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THE JUDGES
OF THE
SUPREME COURT OF TASMANIA

DURING THE PERIOD COMPRISED IN THIS VOLUME *

The Hon EWAN CHARLES CRAWFORD
Chief Justice

The Hon ALAN MICHAEL BLOW, OAM
Chief Justice

The Hon PETER ETHRINGTON EVANS

The Hon ALAN MICHAEL BLOW, OAM

The Hon SHAN EVE TENNENT

The Hon DAVID JAMES PORTER

The Hon HELEN MARIE WOOD

The Hon STEPHEN PETER ESTCOURT

The Hon ROBERT WILLIAM PEARCE

The Hon STEPHEN JAMES HOLT
Associate Judge

ATTORNEY-GENERAL

The Hon BRIAN NEAL WIGHTMAN MHA

SOLICITOR-GENERAL

GEOFFREY LEIGH SEALY SC

* This volume includes a report of a judgment delivered in 1993: *Walsh v The Queen* 22 Tas R 368.
For the judges of the Court in that year, see 2 Tas R - Ed.

MEMORANDA

On 7 April 2013, the Honourable Justice Ewan Charles Crawford, Chief Justice of Tasmania, retired from office. On 25 March 2013, at a special sitting CRAWFORD C J said:

CRAWFORD CJ: We are gathered here today because by virtue of the law of this State I am retiring on 8 April next as Chief Justice, and as a judge of the Court and I invite Evans J to speak.

EVANS J: As his Honour has said, we are gathered here today for that purpose but we are also here to farewell Chief Justice Ewan Crawford, on the occasion of his retirement after 25 years of service as a judge of this Court.

On behalf of the Court, I welcome a former Chief Justice of this Court, his Excellency the Governor Peter Underwood and his wife Francis Underwood, the Attorney-General, the Honourable Brian Wightman, Marshall and Kerr JJ of the Federal Court, Justice Benjamin of the Family Court, former Governors and Chief Justices of this Court, Sir Guy Green and the Honourable William Cox, retired judge of this Court but now judge of the Supreme Court of Samoa, the Honourable Pierre Slicer and Chief Magistrate Michael Hill. As there is a real risk that I may welcome someone who is not here and more significantly, fail to welcome someone who is here, I will generalise and say that we are honoured by the presence of you all and this includes many magistrates, present and retired holders of high legal office, politicians and other distinguished people.

I should point out that this sitting is being observed by more people than are present here in Court 1 today. Many others are in Court 7, and in the Launceston and Burnie courts to which we have audio visual links. The presence of so many is a clear manifestation of the high respect in which you are held Chief Justice.

My opening words will be followed by addresses from the Attorney-General the Honourable Brian Wightman, the president of the Law Society Mr Gregory Geason, and the president of the Independent Bar Mr Bruce McTaggart. Their addresses will focus on biographical details, his Honour's relationship with and service to the profession, and his relationship with counsel. I have confined what I will say in an endeavour to avoid trespassing on ground that will be covered by these speakers.

Your Honour is a Launceston boy, having been born there, schooled there, practised law there as a partner in the firm of Douglas and Collins which was also your father's firm, and since your appointment as a judge of this Court and then its Chief Justice you have lived in Launceston. The burden on a judge based in Launceston is particularly onerous. Appeals to the Court of Criminal Appeal and the Full Court are heard in Hobart. The period set aside for their hearing each year is normally 10 weeks. So the starting point in each of the 25 years of your Honour's judicial service has been that you would be away from home for 10 weeks on top of the usual period of about 10 weeks that all judges of this Court are away from home when on circuit sitting as a single judge. No doubt this added burden caused considerable difficulties for you and your good wife Bobby. That you bore this burden in good spirit and without demur is typical of your outstanding approach to your work as a judge, a position for which you are ideally suited as it can fairly be said that the law is in your Honour's blood. Your father, Sir George Crawford, was a judge of this Court and your brother, Bruce, who is with us

today, was enrolled as a practitioner of this Court in 1961 and he was practising as recently as last year and no doubt when he is fully recovered from a broken ankle, will continue to do so.

It is noteworthy that your Honour's father, Sir George Crawford, was also a Launceston-based judge. He was a member of this Court from 1958 to 1981. On my calculation, you and your father have served this Court with distinction for a total of 48 years. There are other instances of both a parent and child having served on this Court – for example, Andrew Inglis Clark and his son of the same name, and the Honourable William John Ellis Cox, who is here on the bench today, and his father William Ellis Cox. My cursory research indicates that no parent and child have served this Court for as long as you and your father. If I am wrong and there are other contenders for this record now or in the future, you can preserve it by simply confining contestants to Launceston-based judges.

Your Honour has been an exemplary judge and Chief Justice. As to your truly remarkable judicial expertise, knowledge, thoroughness and application, your judgments speak for themselves and I do not need to expand on them. What I will expand on is some of the other qualities that have made you a fine judge. They include courtesy, patience, modesty and good humour. An illustration of your self deprecation and good humour that amused me is what you said in the course of the sitting in 2008 when your commission as Chief Justice was presented. You then commented that when admitted to practise as a lawyer in 1964 you thought you knew a fair bit about the law, but had to send your first client away because you did not know what advice to give, and had to call your second client back because you had given the wrong advice. With characteristic modesty you went on to say that the then 44 years of your professional life had been a continuing learning experience and that your need for continued learning was partly accounted for by your tendency to forget most of what you had already learned. You observed that the continual learning experience maintained your enjoyment in your work and that this enjoyment caused some judges to delay their retirement. It is most regrettable, but unavoidable, that your Honour's attainment of the statutory retirement age has closed off this option.

One of the reasons for my mentioning your Honour's modesty is that I myself have good reason to thank you for it. At the end of 1963, your Honour obtained a law degree. At the end of the same year, I matriculated and enrolled in economics at Monash University and law at the University of Tasmania. I was undecided as to whether to do law or economics, but had in mind doing the easier degree. Like your Honour, and Sir Guy Green, who is here on the bench today, I am an East Launceston boy. Having known you for some time, when we happened to meet, I enquired which degree was easier, law or economics. Notwithstanding that you had just gained a law degree with honours, you resisted the temptation, to which many would have succumbed, of pumping up your own tyres by telling me how difficult law was. Instead, you assured me that law was far the easiest degree, so I did law. I remain indebted to you for your candour.

Having sat with your Honour on appeals, I can vouch for your patience when dealing with the profession and litigants. However, it must be said that you are not without flaws. Having attended many Rule Committee meetings and Judges' meetings with you, I certainly cannot vouch for your patience when you consider that a colleague is unnecessarily prolonging a meeting.

Your Honour, the State, the profession, litigants and your colleagues have all benefited from 25 years of your unstinting judicial service. It has been a pleasure for your colleagues to work with you, and since 2008 to have your leadership as our Chief Justice. You have written many outstanding judgments, and have unhesitatingly served the interests of justice in every

conceivable way. We thank you for your dedicated and exemplary service and for the opportunity of sharing the bench with you. We wish you and your wife Bobby every success and enjoyment in the next stage of your lives.

CRAWFORD CJ: Mr Attorney?

