BOOK REVIEW

From Convicts to Computers: Two Hundred Years of the Tasmanian Supreme Court

Justice Stephen Estcourt

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Stephen Estcourt deserves great credit for remedying the absence of a consolidated history of the Supreme Court of Tasmania with such an engaging and informative account of the Court, its judges, their cases and its buildings. The author notes in his acknowledgments that 'this book is not an academic treatise', nor 'a work of painstaking historical research'. In other words, it is reliant on secondary sources rather than being the product of original research using archival sources. However, his modest disclaimer greatly understates its value. By providing a synthesis of all that has been published about the Court, it provides a convenient first step for locating initial information on events and people that shaped the Court with in-text references to further sources. It not only describes the individual judges who constituted the Court from time to time with examples of the cases they decided, it also provides insights into the contemporary community they served, demonstrating dramatic changes in the law and society over the two centuries.

Stefan Petrow's excellent introduction skilfully draws together some of the recurring themes in the book, such as judicial independence, reform of the law and modernising court procedures, video-recording of police interviews, transcripts of evidence through to the use of intermediaries.

The author then begins the book with the opening of the Court and the first trial, which was the trial of William Tibbs, who was convicted of manslaughter for the death of John Jackson. Estcourt avoided the mistake made by others of describing the accused's victim as an Aboriginal man rather than a black American who had served in the British Army before being transported. The trials of Kickertopoller, Musquito and Black Jack are referred to as well as the later trials of two palawa men, Jack and Dick. The author concludes with the reflection that these trials of palawa men in the context of the Black War highlight the need for a truth-telling process

today. The importance of truth-telling and reconciliation is revealed by the comment in the chapter on the Blow Court that the present Chief Justice was the first to acknowledge the traditional and original owners of lutruwita Tasmania in his response to the welcoming speeches on his appointment.

The first chapter of the book explains how Tasmania's Supreme Court can claim to be Australia's oldest despite the fact that Sydney was settled first, and before 1824, courts, including a Supreme Court in Sydney, had jurisdiction which extended to Van Diemen's Land. The answer lies in the fact that unlike the two Supreme Courts established by the Third Charter in 1824, the earlier Sydney courts did not have full powers of Courts of Oyer and Terminer and General Gaol Delivery or of the English civil courts such as the Court of Kings Bench. Because the reading of the Third Charter and the first sitting of the Supreme Court in Hobart occurred on 10 May 1824 and that of the Supreme Court in Sydney on the 17 May 1824, Tasmania's Court can claim to be, technically at least, the first. Indeed, at the sesquicentenary of the New South Wales Supreme Court in Sydney, Chief Justice Guy Green corrected the record when it was claimed that Sydney's Court was the first. Subsequently, Tasmania's claim to be the first was acknowledged at the ceremony in Hobart to mark the centenary of the High Court by the then High Court Chief Justice, Murray Gleeson. In a chapter on the Supreme Court buildings of the first hundred years, it is noted that the controversial Tasmanian Governor, Richard Butler, attended this ceremony which was in the old Macquarie Street Supreme Court. Tactfully, there is no mention of the fact that Governor Butler, who entered the courtroom immediately before the Judges, at first attempted to take his seat on the judges' bench. This ceremony was following a rumoured but well-publicised incident of the Governor asking an airline for an upgrade as he left the state on his honeymoon. As Butler hesitated in locating his seat, a member of the audience in the courtroom quipped, 'Looking for an upgrade?' followed by muffled laughter as the judges filed in.

After the first two chapters which deal with establishment of the Court and the period leading up to it, the chapters that follow are organised by Chief Justiceships and the judges who served under them. We learn of the backgrounds, families, legal careers, retirements and deaths of the 46 judges, and get a feel for the kind of people who were appointed to judicial office in Tasmania. Something is written about every Court, which Stefan Petrow notes in his introduction is both a strength in that it is comprehensive but also a weakness as it suggests that all Chief Justices

were equal in historical importance. Key issues in the Court's history are also discussed at different points in the narrative and not in one place. This organisation also means that there is some repetition at times – which works if you are dipping into the book but a little irritating if you are reading it from cover to cover. For example, poor old Joseph Hone, the first Master, is twice described as 'only a few degrees removed from an idiot'.

