

FOREWORD

I am pleased to present the 2024 Annual Review of the Supreme Court of New South Wales. Its purpose is to provide an overview of the Court's work over the previous year, both in qualitative and quantitative terms.

A bicentennial celebration

2024 was a year of great significance in the Court's history as the Court marked the bicentenary of the proclamation of the Third Charter of Justice and the first sitting of the Court under our first Chief Justice, Sir Francis Forbes, on 17 May 1824. On the same day, 200 years after its establishment, the Court hosted a ceremonial sitting in the Banco Court, attended by her Excellency, the Governor of New South Wales, Margaret Beazley AC KC, the Acting Chief Justice of the High Court of Australia, together with the Chief Justices of Singapore, New Zealand, and the Chief Justices of all Australian superior courts.

They, together with former Chief Justices of New South Wales, current and former judges of the Court and other courts, distinguished guests and members of the profession, heard an historic and deeply moving acknowledgement of country by Andrew Smith, barrister and Wiradjuri man, and a superb musical performance by renowned Australian musician and composer, William Barton. The Attorney General, the Hon. Michael Daley MP, Dr Ruth Higgins SC, President of the NSW Bar Association and Mr Brett McGrath, President of the Law Society of NSW, each addressed the Court prior to my formal address in reply. A selection of images captured on that day are reproduced in this Annual Review and some now hang permanently outside the Banco Court opposite the History Wall which was commissioned for the bicentenary and is a brilliant installation which captures the chronological history of the Court. The Court's bicentennial ceremonial sitting was filmed, and the footage may be accessed via the Supreme Court's website.

The ceremonial sitting was only one of many events and initiatives arranged to mark the Court's bicentenary, many of which had, as their unifying and informing theme, the rule of law and the importance of

an independent judiciary. These events and initiatives included speeches delivered to eight regional branches of the Law Society of New South Wales in addition to the annual Opening of Law Term dinner, an inter-faith service of thanksgiving at St James' Church (also celebrating its bicentenary) and a gala reception at Government House for judges, senior members of the profession and representatives of a variety of legally related bodies.

In April, a month before the actual bicentenary, *Constant Guardian, Changing Times – the Supreme Court of New South Wales, 1824-2024* edited by the Hon Keith Mason AC KC and Larissa Reid was officially launched by the Hon JJ Spigelman AC KC. On the same occasion, her Excellency the Governor opened the Supreme Court Gallery adjacent to the Banco Court which contains a wonderfully eclectic 'salon-hang' of more than 50 pictures, portraits and photographs of the Court, judges, practitioners and litigants throughout its history. This, in combination with the History Wall and the Banco Court itself, provides a starting point for organised school visits to Queens Square and the King Street complex, led by the historical walking tour specialists, Journey Walks. Since the first tour in April by Ashfield Boys High School, 17 schools and 488 students from across Greater Metropolitan Sydney and as far afield as the Hunter Valley have visited the Supreme Court. This initiative, part of the Court's enhanced outreach program, will continue into the future. Another book, *Enduring Courts in Changing Times: celebrating the 2024 Bicentenaries of the Supreme Court of New South Wales and Tasmania* was launched by the Hon. T F Bathurst AC KC in the Banco Court in July 2024.

The Banco Court was also the venue of a two-night sold out performance of Gilbert & Sullivan's *Trial by Jury*, translated to the 21st century and contemporary Sydney under the baton of the Hon Peter Hidden AM KC with barrister Vicky Hartstein 'updating' the libretto. It was a wonderful musical celebration of the Court's bicentenary as was the Bicentennial Concert later in the year at the Conservatorium of Music by the Sydney Lawyers' Orchestra and the Bar Choir including a piece specially commissioned for the occasion by the Hon George Palmer AM KC.

Another bicentennial initiative, the Indigenous Internship Program, enabled ten Indigenous recent law graduates or students to spend two weeks at the Court, one with an Equity judge and one with a Common Law judge as well as at least a day in each of the Court of Appeal and Court of Criminal Appeal. This program was the initiative of Justices Slattery and Yehia. After the program, the interns collectively wrote to me, saying:

The historical relationship between the NSW Supreme Court and First Nations people has not always been unblemished. However, this Program has demonstrated that the [Court] is genuinely committed to reducing actual or perceived barriers to First Nations people entering and succeeding in the legal profession. It has subsequently encouraged us all to make new and ambitious career goals, to both challenge ourselves and best serve the interests of our communities.

One of the interns, Corey Blyth, was subsequently awarded an Australia-at-large Rhodes Scholarship, and, as at the time of publication of this review, is working at the Court as a researcher before going to Oxford.

I acknowledge the Court's media and public affairs officer, Christopher Winslow, and bicentenary officer, Sophie Howard for their great assistance and work in making the celebration of the Court's first 200 years so memorable.

