

## DISCONTINUANCE OF COURT OF APPEAL ANNUAL REPORTS

From 1988 to 2008 the Court of Appeal produced an Annual Report relating to significant cases in the Court. The Court has decided to discontinue that practice. Some brief observations on that decision are appropriate.

The Report began life as something of an *aide-memoire*. A slot was traditionally reserved at the annual High Court and Court of Appeal Judges' Conference for the President of the Court of Appeal to convey such observations as he or she wished to make on the work of the Court. It was convenient to have a document to which the President could refer if he wished, relating to significant cases.

Under the successive editorships of Sir Ivor Richardson, Sir Michael Hardie Boys, Sir Kenneth Keith and then myself, the Report steadily expanded, as indeed it had to given the significant increase in the workload of the Court over the years, and became a stand-alone document. Statistics as to workload and disposals, and overturnings by the Judicial Committee of the Privy Council began to be included, and sometimes what amounted to editorial pieces.

There would still be some utility in continuing to produce the Report in the format it has taken over the last several years. However, access to the Court's work is technologically now very much easier, and swifter. To actually produce the Report takes a secondment of judicial, clerk, and printing resources which the Court can ill afford, for something which is of more marginal utility today. Further, it is difficult to consider the work of the Court of Appeal in isolation, now that the Supreme Court of New Zealand is fully operational.

For researchers who may, for one purpose or another, wish to know of the work of the Court of Appeal during its 50 years as the de facto final court for New Zealand reference can be had to the, with respect, meticulous essay by Sir Ivor Richardson, "The Permanent Court of Appeal: Surveying the 50 Years" in Bigwood, *The Permanent New Zealand Court of Appeal* (Hart Publishing (2009)).

The essential statistics for that period are all there. Copies of the sequential Annual Reports are held in the Court of Appeal Library, and some law libraries around New Zealand have catalogued the Reports.

It is important to have accurate, publicly available statistics to understand what is going on in New Zealand's appellate courts. These are important as going to accessibility to appellate courts, the reliability of dispositions, and the public interest in efficiency. The Court of Appeal statistics will therefore in future be publicly posted each year on the Courts of New Zealand website.

The essential statistics for 2009 are:

**A. Criminal Appeals**

	Hearing	Allowed	Dismissed	Allowed on the papers	Dismissed on the papers
Conviction & Sentence	92	29	60	1	
Conviction	78	16	58	1	
Sentence	120	42	76		
Solicitor-General Appeals	40	26	16		
Pre Trial	58	3	62		2
Other	34	2	26		
Sub total	422				
Abandonments/No jurisdiction	53				
<b>Total</b>	<b>475</b>	<b>118</b>	<b>298</b>	<b>2</b>	<b>2</b>

NOTE: The figures above include five decisions reserved from 2008, and there were 11 reserved case at the end of 2009. Also, there were a further 29 judgments delivered during the year in respect of interlocutory matters including bail, costs, fresh evidence and leave.

The following table shows comparisons with earlier years

Year	Appeals or applications for leave filed	Oral Hearing	OTP	Allowed	Dismissed/abandoned/ no jurisdiction
2004	528	392	21	99	396
2005	521	384	17	143	339
2006	495	438	9	161	351
2007	451	407	6	153	343
2007	451	407	6	153	343
2008	498	396	8	126	357
2009	529	422	4	118	351

**Disposition of the criminal caseload by panels**

	2005	2006	2007	2008	2009
Permanent Court – five judges	5	2	2	0	3
Permanent Court – three judges	32	86	55	56	44
Criminal Appeal Division	345	350	350	340	375
On the papers	17	9	6	8	2

**B. Civil appeals**

	2005	2006	2007	2008	2009
Motions filed	288	285	208	310	312
Appeals set down	149	147	154	135	158
Appeals heard	125	151	124	136	145
Appeals allowed	53	57	43	51	54
Appeals dismissed	71	81	101	84	81

NOTE: the number of cases does not equal the number allowed and dismissed. Judgments in 27 cases were reserved at the end of the year, and 16 judgments came from cases heard in the previous year. One matter was adjourned sine die.

**Disposition of the civil caseload by panels**

	2005	2006	2007	2008	2009
Permanent Court – five judges	2	2	1	1	0
Permanent Court – three judges	105	120	98	90	98
Civil Appeal Division	18	29	25	44	47
Abandonments	46	88	56	59	81
Abandonments under r43	21	29	21	30	37

**Year end workflow**

	2005	2006	2007	2008	2009
Criminal appeals awaiting hearing as at 31 December	266	240	197	201	242
Civil appeals awaiting hearing as at 31 December	65	77	72	80	71

The question of overturn rates in relation to the Court of Appeal is important not just to researchers, but to the practising bar. It may therefore be of interest to the profession to know that since the Supreme Court of New Zealand began hearing applications for leave to appeal to that Court from the Court of Appeal five years ago, there have been 540 leave applications. There were 261 criminal leave applications. Thirty-seven were allowed. And of those, 22 appeals ultimately succeeded. In the civil jurisdiction there were 279 leave applications. Eighty-four leave applications

were allowed and 37 appeals ultimately succeeded. As a percentage of all leave applications filed this amounts to overturn rates of crime (8%) and civil (13%).

Grant Hammond J

Court of Appeal