A strong theme of the book is the slow development of the legal rights and role of women in the law: as jurors, as counsel and judges, associates and registrars. It is pointed out that the establishment of the Supreme Court was a setback for women who could no longer appear as 'agents' in the Lieutenant-Governor's Court and bring and defend actions in their own names. Changing attitudes to women are illustrated by the newspaper accounts which focus on women's clothing on ceremonial occasions rather than anything else about them. There are two separate chapters on women in the law, one in the first hundred years (Chapter Eleven) and one in the second one hundred years (Chapter Twenty-Seven). This reflects the other organising feature of the book: the division between the first hundred years and the second. So, there are separate chapters on notable cases for 1824-1924 and for 1925-2024 as well as chapters on the Supreme Court buildings for the first and second centuries of the court. In addition, there are separate chapters on The Battle for Trial by Jury', which the colonists had struggled for more than a decade to obtain before it was introduced in 1840, and a chapter on the Judge Storm (from 1847-1848), which recounts the conflict between the Supreme Court judges and Lieutenant Governor Denison over the Dog Tax.

Another key theme is the number of judges, including the reluctance of governments to make appointments to complete the full complement. Where the judges should be based is another theme. Chapter Twelve deals with the Launceston Judge Debates and the push from 1860 for a resident judge to be based in Launceston rather than relying on circuit judges. Finally, in 1918 Justice Ewing started duty as the resident judge but there was a storm of protest due to the 'increased emolument' that Ewing would receive for residing in Launceston and the ensuing conflict on the bench between the judges. After Ewing's death a decade later, all judges were again resident in Hobart until the appointment of Justice George Crawford in 1958. His son, Ewan Crawford, who was appointed 30 years later, was also based in Launceston. Justice Robert Pearce, who was appointed after Ewan Crawford's retirement, was the fourth judge to reside in Launceston and work principally from Launceston. Justice Michael Brett, appointed in

2016, is also based in Launceston. The most recently appointed judge, Justice Tamara Jago lives in Smithton on the North-West Coast and sits primarily in Burnie, presiding over the six of the eight Burnie sittings and in Hobart for the remaining two and the six Appeal terms.

As Petrow points out, the author leaves it to the reader to make up their own mind about which judges could be classified as conservative or liberal, traditional or reformist. Estcourt's views about whether they were well qualified for appointment or how well they performed in their role is also largely left unstated. Although, for the astute reader, there are hints. The summaries of the major cases decided by particular judges and how their judgments fared on appeal is helpful in making that assessment. Occasionally, the author inserts his own assessment of a particular judge but for the most part the assessment of others is reported. The descriptions of the backgrounds and career of each of the judges are far from dry and often enlivened by engaging anecdotes. Their good qualities, and, in the case of the judges of the first hundred years, their flaws are recounted. The author is more restrained in relation to the judges of the second hundred years. And, understandably so in relation to those judges of more recent decades. The 'sobriquets' given to the earlier judges are recounted but not of those of more recent decades. So, our first Chief Justice was dubbed 'Sir Petulant Pedder', and Justice Montagu, 'the Mad Judge'. Justice Robert Adams, appointed as the first third judge of the Supreme Court in 1887, often concurred with his fellow judges without writing his own judgment and so earned the nickname, 'Lord Concurry'. Before his elevation to the Bench in 1909, Herbert Nicholls was the Tasmanian Leader of the Opposition and Attorney-General with the nickname 'Shifty Nick'.

But our modern judges also have nicknames. Chief Justice Gleeson of the High Court (1998-2008) was known as 'The Smiler' because he seldom smiled on the Bench,[1] Justice Michael Kirby was known as 'The Great Dissenter', Dyson Heydon became known by a number of names including 'Dicin' (as in dicin' with death) and at the Bar, the moniker of the former Chief Justice of New South Wales (Tom Bathurst) was 'the Shuffling Assassin".[2] Stephen Estcourt does not disclose that Peter Underwood, Justice and later Chief Justice Underwood, had the nickname 'Hollywood', because he was handsome and dashing and, when still at the Bar, would at

[1] Keith Mason suggests it was because of his invariably up-beat personality: Keith Mason, *Lawyers Then and Now* (Federation Press, 2012) 16.
[2] Ibid.

times wear a fur coat to court. The gossipy Australian legal magazine, *Justinian*, tells me that Justice David Porter, has the nickname 'Disco Dave' and Chief Justice Blow, is referred to as 'Mr Squiggle'.