THE HON B WIGHTMAN MHA A-G: Thank you your Honour. It is my privilege to acknowledge, on behalf of the Crown and representing the people of Tasmania, your contribution of over 24 years as a judicial officer of the Supreme Court of Tasmania – and to slightly go off script to trump you both, I'm a Trevallyn boy and of course, being from Launceston your Honour, you've always been my favourite Chief Justice and long may you continue to be a voter in Bass. You have served for twenty years as a puisne judge of this Court and most recently for almost five years as its Chief Justice. Your contribution has been significant, to the law generally and to the administration of justice, and more particularly to the enhancement of the Court as a strong, competent and independent institution.

Your career in the law has, as his Honour Justice Evans has indicated, been a long and distinguished one of over nearly a half a century. You were admitted as a practitioner of the Court in 1964 and were first employed as a legal practitioner at the long-established firm of Douglas & Collins in Launceston. In 1968 you became a partner in that legal firm. In 1988 you followed in the steps of your distinguished father Sir George Crawford when you were appointed as a Judge of the Supreme Court. Like your father, and very proudly, you have been based in Launceston but also undertook your share of circuits in Hobart and Burnie. You were the first Chief Justice to have been based in Launceston – something that we're all very proud of.

After serving in judicial office for sixteen years after your initial appointment, in 2004 you became the Senior Puisne Judge of the Court; and in 2008 your elevation to the position of Chief Justice of Tasmania was widely acclaimed.

Your contribution as a judicial officer of this Court has spanned more than 24 years. It has indeed been a substantial contribution, and other speakers today will no doubt comment on the exemplary manner of your performance of your judicial functions. I am reliably informed that your Honour is noted for your courtesy, diligence, intellectual rigor, and fairness in dealing with all counsel, parties and witnesses who have come before the Court – and you once told me, your Honour – we were sitting in Medicare together – we may have both been sent there by our wives at the time to get a job done – but you said to me “It's not that hard, you know”.

But I wish on this occasion to specifically acknowledge the contribution that you have made in the public sphere of the law. You have held a number of eminent legal positions including the position of Lieutenant-Governor since 2009. You have also held positions as

- a Member of the northern local Legal Aid Committee and the Northern Law Library
- a Member of the State Standing Committee for Legal Assistance – the forerunner of the Legal Aid Commission of Tasmania;
- a Member of the Council of the Law Society of Tasmania from 1972-1984 (including a period as President from 1979-1980);
- a Director of the Law Foundation of Tasmania, including a period as Chairman in 1980;

- a Member of the Board of Legal Education, from 1997 to 2008, as acting chairman throughout that period;
- a Director of the Centre for Legal Studies Limited from 2004-2008;
- and on the national stage, you were a member of the Law Admissions Consultative Committee from 1995-2008.

You have throughout demonstrated a strong sense of community through your involvement with a number of community organisations. In addition to your contribution to the life of the law in Tasmania and nationally, I wish to acknowledge a number of positions that you have held in the service of the Tasmanian community. In that regard, I refer to your service:

- As a Director of St Luke's Private Hospital and St Luke's Health Insurance from 1978-1988 prior to your appointment to the bench,
- As a member of the Launceston Church Grammar School Board from 1985-1997 including three years as Chairman

Your interest in education is evidenced by your involvement in a range of educational institutions. At various times, you have been:

- a Board member of the Tasmanian Council of Advanced Education (later known as the Tasmanian State Institute of Technology), from 1988-1990
- Chairman and Board member of the Council of Christ College, and the Christ College Trust, since 1997; and
- a member of the Council of the University of Tasmania from 1991-2001. Indeed, in recognition of your service to the University, you were admitted as a Fellow of the University in December 2002.

No doubt in recognition of the contributions you have made across a range of fields, you were awarded in January 2001 the Centenary Medal for service to Australian society and justice and to the Tasmanian community.

During the time that you have served as a judge of this Court there have been great pressures on all organisations to adapt to changing times and changing social attitudes. In addressing as Chief Justice the need for such change, you have always sought to maintain a balance between reform and the best traditions of the Court.

As Attorney-General, I would like to recognise on behalf of the State the thoughtful and incisive input which you have frequently provided, upon request, in relation to the formulation of proposed legislation with the potential to impact upon the business of the Court. Likewise, there has never been any doubt about the importance you place on safeguarding the independence of the Judiciary under our important constitutional conventions. You have reinforced the fundamental principle that the Court is a constitutional arm of government and that it must exercise its functions free from interference and influence from the other arms of government.

Others here today will no doubt speak of your achievements and contributions more generally both to the law and to this State. However, I close by simply saying that the strength of this Court lies, as always, in the quality of those who constitute it, and as only its thirteenth Chief Justice, you have consistently maintained the very best traditions of the Court. You have generated profound respect and esteem by the quality of your contributions to the State and to the law, especially as a member of this Court.

After 24 years in judicial office, and as the head of this most important jurisdiction in Tasmania, I say thank you on behalf of the State, and wish you and Mrs Crawford a long and fulfilling retirement.

May it please the Court.

CRAWFORD CJ: Mr Geason?

MR G GEASON: May it please your Honour. It is a great privilege to appear today on behalf of the Law Society of Tasmania and that privilege has a personal dimension for me as the junior Crown Counsel who appeared at your Honour's first sittings in Launceston in 1988. I well recall that as Crown Counsel on that first day it fell to me to discuss the remand list with your Honour prior to court. Though it may have become obvious later, I am not certain your Honour appreciated it was also my very first remand day. As we prepared to discuss the list and the potential issues which might arise your Honour casually asked me of the morning ahead "How do you think it will go?" "Anybody's guess" crossed my mind, but I said something else. "It will go perfectly, your Honour." And so it did, and so it has. It was in those first sittings that your Honour saw a Launceston jury at its very best, accepting as it did the submission of the late John Kable QC that an elderly complainant was mistaken when she alleged her neighbour had exposed his person whilst making a particularly offensive suggestion, for in fact he was holding out a battered sausage and only wanted to share – a case neither of us will forget.

In trying to find a phrase I could use and which properly captured my sense of your Honour's work as a judge, I remembered a remark which appeared in the transcript of an *ex tempore* judgment of one of your predecessors Nettelford J who said:

Justice shall not regard mercy as a trespasser on her domain.

Your Honour's judicial work has reflected that ideal – it is for the better that it has, and it speaks loudly for your qualities as a judge. Work in the criminal jurisdiction is something I am aware you have often found rewarding or at least interesting, 'like a mystery story unravelling for real' is how your Honour once described it to me. Your work in that jurisdiction has reflected a special interest in understanding the reason for the conduct of the men and women who appeared before you. And while it is not always fashionable to speak of fairness to those convicted, in the sentencing phase in particular, I am certain that anyone who examines your Honour's work in dealing with those convicted of crime will conclude that your Honour has always tempered justice with mercy, the fact which exposes a couple of things to me; first that there is force in Devlin LJ's view that a good judicial officer is one who sentences a defendant to what he or she deserved and not more despite the desire for revenge, and second that there is something in the view expressed or at least repeated by Lord Bingham when he said that experience suggests that often the best criminal judges come from a civil background and as a civil lawyer of distinction your Honour was thrust into the world of the criminal law on the very first time you presided which must surely have added a significantly different dimension to the legal experiences which had dominated your distinguished career – and perhaps consider pressure and challenge.

