

DIRECTOR OF PUBLIC PROSECUTIONS

ANNUAL REPORT 1999 - 2000

This report is prepared for submission to the Attorney-General in accordance with the requirements of Section 15 of the Director of Public Prosecutions Act 1973, which requires me to report on the performance of my functions under the Act during the 12 months ending on 30 June in each year.

Although the information in this report will cover the 12 months preceding 30 June 2000, I did not in fact perform my functions for all that period, as I did not take up my appointment until 13 October 1999. Mr Damian Bugg QC retired from his office on 30 July 1999 in order to take up his appointment as Commonwealth Director of Public Prosecutions. Until I took up my appointment, the Solicitor-General, Mr W C Bale QC was Acting Director of Public Prosecutions. I wish to record my gratitude and appreciation of Mr Bale QC's assistance to me in settling in. I am also grateful that Mr Bugg QC and Mr Bale QC set up systems which ensure the good and reliable performance of the work of the Office of Director of Public Prosecutions. Of course, the systems only work because of the professionalism and industry of staff implementing them.

THE FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

(a) Criminal Cases in the Supreme Court

During the year the staff in my Office have undertaken the prosecution of all criminal trials in the Supreme Court, the conduct of appeals in the Court of Criminal Appeal and Lower Court Appeals, and all civil litigation on behalf of the State of Tasmania. The Office has also provided representation and advice to Agencies and Departments involved in prosecutions and proceedings in Courts of Petty Sessions and Tribunals. Additionally, the Office has a considerable workload in relation to Criminal Injury

Compensation matters, disproportionate to the work strictly required by the Criminal Injuries Compensation Act because of the amount of assistance given to claimants.

During the year, 711 persons were presented for trial or plea in the Supreme Court (see Table 1). This is a 40.7% increase on last year, which was itself a record. Of those presentments, 562 pleaded or were found guilty, 43 were acquitted, one was found not guilty by reason of insanity and the jury could not reach a verdict in one case, with a retrial ordered. 103 persons were discharged from further proceedings, and one died before proceedings were completed (Table 1).

There were 176 criminal cases awaiting disposal as at 30 June 2000, a reduction by number of 20 from the same period last year. The table below shows the trend and distribution by centres of the backlog. The slight reduction is probably attributable to the amendment late in the reporting period to the disposition of the crime of aggravated burglary (which had accounted for a substantial rise in matters committed to the Supreme Court in 1997-1998 and following) and would need to be considered by reference to a longer period. However, the backlog in Launceston, which rose against the trend in Hobart and Burnie, is a concern. I believe it to be due primarily to a lack of actual judicial sitting time in that city. It is certainly not due to any lack of application of counsel and staff in the Launceston office who handle a very heavy workload in exemplary fashion, and utilise available judicial time optimally.

Criminal Cases Awaiting Disposal

	30/6/96	30/6/97	30/6/98	30/6/99	30/6/00
Hobart	48	34	99	82	63
Launceston	24	25	35	63	74
Burnie	18	25	58	51	39

As is shown, despite a rise in presentations of 40.7%, a reduction in the backlog of 11% was achieved, which is a great credit to all staff concerned in the year's work.

The Australian Bureau of Statistics' report on Higher Criminal Courts 1998-99, published July 2000, gives further cause for satisfaction, as this State compared extremely favourably with all other States on all main indicators, including having the second lowest median duration from initiation to finalisation.

No doubt with ongoing attention to pre-trial procedures and earlier identification of appropriate disposal these figures can be further improved, but the results show that this State has no need to blindly follow measures introduced at improving efficiencies in other States. Our legal culture in this State is predisposed to efficient use of time, rather than to the interminable point-taking which seems to pass for advocacy in some other quarters. We must also be cautious that the quality of justice is not sacrificed in the pursuit of speedier resolutions.

Table 2 contains major crime grouping by type, and in Table 3 disposals. Although all counsel and staff contributed to the difficult task of prosecuting a record number of presentments while reducing the backlog of cases awaiting trial, particular mention must be made of the contributions of Counsel Messrs T Jacobs, M Stoddart and D Coates, Mrs C Rheinberger and Senior Clerk, Mrs D McIndoe.