Estcourt recounts so much that is interesting in the lives and careers of the judges of the Court. I will briefly recount some random examples to illustrate, conceding that my selection puts more emphasis on the infamous than they merit. This means that so many of the overwhelming majority of judges who have conscientiously served with distinction don't rate a mention.

Chapter Three provides a sympathetic and balanced account of our 'first, youngest and longest serving Chief Justice of Tasmania', Sir John Pedder. He is often portrayed as an overbearing and hanging judge and too keen to please Lieutenant Governor Arthur. To balance this harsh assessment, the author points out that death sentences were often followed by a recommendation that the sentence of death be commuted by the exercise of the Royal Prerogative of Mercy to periods of secondary transportation. And he recounts Pedder's opposition to the removal of Tasmanian Aboriginal people to Flinders Island and his prescient assessment that it would be fatal to them. Pedder's conflict with Denison over the Dog Tax (the Judge Storm) led to Denison's unsuccessful attempt to remove him and to a reprimand from the Colonial Office. Later we learn (in Chapter Seven) of JM Bennett's assessment of Pedder as having an omnilateral personality and a tendency to procrastinate which his successor, Sir Valentine Fleming, played to as counsel.

The first appointed puisne judge, Alexander Macduff Baxter, was described by Lieutenant Governor Arthur as an insolvent debtor, notorious sot and wife-beater, and was never sworn in. He appears in Keith Mason's list of Australia's eleven worst judges, together with Justice Algernon Montagu, 'the Mad Judge', who replaced him. I felt a little sympathy with 'the Mad Judge', who lost his temper when Attorney-General Alfred Stephen arrived late at court and then began eating a sandwich and drinking lemonade at the Bar table before opening his case. Montagu was amoved from Office by an order of the Lieutenant-Governor (Denison) and the Executive Council for using his office to avoid paying a legally due debt (Denison was also grumpy with him about the Dog Tax case). Montagu returned to England, but despite the amoval, received two more appointments, first as a magistrate in the Falklands, where he abandoned his wife and family, and

then in various positions including Acting Chief Justice in Sierra Leone, where he had a Creole mistress – a relationship that lasted some 25 years.

Montagu's replacement was Thomas Horne, who also appears in Mason's list of the worst judges. Horne, like Montagu, was in financial difficulties when he was appointed. In 1860 he was attacked in Parliament as result of adverse comments made in a Victorian case about his conduct in relation to the will of his old and blind uncle. Compounding that, it later emerged that he had asked one of the parties to a case before him for a loan of £500. To prevent his amoval, he resigned. The other nineteenth century judge who served in Tasmania to be included in Keith Mason's list is Sir Henry Wrenfordsley, who was commissioned for a year in 1885 when Chief Justice Dobson took leave. His term was extended to three years when Justice William Giblin became ill. Wrenfordsley was a notoriously bad judge, who had made so many moves from jurisdiction to jurisdiction, he was known as 'the journeyman judge'.

Chief Justice Dobson was the first judge not to return to Britain on his retirement. Tasmania had become the permanent home of his family. His puisne judge, William Robert Giblin, subtitled 'An Autochthonous Judge',[3] was the first judge to be both born in Tasmania and receive a local legal education. Sadly, his career was short, he died of heart disease at the age of forty-six.

I have skipped the second and third Chief Justices, Fleming and Smith, contrasting characters, in background and temperament. Sir Valentine Fleming was courteous and considerate, and his court was free of 'unseemly bickering'. But Sir Francis Villeneuve Smith, Chief Justice from 1865 until 1885 and a judge from 1860, was ill-tempered on the bench and had a sharp tongue which he did not hesitate to use against counsel and jurors. He was born in Port-au-Prince, Haiti and his mother was a Haitian woman of African descent. He was racially vilified throughout his life and after his elevation to the Supreme Court was referred to by some as 'Blackie Smith'. In his political life, he was taunted with cries of 'go back to Africa' and 'nigger', slurs he withstood with dignity. It is to be hoped that Sir Francis took some comfort in the fact that when a former Premier wrote to the Colonial Office complaining that 'the spectacle of a coloured

[3] 'Autochthonous' is a word popularised by Chief Justice Owen Dixon in the phrase 'autochthonous expedient' to describe making state courts repositories of federal jurisdiction.

person sitting in judgment upon the Anglican race is felt to be deeply humiliating', he was firmly rebuked and this was conveyed in a letter to the Governor.