But if there was pressure it was not obvious. If you were challenged it did not appear to be so. But as first sittings exposed the characteristics which have been the hallmark of your Honour's time on the bench, courtesy, patience, a capacity to listen and a calm authority over proceedings and it is very much the case that your Honour has distinguished himself as a judge

with an enormous capacity to carry out the judicial workload in a manner which is endearing to the profession and to the doing of justice between the parties.

Your Honour has always created a curial environment which is conducive to the doing of justice. There can be no more significant obligation upon a judicial officer than that he or she should create an atmosphere which allows justice to be done.

I have no doubt that some of the result is attributable to the quality of which your brother spoke upon your appointment to the Bench in 1988 when he said:

Although your knowledge of the law is undoubted, it is as Lord Devlin remarked in his book *The Judge* – “common sense, which is even more important in a judge, and this you hold in good measure.” We agree. Your Honour has demonstrated that quality of common sense throughout your time as a judge of this court.

The Law Society has enjoyed a good and strong working relationship with your Honour that is an essential relationship bridging the practising profession with its judiciary and creating a reciprocal opportunity for the Bench to communicate with us. That relationship is critical to the efficient management of court business and thus the fulfilment of the service obligation we share to those who utilise our services as lawyers, and those who use these courts to resolve their disputes. Your Honour has kept sight of that obligation, appreciating that it is not enough that we do justice, but that we do justice efficiently.

The Society acknowledges your Honour’s efforts in this respect, noting as another example your Honour’s diligent and considerable efforts in picking up where the late Zeeman J had left the re-writing of our Supreme Court Rules. In your Honour’s time as Chief Justice the Supreme Court has enjoyed a high reputation – a continuation of the standards and qualities which have been continuously and consistently exhibited under the watch of your predecessors and of which we are all proud and outside of your work as a judge your Honour has maintained an interest in the work of the profession and has supported its efforts to improve itself – for example, your Honour’s enthusiastic endorsement of our first significant advocacy convention last year which was critical to its success. That support has been greatly appreciated and it is your Honour’s willingness to assist that speaks most for your very real dedication to the people I represent as President of the Society today. It carries on the same attitude of service to the profession which you exhibited over many years as a member of the Council of the Law Society and of course as its President and indeed your work as a member of the board of the Centre for Legal Studies and as Chair of the Board of Legal Education.

Yours is a career of dedicated service to the profession and to our community. Today we close perhaps the last chapter of that career. Reflection can be a melancholy experience but only if there has been a failure to achieve all that could have been achieved and in marking your Honour’s retirement today and noting your significant achievements there is no room for melancholy – no room for regret but only for celebration for the very fine career.

If I was to transpose to today our conversation all those years ago in Judges’ Chambers in Launceston on that first remand day and had you asked the question not of the remand day, but of retirement “How do you think it will go”, I would with certainty, give your Honour the answer I gave you then – “I think it will go perfectly, your Honour” – and that is exactly what I wish for you on your retirement and we say thank you – if it please.

CRAWFORD CJ: Mr McTaggart?

MR B McTAGGART: If it please your Honour. I have the pleasure today to address you on behalf of the Tasmanian Independent Bar which is now called the Tasmanian Bar.

I whole-heartedly endorse the words of the other speakers.

It is well recognised that only a small few possess the combination of qualities required for judicial office. Much has been written about those qualities.

The Canadian Superior Courts Judges Association describe the requirements as follows:

Judges must strive for the highest standards of integrity in both their professional and personal lives. They should be knowledgeable about the law, willing to undertake in-depth legal research, and able to write decisions that are clear and cogent. Their judgement should be sound and they should be able to make informed decisions that will stand up to close scrutiny. Judges should be fair and open-minded, and should appear to be fair and open-minded. They should be good listeners but should be able, when required, to ask questions that get to the heart of the issue before the court. They should be courteous in the courtroom but firm when it is necessary to rein in a rambling lawyer, a disrespectful litigant or an unruly spectator.

It is without hesitation that I am able, on behalf of the Tasmanian Bar, to say that your Honour, over the period of lengthy service to this court, has clearly and consistently demonstrated these vital judicial attributes. I must say, though that Lord Chief Justice Parker had a slightly different view of judicial office when he said:

A judge is not supposed to know anything about the facts of life until they have been presented in evidence and explained to him at least three times.

Whilst this sentiment might be apt for some judicial officers, it is not applicable to the way your Honour performs his role. It is more often than not that your Honour is the one who understands the facts of life and is required to provide the explanation to counsel. Even if your Honour is required to do so on at least these occasions, it is done with characteristic patience, tolerance, directness, and perhaps a wry smile. Needless to say, your judicial temperament has been much appreciated by the counsel who appeared before you. That is not to say that your Honour did not at times seek to keep senior barristers firmly grounded. On one occasion a senior counsel appearing before you said:

Your Honour this is a very significant matter”.

You quickly replied:

I have never known you to be involved in one that wasn't.

Your Honour has always been adept at putting counsel's legalese into plain English. You might recall, for example, the late John Kable QC examining a witness before you, with the witness straying from the version that John expected him to give the Court. John tried to remind him of a conversation that he had had with the witness the day before with the words:

Do you recall the conference at my chambers yesterday?

The witness replied to the effect “Uh?”. You immediately intervened and said to the witness:

Well, did you go to his office yesterday?

Similarly, Your Honour is good at bringing clarity to legal concepts that, at times, have troubled juries. On one occasion when explaining to a jury that a complainant could still consent to intercourse notwithstanding she had been drinking, you told them:

If you couldn't consent to intercourse after drinking alcohol hundreds of people would be engaged in criminal conduct in Launceston every Saturday night.

Most significantly, Your Honour's direct and pragmatic approach in court combines with an intelligent and incisive mind.

I was unfortunately forced to abandon the first draft of this address to your Honour on page 22, where I had been attempting to list and summarise all your decisions since 1988. However, no doubt your Honour wishes to enjoy afternoon tea. Suffice it to say that your Honour's legacy in this regard is a significant body of clear and cogent decisions that have and will continue to stand up to close scrutiny. I note that your decisions have been produced in an era where the sitting time in criminal matters is significant and the judgment writing time precious.

One decision in particular has withstood scrutiny of the most rigorous kind in the well-known dissent in the Full Court, on 19 January 2009 your Honour espoused the principles of personal responsibility to determine that a hotel licensee owed no duty of care in the circumstances to withhold the motor cycle keys from an intoxicated patron. On 10 November 2009, every member of the the High Court agreed with you.

You have maintained contact with the profession and you are a frequent attendee of the profession's social events.

You have regularly and with the utmost diligence attended the famous, or infamous, Launceston circuit dinners . It is difficult to believe therefore that I am not able to impart any anecdotes about your Honour behaving in a manner that was other than statesmanlike. Whilst that might mean that my northern sources have closed ranks to place a cone of silence over judicial antics at these notorious occasions, it is more consistent with your honour's enduring leadership and good grace.

As Chief Justice you have demonstrated true leadership. You have maintained your heavy schedule as well as efficiently performing the onerous administrative duties required of that role. You have gained the admiration of the profession in this regard.

I took the liberty just before arriving here of consulting one of the Bar's favourite online betting sites, *judgebet.com*. Not surprisingly, this website appears to have had a significant spike in Tasmanian activity in recent months. In particular, I noted that the odds being offered on your Honour's prospects of vice-regal appointment were very short indeed, no doubt based upon the well-trodden path of your predecessors and your own qualities.

