"Peter Spiller, *Court of Appeal of New Zealand 1958-1996: A History*, Brookers, Wellington, 2002" ISBN 0-86472-430-6. $94.50. 486 pages hardcover. Forward by Lord Cooke of Thorndon.

This book, the most ambitious work to date by Professor Peter Spiller, is the first significant study of the Court of Appeal of New Zealand.

The introductory chapter outlines the Court of Appeal's historical context and overall development. In the pre-1958 Supreme Court, all judges periodically exercised appellate functions. This presented difficulties, however, from the inconvenience of preparing reserved judgments without conferring, and from the mixed ability of the bench. The new Court of Appeal was to reserve appeals for certain judges with particular aptitude for appellate work. The aim was to heighten expertise, speed, efficiency, uniformity, and certainty. There was also a desire to create a collegiality of the appellate bench which was lacking in the previous arrangements.

In Part One, Judges of the Court, Spiller describes the permanent judges of the Court of Appeal, showing the imprint that the judges' personalities left on their judicial work. This is no dry biographical catalogue, for we read how the individual judges approached their work. Case studies are used to bring to life selected decisions of the Court.

Part Two, Work of the Court, presents the general features of the Court's work, showing the range of processes, interactions, and elements that lay behind the Court's judgments. We learn how Gresson P established the Court on a firm foundation, at a time when the Court of Appeal was slowly establishing its role. Then under North P, in the late 1960s in particular, the impact of societal change presented the Court with greater challenges. This coincided with some strident criticism by legal writers of certain decisions of the Court, and the stirrings of a New Zealand legal identity as the corpus of appellate precedent grew. During the presidencies of Turner and McCarthy PP there was a dramatic increase in work. This was partly due to legal aid, and partly due to social attitudes and aspirations changing. The pressure of work made the ideal of a considered approach by the judges increasingly difficult.

By the 1990s the number of judges had been raised from the original three to seven. But the steady increase in civil litigation and criminal appeals meant that delays were a serious problem. The Court continued to deal with proportionately more appeals than comparable courts overseas. From the time of Eichelbaum CJ more High Court judges were attending the Court of Appeal, especially after the establishment of the separate Criminal Appeal Division. But, as Cooke P noted on his retirement, the goal of the Court of Appeal to ensure that judges had adequate time for mature reflection and reading had not been achieved for many years. The two functions of decision-making and development of the law were hampered by a heavy workload.

In the first few years after 1958 the Court was considering some 50 cases per judge annually. By 1996 some 100 cases were dealt with annually by each judge. The increasing involvement of High Court judges with routine criminal appeals left the permanent Court of Appeal judges freer to concentrate on the development of the law, but the collegiality and homogeneity of the Court may have suffered as a consequence.

The first period in the Court's history, 1958-76, might be categorised as one of stability. The Court was finding its place. The second period, 1976-96, saw the Court assuming a more

activist role. Cases of constitutional importance – and political sensitivity – such as *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641, saw the Court of Appeal become more active in formulating legal principles. This led to occasional disputes with the Judicial Committee of the Privy Council (particularly in the area of torts), though, as Spiller explains, this conflict was often productive. Both the Court of Appeal judges and the Privy Council itself benefitted from the presence of New Zealand judges on the Judicial Committee, and one, Lord Cooke of Thorndon, also served in the House of Lords.

Coincidentally, this book has been published at the time when Parliament has again been asked to sever the right of appeals to the Judicial Committee of the Privy Council. *Court of Appeal of New Zealand 1958-1996: A History*, should prove invaluable to those who wish to obtain a picture of judicial personnel and processes at the highest level in New Zealand. As such, it offers a glimpse of the possible future form and workings of the proposed Supreme Court.

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