Estcourt acknowledges Smith was a fine jurist and modest in his sentencing. However, his term was not without controversy. His long dispute with Governor Weld involved a lot of acrimonious correspondence and the involvement of the Colonial Office but was later settled amicably. This dispute, which also involved the puisne judge William Lambert Dobson, concerned the prerogative of mercy in the case of Louisa Hunt and is dealt with in detail in Chapter Nine. While in England on leave, he made the decision to retire, and so left without the usual farewells and glowing tributes from the Bar. Nevertheless, his considerable ability as a jurist has been acknowledged by later commentators including, JM Bennett.

Justice John McIntyre's judicial career from 1898 until 1914 is of interest because, apart from the recent case of Justice Geason, this was the last time a judge was subjected to parliamentary scrutiny. In 1906, McIntyre convicted a bank manager of a series of thefts from the bank and imposed a suspended sentence of imprisonment of 2 years. The bank manager was the nephew of McIntyre's former partner, and this led to the claim that there was one law for the rich and one for the poor and an amoval motion in the House of Assembly. This failed. The Mercury described McIntyre's sentence as an error of judgment, noting there was strong support from him in the House from Herbert Nicholls who was later to become Chief Justice.

The early history and connections of these judicial families are intriguing. John Stokell Dodds (1848-1914) was raised by his mother and his uncle, Dr William Stokell, who as we now know, was heavily implicated in the mutilation of the body of William Lanne.[4] His unorthodox relationship as a young articled clerk with an older woman, whom he later married, did not appear to have an adverse impact on his dazzling career as he became a judge at the age of thirty-nine and eleven years later, the Chief Justice. The disparaging assessment of Dodds by Carrel Inglis Clark suggests he was not universally admired as a jurist or even as a man. And Sir George Crawford notes that he was by far the least reported of the Tasmanian judges sitting alone. He was the first Chief Justice to be appointed Lieutenant Governor, and in this role courted some controversy by

[4] Cassandra Pybus, *A Very Secret Trade: The Dark Story of the Gentlemen Collectors in Tasmania* (Allen & Unwin, 2024), 42–58.

employing the gardener and carpenter from Government House at Stoke House.[5] Dodds died at Stoke House in 1914.

The book notes that at least four judges were descended from convicts: Sir Harold Crisp, Sir Peter Crisp, Sir Stanley Burbury and David Porter. Sir Peter Crisp's role as Chairman of the State Library Board is mentioned but not the fact that he would not allow anyone to have access to the convict records held by the Library without his express permission. This reflects the fact that convict ancestry was not something that tended to be openly acknowledged by previous generations and some went to great lengths to hide it.

The book gives a laudatory account of Justice Andrew Inglis Clark. Despite only being on the bench for nine years, he is universally acknowledged as the most eminent of the judges of the Tasmanian Supreme Court, was one of the framers of the Australian Constitution and responsible for the introduction of the Hare-Clark System when Attorney-General. He died in office in 1907 having been twice passed over for appointment as a judge of the High Court. Justice Andrew Inglis Clark Junior had an extraordinary reputation for his legal knowledge and acuity. On the Bench he was often 'testy and demanding and somewhat pedantic but his integrity and passion for justice was admired'. He served for almost a quarter of a century. Justice Neasey assessed him as the 'greatest lawyer the State has produced', with the exception of his father.