Whether your Honour finds a further role in public life or enjoys life somewhat further away from the spotlight, I wish you all the best on behalf of the Tasmanian Bar. I convey our most

sincere appreciation for your outstanding service as a judge and Chief Justice of this Court. It is service that has been of great value to the profession and the community as a whole.

May it please.

CRAWFORD CJ:

I thank you Justice Evans, Mr Attorney, Mr Geason and Mr McTaggart for your generous words. I am not convinced that they were all deserved, but acknowledge the good sense behind the tradition governing what is said on occasions such as these, and what is left unsaid. It is one of the few occasions when a judge can expect nothing but compliments. The next time it may happen for me again will, I hope, be at my funeral. But if not, I will be blissfully unaware.

I feel honoured by the attendance of so many people. I particularly want to mention just a few – I certainly cannot name everybody. First, His Excellency the Governor and Mrs Underwood, His Excellency, the last Chief Justice of the Court, supports it whenever he can by attending on special occasions such as these and he continues to support the legal profession by assisting with the education of law students and the profession.

I acknowledge the Court's guests on the Bench today. Sir Guy Green and the Hon William Cox, past Chief Justices as well, have also continued to support the Court whenever able to do so. Justice Slicer, I am extremely honoured that you have been able to arrange your time away from your judicial duties in Samoa to attend today. When you left this Court I expected to outlast you as a judge but, that is not the case. Like me, you have found it difficult to give up the office. Unfortunately I am being forced out and you are not! Justice Marshall, Justice Kerr and Justice Benjamin, I thank you for your attendance today and for your support generally when this Court celebrates special occasions. I trust that the close association between our respective courts will continue in the future.

During my last year at school in 1958, I decided I would study engineering and that is what I told the Warden of Christ College when I enrolled there. A little later that year I decided instead that I would study science. It was only in January 1959, a month before I started at the University of Tasmania, that I changed my mind again and switched to law.

I am very glad I made that decision, for I have enjoyed my 49 years as a lawyer, half as a member of the private profession and half as a judge. Today, I view my retirement as being not merely a retirement from the Court, but as retirement from the legal profession.

Work as a lawyer and judge has been wholly satisfying for me. One of the best things about working as a judge is the opportunity to serve the community in a very real way. It has been a privilege to dispense justice and work for the preservation and the application of the rule of law for the benefit of society. My most enjoyable days have been what might be thought to be average ones, for they often occurred, and they involved presiding over trials in which competent counsel represented their clients and presented and argued their cases in a thoroughly professional way, leaving it to the decision maker, the jury or the judge, to make the ultimate decision after due process had been followed. There have been many days for me which ended for me with a feeling of deep satisfaction and confidence that what had taken place before me was a just and fair process and one that was in accordance with the law. As lawyers generally are well aware, in many respects it is the proper process that is more important than the outcome of individual cases. The justice system cannot provide outcomes

which are guaranteed to be correct, but if its processes are followed that is certainly more likely.

A recent national survey of judicial officers revealed that most gain great satisfaction out of what they do. It helps to explain that of the 36 judges of this Court who have retired before me or died in office, over a third of them were judges for over 20 years and six of them for longer than me. The longest serving of all was Sir John Pedder, the Court's first Chief Justice, who presided over the Court for 30 years.

I am sure there would be the same result if a similar survey of satisfaction was carried out among the Court's staff. We have had many who have worked for the Court for a great number of years, many for longer than me. I am sure that satisfaction arising from the part they have played in the administration of justice has been a major reason for their extensive service.

The nature of the judicial workload has changed since I became a judge in 1988. The civil work of the Court has reduced considerably, particularly because of legislative intervention for example, removed from the jurisdiction of the Court have been bankruptcy, mental health, workers' compensation, guardianship and custody of children, relationships and in practice, most of the corporations law jurisdiction. In addition, the number of actions for damages for personal injuries has substantially decreased due to legislation restricting the right to sue.

On the other hand, the number of cases in the criminal jurisdiction has greatly increased. The Court's sentencing database reveals that in some recent years the number of criminal cases determined by it has been almost double what it was in the late 80s, notwithstanding that jurisdiction in the substantial area of burglary and theft has largely been transferred away from the Court to the Magistrates Court.

Society should be concerned about some trends in criminal offending. For example, in 1989, my first full year as a judge, 11 offenders were sentenced for various forms of robbery. Last year the number was over five times that at 59. In 1989, two 17 year-olds were sentenced for aggravated robberies but no youths were sentenced for armed robbery. Last year, there were 12 under 18 who were sentenced for armed robbery, all except two of them for the worst form, aggravated armed robbery. One of the offenders was only 14 years old and six only 15 years old. There is ample evidence of an increase in serious offending by juveniles. I see a growing underclass of young people, who from the day of their birth have never had a hope of turning into responsible citizens. Raised in an environment of alcohol and illicit drug abuse, violence, unemployment and poverty, they are accustomed to those things by the time they are teenagers. It is a problem that will not go away and one that governments must directly confront as best it can.

I certainly feel privileged to have had the opportunity to serve as a judge for so long and to have been Chief Justice of the Court for the last five years. It has been a rewarding experience and often an exciting experience.

I thank all of the staff of the Court who have assisted me in all sorts of ways. I cannot mention them all by name now of course, but I do want to refer to some. I particularly mention the Registrars in my time – Ian Ritchard, the late Elizabeth Knight and Jim Connolly. All of them have had a warm and friendly disposition and performed their duties willingly and professionally, with the best interests of the Court and the judges at the forefront of their minds. We have been fortunate to have their services.

Next, the District Registrars – John Bendall and Chris Nason in Launceston and Russell Viney, David Langmaid and Natalie Luttrell in Burnie – they have always jumped in to help the judges without being asked and the operations of the Court in those places have run efficiently as a result.

I want to make special mention of my three secretaries, Christine Parker in Hobart since my appointment in 1988 and Nina Carter until 15 years ago as she told me this afternoon and then Jill Hayes. Their dedicated and loyal service has been impeccable. They have quietly and efficiently gone about their duties, never wanting to leave a job undone. I particularly single out Jill Hayes because our working relationship goes back 47 years to when she started at Douglas & Collins on Decimal Currency Day, 1966, and became my secretary a few weeks later. I should emphasise that she was a lot younger than me and still is! After taking time off to have children, she took up employment with the Court as a transcriber and after a number of years took over the role of judges' secretary when Nina Carter retired and for fifteen years since then. I regard my relationships with those secretaries as special.

I have left to last those who have worked as my Associates and Attendants. My first Associate was Ron Sonners and my first Attendant was Barry Lathey. They had worked for Justice Cosgrove and were of immeasurable help, particularly by training a novice judge with little experience in criminal trials. I well remember the first trial I presided over in Burnie – when I adjourned at the end of the day and went to prepare my summing up, the attendant – of all people – came up and said “of course, you’ll be giving them an *Alexander* direction” and he gave me a sample of it – and I said to him “what’s an *Alexander* direction?” Then the two Brians joined me – Brian Carroll and Brian Catterall they were my permanent Associate and permanent Attendant and all based of course in Launceston. The three of us travelled together up and down the highway between Launceston and Hobart, and also to Burnie, for many years.