(b) Summary Prosecutions and Lower Court Appeals

This important work of my Office continued under the direction of Mr F Neasey, Principal Crown Counsel. This work involved summary prosecutions for breaches of standards or requirements established by

Statute. Particularly notable results were achieved in the obtaining of a control order against Mr D Strachan, his prosecution and imprisonment for breach of that order and other fisheries offences, a successful prosecution under the Aboriginal Relics Act, and several prosecutions resulting in fines of tens of thousands of dollars for breaches of the Workplace Health & Safety Act.

(c) **Confiscation of Criminal Profits**

The provisions of the Crime (Confiscation of Profits) Act 1993 were again applied by Crown Counsel, Messrs H Virs and M Shirley, and Mr Virs' report has been forwarded to you separately. As reported, in the year ending 30 June 2000, 14 confiscation orders were applied for and obtained. A total of \$595,721.60 was ordered to be paid to the State by way of pecuniary penalties (\$448,069.54) and forfeiture orders (\$147,652.06) in the year to 30 June 2000. At the end of that period property detained was estimated to total \$600,505.00. \$170,110.25 was deposited into the Crime (Confiscation of Profits) Account established under Section 79(2) of the Act, making in total \$319,142.15 having now been deposited in this account.

(d) **Civil Litigation**

The Civil Litigation section, headed by Mr P Turner, provides legal representation to the State and its Agencies in the litigation in which it is involved. Predominantly this is personal injury and workers' compensation litigation, but the variety of litigation covers almost all aspects of civil litigation. 476 new files were opened in the reporting period, with 468 closed. There were 825 active civil litigation files as at 1 July 2000. These figures do not include the numerous advices and guidances provided, often at extremely short notice, during the year. The section functions on a charging basis, although there are certain agency or department exceptions to the charging regime (a situation I find somewhat anomalous). The Office

exceeded its budget expectations. An efficient and effective service is provided to the State at a cost which I believe to be significantly less than if full commercial charging rates and practices were applied. My Office willingly accepts the responsibility which comes with the obligation that the State must be a “model litigant”.

(Timothy J Ellis)
DIRECTOR OF PUBLIC PROSECUTIONS

TABLE 1**Criminal Prosecutions**

	Persons Presented	Persons Convicted	Persons Acquitted	Persons Discharged	Persons Absconding
1990-91	401	277	39	75	12
1991-92	437	325	30	82	18
1992-93	330	250	28	52	18
1993-94	316	237	20	59	6
1994-95	327	249	9	69	3
1995-96	324	255	14	55	4
1996-97	309	240	20	39	6
1997-98	335	262	24	49	14
1998-99	505	401	23(1)*	80	25
1999-00	711	562	45 †	103	11

* 1 Person found unfit to plead

† 1 Person found not guilty by reason of insanity & 1 person whose jury failed to reach a verdict

Comparable statistics of the most common crimes are as set out in Table 2

TABLE 2**Crime (Type) Major Groupings by Persons Convicted**

	1999/2000 %
Murder	.53
Attempted Murder	--
Manslaughter	1.53
Rape	1.06
Other Sexual Offences	4.98
Aggravated and Armed Robbery	11.56
Assault (incl. Assault, Wounding, Grievous Bodily Harm)	12.09
Selling & Trafficking in Drugs	4.80
Arson	3.02
Injury to Property	.70
Burglary & Stealing (incl. Aggravated Burglary)	43.41
Stealing	4.09
Receiving	1.60
Fraud, False Pretences, Forgery & Uttering	2.80
Perjury, Pervert the Course of Justice	3.20
Other, incl. Dangerous Driving Conspiracy, Escape	5.63

TABLE 3

Comparative Table Relating to the Disposal of Criminal Matters

Year	Number of Persons Presented	Pleas of Guilty	Dealt with other than as Plea	Number of Persons Tried
1990-91	401	221	75	95
1991-92	437	281	82	74
1992-93	330	199	52	79
1993-94	316	186	59	71
1994-95	327	218	69	40
1995-96	324	222	55	47
1996-97	309	214	39	56
1997-98	335	234	49	52
1998-99	505	368	80	56
1999-00	711	488	104	119

Of those persons tried -

Year	Convictions	Acquittals	Found Insane	Retrials
1990-91	56	39	...	6
1991-92	44	30	...	8
1992-93	51	28	...	3
1993-94	51	20	...	2
1994-95	31	9	...	3
1995-96	33	14	...	4
1996-97	36	20	...	1
1997-98	28	24
1998-99	33	23	...	1
1999-00	74	43	1	1