Justice Frank Neasey is another standout of the second one hundred years with Estcourt giving him a glowing account. It is noted the High Court has often drawn on Neasey's judicial opinions and that in Justice Michael Kirby's assessment, he is one of the jurists who would have graced the High Court. Sir Guy Green is also referred to by the author as 'an outstanding jurist'. Justice William (Bill) Zeeman, who died prematurely of a brain tumour, is described as 'one of the finest legal thinkers in Australia' and it is noted that he was apparently under consideration for appointment to the High Court. Current Chief Justice Alan Blow is known for his legendary capacity to produce quick written judgments, his almost perfect memory, fine logical mind and grasp of legal principle. It is noted that his judgments have been upheld by the High Court on four occasions

[5] David Owen and Kate Warner, *Government House Tasmania: A Remarkable Story* (Government House, 2021) 394.

(now five). His way with words is illustrated by the following quote from a case which grappled with the Kingborough Planning scheme:

> The planning scheme is very complex, and exceedingly and unnecessarily difficult to comprehend and interpret. Most ordinary people would not have a chance. Most sensible people or people with a life, would not attempt the task unless they absolutely had no choice.

Justice David Porter, who was appointed in 2008, is described by the author as an 'outstanding jurist' and 'one of the finest jurists in the history of the Court'. Justice Helen Wood, appointed the following year, is also described as 'an outstanding jurist, adding richly to the jurisprudence of the Court in well researched and carefully crafted judgments expounding difficult legal concepts with simplicity and clarity'.

While not every judge appointed to the Supreme Court could be described as an 'outstanding jurist', there are other important qualities for a judge. Patience with counsel, helpfulness, courtesy and kindness are highly valued. Chief Justice Harold Crisp, who retired in 1939 after almost twenty-five years on the Bench, was described as courteous and kindly to senior and junior counsel alike, allowing advocacy to flourish. Sir George Crawford was patient and understanding to witnesses and parties and helpful to counsel. And of Justice Robert (Bob) Nettlefold, it was said, of the forty puisne judges before him, 'few have been as wise or kind as [he].' Justice (and later Chief Justice William (Bill) Cox was also known for his patience, courtesy and respect as well as his intellect. Ewan Crawford, like Harold Crisp, was a judge for twenty-five years including five as Chief Justice. In addition to being admired for his legal knowledge and thoroughness, he was described by the author as 'modest, self-deprecating and extremely patient when dealing with counsel and litigants.'

Not all judges have been remembered for their kindness, courtesy and helpfulness. As mentioned, Francis Villeneuve Smith had a sharp tongue which he did not hesitate to use. Justice (Sir) Peter Crisp, who was known for his incisive, clear and imaginative legal reasoning, was as Estcourt relates, 'never one to suffer fools gladly'. I well remember his sharp tongue. In my first day as an Associate in the Court of Criminal Appeal, Sir Peter Crisp was presiding. Having announced the case, I also announced that the accused should be called. Justice Crisp told me loudly and crossly to be quiet and sit down. (The accused was already in the dock). While this was a mild rebuke and justified, stories of the verbal battering

counsel received from Sir Peter circulated long after his retirement. As David Porter relates, 'It was something of a standing joke that Sir Peter had turned many good young aspiring advocates into very good commercial lawyers.'[6] And William Cox recalls his 'apoplectic responses' to his own and Peter Underwood's blunders when young counsel.[7] That some judges can be intemperate in their response to perceived failings of counsel (or staff) has become less tolerated in the last decade or so. The adverse effects of judicial bullying are better understood as having a significant effect on legal careers and the mental health of legal practitioners, with judicial patience and courtesy being even more highly valued.[8]

An attribute that is an asset as a judge, which complements intellect, integrity and patience is efficiency and the ability to deliver sound judgments in a timely fashion. As Estcourt relates, Peter Underwood, in his twenty-three years as a judge, wrote over 300 civil judgments and presided over some 450 criminal trials and 230 Court of Criminal Appeal and Full Court judgments and about 1000 sentences. The author outsourced his own entry in the book to Greg Barns SC. Barns has related Stephen Estcourt's renown for delivering a judgment in a very short time and being first to circulate his judgment in Court of Criminal Appeal and Full Court cases. He notes the impressive number of papers to legal conventions and seminars delivered and journal articles published. An early embracer of technology, Stephen Estcourt has explored the use of AI in judicial decision making and the future of technology and the law, smart contracts and dispute resolution. His interest in the topic is demonstrated in the closing chapter of the book which examines the use of AI in criminal and civil cases.