After Brian Carroll chose a life of retirement, my Associates became first year lawyers, most of who served for one year but some for two years. I will not name them all but am delighted that several are here today, a number of them having travelled some distance to do so. They have been wonderful company, as well as workers, and their youthfulness and enthusiasm has been invaluable for this old judge. Since the retirement of Brian Catterall I have enjoyed the services of a number of attendants. I particularly mention Ric Rees in Launceston and Allison Oakes in Hobart. They are all here today and I thank them for that. I could not have wanted for anything better in the people I have had with me over the years. I have been fortunate.

I thank my wife and family for their support and for putting up with a husband and father who might be described as a workaholic. I am conscious that without the encouragement and assistance of my wife I would not have been a judge at all. Bobby has become used to me working away from home for five months each year for over 24 years. I am now looking forward to staying at home in future. I am not sure that she shares my feelings. I hope it will not prove too difficult.

Finally to the thirteen judges, and two Masters come Associate Judges, with whom I have shared judicial responsibilities of the Court over the years, I express my appreciation and gratitude for their collegiality, support and friendship. It has been a pleasure and an honour to work with them all for the common cause of justice in Tasmania.

Once again, I thank all of you for your presence today and for the last time I order that the Court will adjourn.

On 8 April 2013, the Honourable STEPHEN PETER ESTCOURT QC was appointed as a Puisne Judge of the Supreme Court in place of the Honourable EWAN CHARLES CRAWFORD.

On 8 April 2013, the Honourable Justice ALAN MICHAEL BLOW OAM was appointed Chief Justice of the Supreme Court.

On 7 June 2013, the Honourable Justice Peter Ethrington Evans resigned from office. That day, at a special sitting EVANS J said:

IN THE CIVIL SITTING OF THE SUPREME COURT HELD AT SALAMANCA PLACE, HOBART ON FRIDAY 7 JUNE 2013 AT 10.30 AM.

BLOW CJ: We have assembled here today to farewell the Honourable Justice Peter Evans on the occasion of his retirement at the end of fifteen years' service as a judge of this Court.

On behalf of the Court I welcome His Excellency the Governor, the Honourable Peter Underwood, and three other former Chief Justices of Tasmania, Sir Guy Green, the Honourable William Cox, and the Honourable Ewan Crawford. I also welcome the Attorney General, the Solicitor General, the Chief Magistrate Mr Michael Hill, other magistrates, the Lord Mayor of Hobart Alderman Damon Thomas, the Leader of Her Majesty's Opposition, Professor Kate Warner from the University of Tasmania, other distinguished guests, relatives and friends of his Honour, members of the legal profession and many others associated with the Court through their work and otherwise.

His Honour grew up in Launceston, studied at Launceston Church Grammar School and the University of Tasmania, and graduated in law in 1968. After working as an articled clerk at Page Seager Bethune Thompson & Doyle, and as an associate to Sir George Crawford, he was admitted as a legal practitioner on 3 February 1969. He commenced work with the Hobart firm Butler McIntyre & Butler and he was a partner in that firm for 28 years, from July 1970 to July 1998. His practice mainly involved civil litigation in this Court and the Federal Court. In those days practitioners in firms were not eligible for appointment as Queen's Counsel. However, in his years at Butler McIntyre & Butler his Honour became one of Hobart's leading barristers and no doubt had all the qualities attributes that make one suitable for appointment as senior counsel. During his years as a legal practitioner his Honour served as a council member of the Law Society of Tasmania; as a committee member of the Tasmanian Bar Association; and as chair of the Southern Area Legal Assistance Committee, a committee that use to assess applications and make grants of legal assistance under the State Legal Assistance Scheme. His Honour also served as a member of the Legal Professions Disciplinary Tribunal and subsequently as its chairman, and as a member of this Court's Rule Committee. In fact, he has been on that committee since 1984. There is a vacancy coming up on that committee, but I think we could forgive his Honour if he doesn't express interest in returning to it. His Honour was deputy chair of the Parole Board for sixteen years before his appointment to the Bench. He was a member of the University of Tasmania's Law Faculty for fifteen years; Chairman of the Tertiary Education Committee of Tasmania from 1987 to 1990; and chair of the Amalgamation Committee which negotiated the voluntary merger of the University and the Tasmanian State Institute of Technology. He chaired the University's Disciplinary Appeal Panel under its quaintly named Ordinance of Discipline, and from time to time served as Acting Visitor to the University.

His Honour became a judge of this Court on 10 July 1998 following the untimely death of Justice Zeeman, whose widow is here today. Last year, he circulated an email announcing that

he proposed to resign with effect from 10 July 2013, which happens to be the fifteenth anniversary of his appointment, making it clear that that information wasn't to be treated as confidential. As a result, the Government has been able to put arrangements in place for the appointment of a new judge with effect from the following day.

His Honour's fifteen years' service to this Court have been characterised by a very great deal of hard work and the delivery of timely and sound judgments. Quite often in sentencing appeals he would arrive with a draft judgment, much to the relief of his colleagues. Amongst his more memorable decisions is that in *State of Tasmania v Johnston*, where he ordered a permanent stay of proceedings in relation to a charge of disclosing official secrets. His judgment, which occupies some forty pages of the Tasmanian Reports, was delivered only twelve days after he reserved it and withstood an application for special leave to appeal to the High Court.

Since becoming a judge, his Honour has made an enormous contribution to the Court and to the legal profession in various voluntary activities. He was this Court's representative on the Governing Council of the Judicial Conference of Australia in his early years as a judge. He was the chair of the Council of Law Reporting from 2005 to 2008. He's been a member of a national committee concerned with the harmonisation of court rules since 2000. Since 2010 he's been the inaugural chair of the Courts Civil Users Group, which discusses issues arising in the civil jurisdiction. He has routinely taught trainees from the Tasmanian Legal Practice course on Tuesday afternoons for many years. He has chaired the – Standing Committee on Fess and Costs since 1998. His contributions have been enormous and he will be greatly missed.

Several weeks ago, Chief Justice Crawford retired after twenty four and a half years' service as a judge of this Court. Now his Honour is retiring after fifteen years' service. The impact of the two departures will be considerable. In March, the judges of this Court had an average of over eleven years' experience on the Bench. Next week, the judges will have an average of five years' experience.

Your Honour, you have consistently maintained the very best traditions of the court. Your contribution to the State and to the law has been enormous. On behalf of the Court, I thank you unreservedly and wish you and Mrs Evans a very long and happy retirement.

Mr Attorney?

THE HON B WIGHTMAN MHA A-G: Your Honour, on behalf of the Tasmanian Government and the people of our State, I have the privilege today of bidding you farewell from your role as a justice of the Supreme Court of Tasmania, and thanking you sincerely for your years of dedicated and capable service.

As we are well aware you were sworn in as a justice of the Supreme Court of Tasmania on 10 June 1998. On that occasion your reputation as a highly regarded member of the legal profession was acknowledged, and there was a publicly stated belief amongst the legal community that you were eminently well qualified to hold this high office. And so, fifteen years later, it is also now acknowledged – that – you have been a great mentor and friend in the short time that I've been Attorney and I just wish to thank you very much for that, so I'll get that off my chest and I'll continue. And so fifteen years later it is also now acknowledged that over your judicial career on the Bench you have further enhanced your highly regarded reputation as a member of the legal community and proven that you have indeed been exceptionally well qualified to hold the position as a judge of the Supreme Court.

