal increased by 30% over the number in 1988, the increase being said to be the inevitable consequence of substantial increases in first instance criminal trial activity in the Supreme Court and the District Court. Those increases are in turn a direct consequence of the activity at trial level to deal with the backlog of criminal cases.

The section of the Annual Review devoted to the Court of Criminal Appeal points out the misleading sense in which the expression "court delays" is used i.e. as meaning delays on the part of the Court. This criticism is apposite and, as the Annual Review generally indicates, reflects a sore point. As the section of the Review dealing with the Common Law Division points out, there is only a limit to the extent to which "court delays" can be reduced by the Court's efforts. "In the end, the resources available to the Court and the volume of business brought to the Court by litigants are the primary factors which will continue to determine the length of court delays."

The Chief Justice has established a Policy and Planning Committee which meets monthly to assist in making decisions concerning the administration of the Court, the formulation of policy and to plan for the future. Its members, apart from the Chief Justice, are the President of the Court of Appeal, Mr Justice Samuels, the Chief Judge in Equity, the Chief Judge of the Commercial Division, the Chief Judge at Common Law and Mr Justice Wood.

The Annual Review also points out that the Court and the Attorney General's Department are currently considering the degree to which the Court should have control over its administration as opposed to members of the Attorney General's Department. The notion of "institutional independence of the Tribunal with respect to matters of administration bearing directly on the exercise of its judicial function", says the Review is included in the concept of the independence of the judiciary. □