The Burbury Court (1956-1973) is described in Chapter Seventeen, perhaps with less personal detail about Sir Stanley than some of the judges who have surviving family members who can fill in any gaps. As Justice Estcourt relates, I was Sir Stanley's second female Associate and so can

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[6] David Porter, 'Legal Practice: A Career in Conflict' (2017) 36(1) *University of Tasmania Law Review* 87, 98.

[7] William Cox, *Crossing the Bar: Legal Bric-a-brac and Other Oddities* (WJE Cox, 2012) 80.

[8] See Porter above n 6, 98–9; Michael Kirby, 'Judicial Stress and Judicial Bullying' (2014) 14 *QUT Law Review* 1. The Judicial Commission of Victoria has recently issued a guideline on judicial bullying: Judicial Commission of Victoria, *Judicial Bullying, Summary Paper: Consultation and Recommendations,* May 2023; *Judicial Conduct Guideline: Judicial Bullying*, May 2023.

add some personal reflections. He was a generous, supportive and patient employer, encouraging of women in the law, and strongly supported my academic career. I learnt a lot from him. And just once, he learnt something from me. This was in a motor manslaughter trial, when a witness told the court he had 'done a U-ie'. After being asked by Sir Stanley to repeat this a number of times, I passed a quick note up to His Honour explaining the slang term for a U-turn. Sir Stanley was also very hard working. He felt it his duty set an example by sitting at least as often as his brethren, and allocating to himself more Burnie circuit courts. Working for him I was frequently struck by his great ability to nimbly switch his mind from immersion in a case to issues of court administration or to the business of the many committees he was involved in outside the law. When I was his Associate, he was Federal Chair of the National Heart Foundation, Chair of the Winston Churchill Memorial Trust and on the Board of Hutchins School. Stephen Estcourt notes that Sir Stanley contracted poliomyelitis as a child which left him with a pronounced limp for the rest of his life. I can add that despite this he was a keen swimmer, enthusiastic bowls player. And he was a master of Scrabble. He made a habit of discussing his cases with his Associate, involving them in research for which he gave them credit in his judgments.[9] His confidence in me was a great encouragement, and I very much appreciated the interest he took in my career.

Invariably, we learn about the interests of the Court's judges beyond the law. Sir Francis Smith was an 'equestrian of note'. I can add that he was also a keen bushwalker, and while guiding a Vice-Regal party on a hike on Mt Wellington, which included not only the daughter of Sir John Lefroy, but also the two daughters of the South Australian Governor, the party became lost and were rescued by the owners of the inn at Fern Tree.[10] Justice Marcus Gibson was a talented artist who wrote and illustrated children's books. Justice Peter Crisp was a keen fisher and had a huge collection of rare books on trout fishing. Justice David Porter was a champion full-bore target rifle shooter, representing Tasmania on numerous occasions.[11] And the author, in his early career ran the 80-kilometre overland track from Cradle Mountain to Lake St Clair in fourteen

[9] Noted by William Cox in Cox n 7, 45, including a ditty greatly exaggerating any contribution.
[10] Owen and Warner, n 5, 278.
[11] Sir Herbert Nicholls was also a talented full-bore target rifle shooter and captain of the Metropolitan Rifle Club when Chief Justice.

hours and is an accomplished chef, who cooks for fund-raising events and charity.

Timing and the presumption of innocence can explain what may now appear to be a glaring omission, namely, the December 2023 arrest of Justice Gregory Geason, marking him as the first judge to face criminal charges in the Court's two hundred years. No doubt the draft manuscript was in the hands of the publisher well before this.[12] Any account of the next hundred years is likely to include not only details of the charges but also questions about his appointment (a claim by a Member of Parliament that the Selection Panel had preferred another candidate) and his indiscretion with his Associate (a photograph was published in *The Mercury* of him kissing his Associate). The Supreme Court has been transparent about the charges facing Geason. In *Ding v De Witt*,[13] the Chief Justice explained why he was delivering the judgment in a lower court appeal which had been heard by Geason J with judgment reserved on 7 August 2023. The circumstances in which the parties had asked the Chief Justice to determine the matter were set out by His Honour, including Geason's arrest on 1 December on charges of assault and emotional abuse and his undertaking, tabled in Parliament on 12 December, not to sit in respect of any matter unless requested by the Chief Justice. The Chief Justice stated that he considered it inappropriate to make such a request while the charges were pending.[14]