A review of your professional background has been spoken about today, reveals a broad experience in the law – and a touch of humour is often now written into my speeches – like all good people you were raised in Launceston before moving to Hobart to commence your legal studies. You graduated from the University of Tasmania with a Bachelor of Laws in 1968 and were admitted to the Bar in 1969. You served the first two years of your articles at the firm Page Seager Bethune Thompson & Doyle before commencing employment at Butler McIntyre & Butler in 1969. You were made a partner of that firm in 1970 and remained with that firm until your appointment to the Bench in 1998.

On occasions such as this ceremonial sitting, it is also appropriate to acknowledge your various contributions in diverse areas of the law. Throughout your legal career you have made a valuable contribution to the local community through various public roles. You served as first a member and then the chair of the Southern Area Legal Aid Committee for a period of twelve years. You were also the chair of the Tertiary Education Commission of Tasmania for three years, and the chair of the Amalgamation Committee, which negotiated the voluntary merger between the University and the Tasmanian State Institute of Technology. You have given further service to the University of Tasmania as a member of the Law Faculty from 1983 to 1998, and as chair of the Appeal Panel under the University's Ordinance of Discipline. You have also contributed greatly to the legal profession in Tasmania by serving on the Bar Association and the Council of the Law Society for many years. You were the deputy chair of the Parole Board for seventeen years. You have been a member of the Rule Committee of the Supreme Court from 1984 including undertaking the role of chair of the Fees and Costs Standing Committee of the Rule Committee. In addition to the day-to-day work of a judge since the year 2000, you have been a member of the committee appointed by the Council of Chief Justices to investigate the harmonisation of court rules around Australia.

You have taken up your duties of a judge of the Supreme Court with great enthusiasm and I am reliably informed with a well-known capacity for hard work. Your published judgments have always possessed a scholarly hallmark and have contributed significantly to the body of case law in Tasmania that arises from disputes occurring in all walks of life. Your judgments are clear, logical, and practical. They are easily understandable by a wide audience, whether read by litigants, lawyers, law students, or the general community. At the ceremonial court sitting in June 1998 to mark your elevation to the Bench, you referred to the civilising force of the law in our society. Your judgments have certainly formed part of that civilising force.

Your sound judgment, substantial experience, and willingness to assume additional roles in your capacity as a judge will be sorely missed. I am also reliably informed that your fellow judges and members of the legal profession hold you in high esteem, as I do, and will miss your personal style on the Bench; one which has always been courteous and tinged with humour, when appropriate.

Indeed, I am advised that it was said at the ceremonial court sitting in June 1998 to mark your appointment that and I quote – “Your good reputation is evidence of the fact that throughout your legal career you have demonstrated a good understanding of human nature, have exercised sound judgment and shown an ability to lighten serious moments with good Australian Welsh sense of humour” – as a Northern Irish boy I'm not sure what that is.

Unfortunately, I don't possess language skills, or maybe humour as well, to express the Government's appreciation in Welsh, so I will simply say this: I congratulate you on your successful and illustrious judicial career. I thank you for your service to the State of Tasmania and I wish you well in a long and happy retirement. And personally, I've known young Zoe

Lippis sitting there for a long time and we will very much miss you and miss your contribution to the law in Tasmania.

If your Honour pleases?

BLOW CJ: Thank you, Mr Attorney. Ms Baumeler?

MS K BAUMELER: Thank you, your Honour. For your Honour's sake, this part of the proceedings is estimated to take approximately five minutes. Now I can already see that your Honour has doubled that in time, but given that the Crown have had absolutely nothing to do with the listing of this matter, I am hopeful that for once I might actually be able to stick to the script.

I must confess that I took the news of your Honour's retirement with somewhat mixed emotions. I was excited for your Honour, of course, but I was also saddened that you would no longer be sitting. But then I thought there's always the prospect that your Honour might change your mind – people do – and then when I was asked to represent the Law Society of Tasmania I thought perhaps your Honour might take example from the ranks of the accused that fail to make it to court and follow suit. Perhaps a medical certificate would be provided deeming that your Honour was unfit for work, and perhaps that would probably be the first time that such a medical certificate would have actually been appropriate or, perhaps your Honour might find that today clashed with a medical appointment or, that you needed to pick up your grandchildren or, that your car ran out of petrol on the way to the court. But your Honour is here so obviously none of those events have happened. I still have one hope though; if your Honour would like at any stage of these proceedings to stand the matter down so that I can go outside with you and explain to your Honour the impact of what today actually means I would only be too happy to do so, and should, after that explanation, your Honour be seen running down Salamanca Place away from the court and turn up again for work on Tuesday, I and the profession would shed no tears – just say the word we can do it. But assuming that your Honour isn't going to change your mind, I will move on.

Like anyone faced with the challenge of speaking I started the task by doing some research. Well, I actually sent a panicked email to several of my partners at Butler McIntyre & Butler, a firm that your Honour has, as we've already heard, spent twenty eight years in partnership with. Now Mr Daniel Zeeman provided me with a list that your Honour had actually started of the previous partners of Butler McIntyre & Butler, and that proved to be quite exciting because I discovered there that Butler McIntyre & Butler has actually had two partners that have been appointed as Supreme Court judges. Given that many judges seem to be appointed from either the Bar or the Magistracy this seemed like not a bad strike rate. However, then I looked at the years. There was John McIntyre, who was appointed in 1898 and then there was your Honour, who was appointed exactly a hundred years later in 1998. So on present form the next partner from Butler McIntyre & Butler to be appointed to the Bench, on my calculations, has not been born yet.

I then visited another partner, who spoke of your Honour's many hours that you put in at work, and he then went on to discuss at length your Honour's great skills at football tipping. There are clearly some unresolved issues there. And I'm not entirely sure whether I was meant to infer that the hours at work were actually spent on the football tipping rather than on work. But then I wandered into Mr Phillip Kimber's office and there I struck gold. He clearly throws nothing away. He provided me with articles on your Honour's appointment and the speeches at the ceremonial sitting when you were appointed. They showed your Honour to be a popular appointment and one that the profession clearly welcomed. I was interested to read your

Honour's own words to describe the challenges that you were to face as a "daunting task". You needn't have been daunted. I feel very safe in saying that your Honour has lived up to every expectation that was held of your fifteen years ago.

Now anyone who has listened to a closing address that I've ever done in a criminal trial would be aware that, if I can, I will try and find a quote that fits the trial, and I figured that your Honour shouldn't be immune. In the end I settled on a book that is often used in these courts, and no it's not *Cross on Evidence* or *Australian Criminal Trial Directions*, but I actually picked the Bible. The quote that kept coming to mind as I thought about what I should say was from St Paul's Second Letter to Timothy and it reads; "I fought the good fight. I have finished the race. I have kept the faith". I think the same can be said of your Honour's time on the Bench. Throughout your time you have fought the good fight. Today's race, though it is finished, while your Honour was running you never lost faith in the system and the role you played in administering justice.

So, what will your Honour be remembered for? For some it's quite clearly your football tipping. For others, it's your legal expertise, which, as a judge, in my submission, is obviously a given. Judges don't get appointed for mediocrity. It might also be your Honour's led judgments that you are remembered for, or your incredible work ethic. Your ability to push through and get the job done – we counted up the other day, and I do mean counted because there is no actual record – that your Honour, we think in the end, has presided over approximately three hundred and fifty trials, and that's not to mention the pleas of guilty, the appeals, and any of the matters that your Honour has dealt with in the civil jurisdiction.

