

1959 - 1995

THE
TASMANIAN
REPORTS

THE AUTHORISED REPORTS OF DECISIONS OF
THE SUPREME COURT OF TASMANIA

EDITOR
DAVID PORTER QC
Barrister-at-Law

VOLUME 14

PUBLISHED FOR THE
COUNCIL OF LAW REPORTING
OF TASMANIA BY

LAWBOOK CO

REPORTERS

DAVID PORTER QC
MARY-ANN RYAN
PHILIP WRIGHT

Published by

Lawbook Co
100 Harris Street, Pyrmont, NSW

ISSN 0085-7106

● The Council of Law Reporting for Tasmania

THE JUDGES
OF THE
SUPREME COURT OF TASMANIA
FROM 1 JANUARY 1959 TO 31 DECEMBER 1995

Chief Justices

The Hon SIR STANLEY CHARLES BURBURY KBE¹
(resigned 29 October 1973)

The Hon GUY STEPHEN MONTAGU GREEN²
(appointed 30 October 1973, resigned 2 September 1995)

The Hon WILLIAM JOHN ELLIS COX RFD ED³
(appointed 4 September 1995)

Puisne Judges

The Hon SIR RICHARD KENNETH GREEN KBE
(died in office 19 March 1961)

The Hon MARCUS GEORGE GIBSON⁴
(Acting Chief Justice 15 January 1964 - 6 December 1964)
(retired from office 11 January 1968)

The Hon MALCOLM PETER CRISP⁵
(resigned 1 March 1971)

The Hon GEORGE HUNTER CRAWFORD⁶
(retired from office 12 December 1981)

The Hon WILLIAM ELLIS COX MC
(Acting judge 7 April - 4 October 1959)
(appointed 28 March 1961, resigned 15 March 1963)

¹ Later KCVO (20 April 1977), KCMG (28 August 1981).

² Later the Hon Sir Guy Green KBE (5 March 1982), AC (26 January 1994), CVO (March 2000).

³ Later the Hon WJE Cox AC (7 June 1999)

⁴ Later the Hon. Sir Marcus Gibson Kt (1 January 1970).

⁵ Later the Hon Sir Peter Crisp Kt (14 June 1969).

⁶ Later the Hon Sir George Crawford Kt (8 June 1972).

The Hon FRANCIS MERVYN NEASEY⁷
(appointed 18 March 1963, retired from office 13 September
1990)

The Hon DAVID MONTAGU CHAMBERS
(appointed 27 February 1968, died in office 26 September 1978)

The Hon ROBERT RICHARD NETTLEFOLD
(appointed 2 March 1971, resigned 25 May 1990)

The Hon JOHN RICHMOND REX (Acting)
(appointed 2 February 1976 for twelve months)

The Hon HENRY EDWARD COSGROVE
(appointed 11 January 1977, resigned 23 September 1988)

The Hon MERVYN GEORGE EVERETT
(appointed 7 November 1978, resigned 13 March 1984)

The Hon WILLIAM JOHN ELLIS COX
(appointed 2 February 1982)

The Hon CECIL GEORGE BRETtingham-MOORE MC
(appointed 21 March 1984, resigned 14 March 1986)

The Hon PETER GEORGE UNDERWOOD⁸
(appointed 20 August 1984)

The Hon CHRISTOPHER REGINALD WRIGHT
(appointed 29 April 1986)

The Hon EWAN CHARLES CRAWFORD
(appointed 5 October 1988)

The Hon WILLIAM PETER MARIA ZEEMAN
(appointed 30 May 1990)

The Hon PIERRE WILLIAM SLICER
(appointed 3 June 1991)

⁷ Later the Hon FM Neasey AO (26 January 1994).

⁸ Later the Hon PG Underwood AO (10 June 2002), Chief Justice
(2 December 2004).

FORWARD

By **THE HONOURABLE JUSTICE P E EVANS**

The genesis for the compilation of this Anthology volume and the reason for its value is that the decisions included in it have been shown over the course of time to be of significance. The list of cases included in the volume was finalised by the Editor of the Tasmanian Reports, David Porter QC, with substantial input from Judges of the Supreme Court, Magistrates and senior members of the profession. The need to report the decisions having been demonstrated, this volume will sustain their longevity and provide users with the substantial (and, in my view, undervalued) benefit of a headnote referable to each decision, together with other useful background information.

As is inevitable, the decisions deal with a wide range of issues. By way of illustration:

- The earliest decision, *Hart v Attorney-General of Tasmania*, was handed down in 1959 and deals with the liability of an infant in tort. A related question, the contributory negligence of an infant plaintiff is dealt with in *Bullock v Miller*.
- Bail, an issue which arises daily, is the subject of the decisions in *R v Fisher* and *Brown v The Queen*.
- *Thornton v The Queen* is the primary authority in this jurisdiction on assault by a threatening gesture.
- A useful authority on equitable set-off, and on circumstances in which a respondent to an application for summary judgment should be granted leave to defend, is the decision of *Zeekap (No 47) Pty Ltd v Anitam Pty Ltd*.

I am pleased to be associated with this Anthology volume but must acknowledge that its preparation was initiated and almost entirely completed during the Chairmanship of my predecessor, Chief Justice P G Underwood AO. I should also express my appreciation to the Editor whose untiring efforts brought this volume to fruition.