The lack of modern procedures for dealing with alleged judicial misconduct was clearly apparent in the Government's response to the allegations. First the Attorney-General announced a commission of inquiry into Justice Geason and the recall of Parliament on 12 December 2023 to consider a Draft Bill establishing the inquiry. The commission of inquiry legislation was scrapped and the Attorney-General foreshadowed a motion in Parliament to suspend him. When Geason's lawyers supplied a legal opinion arguing that suspension would be unconstitutional, the suspension motion was withdrawn. The matter was temporarily resolved when Geason's written undertaking not to sit was tabled in the House of Assembly on 12 December. The situation was described by the Greens as

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[12] While it was not launched until May 2024, the publication date is given as 2023.

[13] [2014] TASSC 6.

[14] Ibid at [3]; see also *Blue Derby Wild Inc v Forest Practices Authority (No 2)* [2024] TASFC 1, Martin AJ at [6][12] explaining why the Court had been reconstituted to deliver judgment without Geason J.

a 'cluster fiasco' and by the Labour Opposition as a 'complete mess'. Determining these matters has been a slow process. In his third appearance in April, Magistrate Jackie Hartnett refused counsel's request to adjourn the case until October and scheduled a hearing for 15-23 July. An interstate magistrate was appointed to hear the matter. Meantime further charges were laid in New South Wales for breaching apprehended violence orders on three dates in November 2023. The New South Wales matters are not expected to be heard until 2025. In the meantime, Justice Geason's many outstanding matters awaiting judgment had to be somehow dealt with by the Supreme Court, presenting delays and difficult problems for parties and the Court. On 31 October, Magistrate Susan Wakeling delivered her judgment, convicting Geason of assault and emotional abuse or intimidation. Two weeks later he was sentenced to a 12-month community corrections order with 100 hours community service. He resigned on 18 November.

Geason's case highlights the need for a modern mechanism for dealing with judicial misconduct, something Chief Justice Blow had been advocating for many years. Prompted no doubt by the Geason matter, the Department of Justice released a draft Judicial Commissions Bill for consultation with a proposed mechanism for dealing with complaints of misconduct by judicial officers as the only mechanism for dealing with judicial misconduct was under the *Supreme Court (Judges Independence) Act 1857*. This provides the Governor may only suspend or remove a judge from office on an address from both Houses of Parliament.[15] The *Judicial Commissions Bill 2024* was passed by Parliament on 31 October.

Given Stephen Estcourt is a serving judge of the Court with limited time for other endeavours, it is understandable that he chose to avoid the many rabbit holes of original sources. The lack of footnotes or endnotes or in text case citations is rather startling at first but is justified as a deliberate attempt to make the book more readable and enjoyable to a non-legal audience. Case citations, for example, can be found in the list of cases in the references at the end of the book. And instead of footnotes, there are in-text

[15] The Australian Law Reform Commission has recommended that the Australian Government establish a federal judicial commission: *Without Fear or Favour: Judicial Impartiality and the Law on Bias* (Report No 138, 2022, 310) and the Government has accepted this recommendation: Attorney-General's Department, *Scoping the Establishment of a Federal Judicial Commission*, January 2023.

acknowledgments of quotes or sources. These can be found in the list of references. There is also a useful index.

To reiterate my comment at the beginning of this review, Stephen Estcourt must be congratulated for tackling this ambitious task and for assimilating such an array of material into a coherent account of Australia's first Supreme Court's two hundred years – an account that is not merely informative but engaging. While lawyers are more likely to enjoy the summaries of notable cases than others, the cases can be easily skipped, and there is so much in the book to engage a wider readership. The book concludes with a chapter on changes in technology from quill and parchment to computers and robots. The discussion of the potential for AI and algorithms to assist in judicial decision making is well-explained and thought provoking, although the use of the third person rather than the first when discussing presiding over the first e-trial and presenting papers on AI and smart contracts seems odd.

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