All of those matters that I have mentioned are important. But for me, when I look back, it's your Honour's humanity and humour that I will remember with great fondness. Practising in crime we see the worst of what mankind can do to each other and your Honour's guidance through difficult matters and the humour with which you approached your task has made the role of practitioner bearable, at times when sitting down here, you sometimes wonder how you can possibly get to your feet, and for that I and the profession thank you.

Now if I can return to a story that Mr O'Farrell recounted on your appointment of your Honour being in the streets carrying a new golf bag shortly after your appointment had been announced. I hope for two things; first, that in the last fifteen years that golf bag has been worn out and that it has not been forgotten in a cupboard because your Honour has been too busy working and secondly, I hope your Honour will soon be sporting another new golf bag that gets used often.

Finally, I thank your Honour's family for loaning you to us, for the countless sacrifices that they no doubt have made throughout the time of your Honour on the Bench. And on behalf of the Law Society, the partnership of Butler McIntyre & Butler, and the practitioners that regularly appeared before your Honour, I wish well for your retirement.

BLOW CJ: Thank you Ms Baumeler. Mr McTaggart?

MR McTAGGART SC: On behalf of the Tasmanian Bar, I sincerely thank your Honour for your outstanding service as a judge of this Court over the last fifteen years. Many members of the Bar and of the Tasmanian profession generally have been fortunate enough to have the benefit of your judicial wisdom and experience for a significant portion of their careers. Your presence on the Bench will be sadly missed.

Having appeared before you on many occasions I've experienced firsthand your extensive legal knowledge in combination with a strong sense of justice and fair play. In delivering justice you've not been afraid to express to counsel your views on the merits of arguments, even cases. Happily for counsel, you are still prepared sometimes to be persuaded!

As mentioned by the Chief Justice and Mr Attorney, your role has not only been as a presiding judge but also you have been involved in the administration of justice in many ways. Your work ethic and high standards have been a feature of your various roles.

Prior to your appointment to the Bench you were a preeminent barrister and solicitor and partner of the firm, Butler McIntyre & Butler. As a young practitioner, I was the grateful recipient of your knowledge and fairness. I was at the firm of Jennings Elliott and we had a civil case against each other. Whilst we were attempting to settle that case you telephoned me to explain the existence of a legislative provision that I'd overlooked. That was an early lesson for me on how a senior practitioner should conduct him or herself in the practice of the law. If your Honour can recall this telephone call you'll be pleased to know I've not made the same mistake again.

Your Honour has also been known for your sporting prowess. Your early footy days gave way to a pretty nifty squash game and I think your squash ended upon taking judicial office – that can be easily understood because you wouldn't wish to put undue pressure on both your cardiac and brain functions at the one time. You are now in a position, of course, to launch back onto the squash court, if that's what you want to do, but the words of Cicero are apt, "It is not by muscle speed or physical dexterity that great things are achieved but by reflection, force of character, and judgment". These words well describe your Honour's character on the Bench.

In your body of judgments you leave a significant legacy for the profession and the community; you must have spent many hours preparing those you've delivered. Nevertheless, they've been delivered in a timely manner; they are immaculately written and meticulous in determining the issues involved logically and carefully exposing your reasoning without extra words or unnecessary detail. You've written many important judgments. The case involving the charges against the Tasmanian Police Commissioner is an example of your Honour's ability to handle significant matters with clarity of thought. In that matter you permanently stayed charged of disclosing official secrets and the High Court agreed with you by refusing special leave to appeal.

Fortunately your Honour, there have been some lighter moments in the court. On one occasion you were sentencing a lady who had defrauded the Government and spent some of the money on having her breasts enlarged. In your comments on passing sentence you stated, "Your application of a portion of the funds to your personal life is explained on the basis of your depression and as compensation for an unhappy life. Whatever the explanation, it is clear that your personal spending was in no way confined to necessities". Those comments on passing sentence were published online and a member of the public posted a comment in response and I quote "So are they going to repossess them?" Then there was the case of a man who robbed a supermarket. In the course of doing so he stuffed a packet of chicken schnitzel down his pants. Unfortunately for him this interfered with his capacity to drive. Whilst he was adjusting the schnitzel he crashed. He was apprehended at the crash site and the apprehending officer came on the scene. And, being an avid Mae West fan, he inquired of the defendant, after caution, whether the visible protrusion was the stolen schnitzel or whether the defendant was just happy to receive his assistance.

Now in reciting some of the more amusing matters that you've dealt with, I do not intend to downplay the onerous task faced by a judge in sentencing on serious matters that come before the Court. Sentencing is integral to your Honour's role and by its nature subject to public scrutiny and comment; that adds, no doubt, a difficult dimension to being a judge. For much of your time on the Bench, you have operated in a climate where personal opinion is expressed electronically and thus disseminated widely. In respect of sentences handed down such comment is often, in ignorance, the full facts. As a member of the Court of Appeal in 2010, your Honour had cause to consider the principles surrounding the imposition of suspended sentences. You recognised that suspended sentences are viewed very differently by the legal system than by the general public, and the public perception appears to be that when a suspended sentence is imposed the offender walks free. In that case you stated that suspended sentences remain the most valuable sentencing option but you also acknowledged that in applying sentencing principles the community's attitude in respect of such principles is relevant in determining adequacy.

Your Honour has remained steadfast in delivering carefully crafted sentences that achieve balance between principles of deterrence, punishment, annunciation and rehabilitation. In case your Honour does not wish to disappear from public life all together, there is always the option of the path taken by retired Manhattan Family Court Judge Judith Sheindlin, or as she's known, Judge Judy. However, if you did take that path you would 'unfortunately' be required to compromise your high standards of judicial behaviour that you displayed over many years and you would have to develop traits such as never allow a witness to complete their testimony and monopolise discourse throughout the proceedings; disallow responses that aren't concise or made during your own desire to speak; forbid litigants to hesitate and require them to maintain fixed eye contact with you; deliver particularly crushing remarks in response to slightly weak evidence; and deliver a judgment with only the words "You win she loses that's all" – perhaps the last point wouldn't be so bad.

Your Honour, in all seriousness, your retirement is well deserved after such distinguished service to the community. Your Honour has been a fine judicial officer in all respects and on behalf of the Bar I wish you all the best and a happy and fulfilling retirement.

BLOW CJ: Thank you, Mr McTaggart. Justice Evans?

EVANS, J: Thank you, Chief Justice, Mr Attorney, Ms Baumeler, and Mr McTaggart for the generosity and leniency of your remarks. I also thank all present for going to the trouble of attending this ceremony. To be quite frank, I would have preferred not to have so inconvenienced you, but upon reflection I was persuaded that this ceremony associated with the departure of a judge is one that I should honour. I've learned that the formalities and ceremonies associated with a judicial position should not be disregarded as a matter of personal whim. They play a significant role in the civilising force of judicial proceeding. One aspect of this civilising force is courtesy, a quality imprinted on the Court by Sir Guy Green when he was Chief Justice. I am delighted that Sir Guy is with us today.