Caseload

Amongst the bicentennial celebrations, the day-to-day work of the Court of course continued apace. While the number of criminal matters filed with the Common Law Division was down by 13 percent in 2024, the number of bail applications surpassed 3,100 – an increase of approximately 24 percent. Both the Equity and Common Law divisions experienced an increase in the total number of filings, reflecting a very large number of common law claims for historical institutional abuse and in part discernible impacts of rising interest rates and the cost-of-living pressures. In this latter regard, filings in the Possession List, for example, increased for

the fourth consecutive year, and totalled 1632 matters. Both the Court of Appeal and the Court of Criminal Appeal matched or exceeded national timeliness benchmarks. It is noteworthy that the age profile of the pending caseload in the Court of Criminal Appeal improved from an already impressive base, with 98 percent of cases finalised within 12 months.

Practice Notes and artificial intelligence

Periodically the Court reviews and reissues Practice Notes, in accordance with changes in legislation, trends in litigation, or the need to improve efficiency and access to justice. In 2024 practice notes in respect of Bail, the Probate and Family Provision List, Representative Proceedings and the Corporations List were amended and reissued. In April, a new practice note, Pronunciation of Names and Forms of Address, was issued in recognition that the correct pronunciation and forms of address is an important aspect of the mutual respect to which all participants in judicial proceedings are entitled.

On 2 December 2024, towards the end of Law Term, members of the legal profession gathered in the Banco Court for a briefing on the newly issued Practice Note, SC Gen 23 – Use of Generative Artificial Intelligence. Its purpose is to identify the circumstances in which use of Gen AI is acceptable in proceedings in the Supreme Court. The Practice Note was the culmination of extensive consultation with the legal profession but was also the capstone of the Supreme Court's response to the challenges posed by Gen AI to the work of the courts. This is a complex and rapidly developing topic. A collection of material about Gen AI, including policies and guidance notes from other jurisdictions, is available on the Supreme Court website.

Gen AI and the topic of 'truth decay' more generally was a topic I explored in a number of speeches delivered in the course of 2024. These and other speeches including those given by other members of the Court are catalogued in Appendix II of this Review and published on the Court's website.

Retirements and appointments

As with any enduring institution, the Supreme Court is animated by the expertise of the men and women who are appointed to it. An infusion of judicial talent balances the experience and capacity that is lost through retirements from the Bench and provides new energy and vitality to the Court's work. In 2024 the Court farewelled the Hon Justices Sackar, Meagher, Button, White, and Wilson. I take this opportunity to express my gratitude for the significant contribution that each made to the Supreme Court during their judicial careers. 2024 also saw the retirement of Hon. Carolyn Simpson AO KC as an acting judge of appeal. Taking this acting service into account, Justice Simpson, only the second female to be appointed to the Supreme Court, retired as the third longest serving judge in the Court's history. She was and is greatly admired.

Joining the Court in 2024 were Justices Pike, Hmelnitsky, Faulkner, Rigg, and McHugh. Justice Derek Price, former Chief Judge of the District Court, also took up an appointment as an acting judge of appeal.

Vale

2024 saw the passing of the Hon. Andrew Rogers AO KC, the Hon. Moreton Rolfe KC and the Hon. Paul Stein AM KC. Each made an invaluable contribution to the administration of justice and the reputation of the Court as did Ernie Schmatt AM PSM, the long-term Chief Executive of the Judicial Commission of New South Wales.

Thank you

A cursory view of the daily court list will show the number and variety of directions and interlocutory hearings, bail applications, trials, appeals, judgments given, and sentences delivered by the Supreme Court each sitting day. It would be impossible for the judges to manage such a large and diverse caseload without a corps of dedicated registrars and highly skilled court officers and support staff. The listing officers ensure that cases are brought on as efficiently and expeditiously as possible, while the Office of the Sheriff, the Reporting Services Branch and court officers ensure that prisoners, witnesses, practitioners and parties each perform their designated role in the administration of justice and proceedings are recorded or transmitted by audiovisual links. Recognition is

due to Justices Garling and McNaughton who, along with Registrar Leonie Walton, have progressed the Digital Case File – a project that will greatly increase the efficiency with which judges and registrars can manage the cases brought before them.

I particularly acknowledge the outstanding leadership of Ms Rebel Kenna, the acting Executive Director, and Principal Registrar throughout 2024. An enormous debt is owed to Rebel and the staff whom she leads. A similar debt is owed to the Judicial Commission of New South Wales led so ably by Ms Una Doyle. The Commission's assistance to and support of the Court is essential and invaluable.

I also offer my thanks to the Office of the Sheriff, under the leadership of Ms Tracey Hall PSM, which also celebrated its bicentenary in 2024.

Finally, I thank the judges, their associates and tipstaves for their continuing commitment to public service. I especially acknowledge the support of the President of the Court of Appeal and the Chief Judges of the Equity and Common Law Divisions. As I observed during the Court's bicentennial ceremonial sitting:

'My role and responsibility, and that of my colleagues, is to continue to earn and maintain [the] respect of and from the community. In that context, no Chief Justice could hope to have, and no court or community which it serves could have, a finer cohort of judges as we have here in New South Wales in 2024. Their work is typically solitary, unrelenting and carries huge personal responsibility which they daily discharge with equanimity and great skill.'

I commend this report.

The Honourable Andrew Bell
Chief Justice of New South Wales