Whilst courtesy may be a recent development many of the formalities and ceremonies associated with a judicial position must have been established and developed over many years, indeed centuries. Of course, the history of the judiciary and the legal profession goes back well beyond the inception of this Court as the Supreme Court of Van Diemen's Land in 1824, and the related Charter of Justice. An evocative reminder of the length of the history is the coat of arms here behind me, it's the Royal Arms. The Charter of Justice provides that seal of this Court is the Royal Arms. The motto at the foot of the Royal Arms is "*Dieu et mon droit*". That pronunciation will have concealed from you the fact that it is French; it means "God and

my right", which is a direct reference to the doctrine of the divine right of kings. Fortunately, the incongruity of it giving pride of place to that doctrine in our courts as we strive to maintain equality before the law does not appear to cause litigants any concern. The motto is in French as it was adopted in the fourteen hundreds when French was the language of the ruling class in England and Wales and in the courts. A volume of citizens' reports in the judges' library shows that court proceedings were reported in French until at least the time of Charles the Second, in the mid to late sixteen hundreds. It was during his reign that John Cook and a number of other lawyers who had the courage to successfully try Charles the First for tyranny were themselves successfully tried for their role in the prosecution of Charles the First and put to death. This diversion was intended to explain why I value the importance of these things, including ceremonies that contribute to the civilising force of the judicial process. I appreciate that the explanation is obtuse, but having extracted these details some time ago I could not pass up the opportunity of mentioning them. As demonstrated by the comments of today's speakers, on occasions such as this the focus is on the positive, indeed the gilded positive not the negative.

Consistent with that tone my next self-indulgence will be to touch on some positive matters associated with the administration of justice in this State. I mention them because to my mind they demonstrate that it is wrong to disparage those associated with the law for inflexibility and lack of application. When enacted in 1924 the Criminal Code included s 136, which provided that no person could be convicted of the sexual offences there specified on the evidence of the victim unless the evidence was independently corroborated. The common law extended this requirement to other sexual offences. The effect of this requirement was that many sexual predators could not be and were not prosecuted. Few sexual offences are independently witnessed and, in the days before DNA, there were very few ways of corroborating the evidence of a victim. In 1987, Parliament acted on successive reports from the Law Reform Commission recommending the repeal of s 136 and then, and thereafter, made a number of other significant amendments to the law referable to sexual offences.

A more recent significant amendment in this regard was the introduction in 1994 of the crime of maintaining a sexual relationship with a young person under the age of seventeen. These amendments resulted in an increase in the number of prosecutions for sexual offences. My impression is that the number of prosecutions has also increased because of such things as the introduction of laws in relation to child exploitation material and the expansion of the number of drugs that can be subject to a drugs prosecution. This expansion is evidenced by the fact that in 1916 the applicable legislation related to 53 drugs. The list of drugs in the current legislation exceeds 300 pages.

Whatever the reason for the increases in criminal prosecutions, to accommodate them Chief Justice Cox quite rightly increased the number of this Court's criminal sittings. However, as he commented in the 1998 Annual Report, the increase could only be achieved at the expenses of civil sittings and it would cause delays in that area. Those delays have occurred and I have been called on to address them in meetings of the Court's Civil User Group in 2011 and again earlier this year. To that end I prepared tables detailing the annual totals of the Court's criminal trials, sentences and judgments. As I reported to the User Group, a comparison of the annual totals of the Court's criminal trials and sentences for the period of eight years to 1998 with the period of eight years to 2012, showed a 90 percent increase in the number of criminal trials and a 65 percent increase in the number of sentences.

I should say that as between there's time to sentence one more you know I should say that as between the period of eight years that I compared there's a been a reduction of about 40 percent in the number of single judgments and a small increase in the number of Court of

Criminal Appeal and Full Court judgments. It is reasonable to assume that this reduction in the number of single judgments reflects a similar reduction in the number of civil hearings. However, this reduction has been insufficient to accommodate the increase in the number of criminal trials and sentences. In these circumstances, further delays are unavoidable in the hearing of civil matters and, more particularly, the time taken to deliver reserved judgments.

Returning to my focus on the positive, there is evidence that this increased workload has not had an adverse impact on the rate at which remandees are dealt with in this State. A recent article written by David Biles, a Canberra consultant criminologist, based on prison figures released by the Australian Bureau of Statistics on 27 March this year, records that this State has the lowest percentage of remandees in custody awaiting trial or sentence of any jurisdiction in Australia.

As to the workload, I note that an article published last month the Attorney General of the Australian Capital Territory analysed the number of civil and criminal lodgements per judicial officer in each Australian Supreme Court. His analysis is based on a report of the Productivity Commission. It shows that the only Supreme Court in Australia with a higher rate of lodgements per judicial officer than Tasmania is the Supreme Court of Queensland, and that of the comparable Supreme Courts; that is jurisdictions that do not have a District Court, the rate of lodgements in Tasmania is over 30 percent higher than that in the Australian Capital Territory and over a 130 percent than that in the Northern Territory.

Now whilst my covering of the material referred to has been cursory, to me, it demonstrates that this Court has not been inflexible and that its members have readily done all they can to address the increased demands placed on it.

I divert to a totally different matter. Mention has been made that I appear to work hard, and there is an explanation for this; unlike many judges I rarely worked from home. When I was near Chambers – and of course if you're working in Chambers people see you and they think, 'ooh! good chap' – when I was near Chambers whether in Hobart, Launceston or Burnie, I went into Chambers to work rather than working at home or in my accommodation. This is because of an incident that occurred when my wife Janie and I were enjoying a break on the mainland. The night I completed preparing a judgment on a complicated planning appeal I was awoken by two intruders into our ground floor unit – they fled; one with the bag that contained my judgment and the material to which it related and the other with Janie's laptop. I pursued one without success. Obviously he was the one with the laptop, as the one who lugged away the judgment bag would have found it very difficult to walk. When I realised what had been stolen I was devastated – exciting and riveting as my judgment was, I was appalled at the prospect of preparing it again. The only thought that consoled me was that of the thief discovering what he'd stolen and even better, reading the judgment. Now there would be a case of the punishment fitting the crime.

In fact it all ended well, as dawn broke I found the judgment bag in the bushes nearby. It had been too heavy for the thief. However, with that experience thereafter I endeavoured to work in Chambers whenever possible, as I'm confident that few thieves would knowingly steal a judgment.

I turn what is far the most important reason for today's ceremony, which is the opportunity for me to thank all of those who make the system work. I could not have served as a judge of this Court for one day let alone fifteen years without the support, assistance, and encouragement of the Court staff and, in particular, the associates, attendants and secretaries, whose daily help has been invaluable.

I similarly thank the profession. There is nothing like conducting a trial with a litigant in person to bring home the importance of the role played by the profession in court proceedings. A crucial aspect of the professions' role is the courtesy that its members are disciplined to display to each other and the judiciary. I thank all the members of the profession for extending that courtesy to me.

I also thank my colleagues with whom I've had the pleasure of serving, for their friendship and support, I've greatly valued it.

Finally, I thank my family and particularly my wife, Janie. Each and every member of my family has been a great support.

Well that – that's it from me. I'm closing – in closing let me say it was a lot easier arriving than it is departing. I look forward to seeing you though in the foyer after we adjourn.

BLOW CJ: Thank you, Justice Evans. The Court will now adjourn.

THE COURT ADJOURNED

On 11 June 2013, the Honourable ROBERT WILLIAM PEARCE was appointed as a Puisne Judge of the Supreme Court in place of the Honourable PETER ETHRINGTON EVANS.