

09/1312



DUNCAN KERR SC MP

FEDERAL MEMBER FOR DENISON
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FAXED
28 July, 2009

The Hon Michael Black AC
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My dear *Michael* Chief Justice

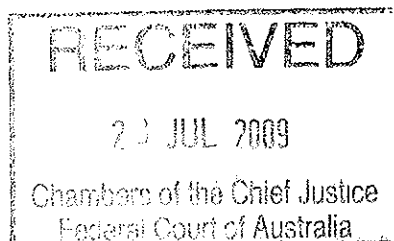
It was delightful to catch up with you briefly the other day and discuss your involvement in Pacific legal interchange with the judicial arms of the Pacific Island countries. I certainly welcome the opportunity that you suggested of catching up for a more extended discussion perhaps around a lunch or some other informal opportunity when I am next in town.

Meanwhile however, I thought I should alert you to my concerns regarding the future of the Tasmanian Registry, on which I intend tomorrow to make some public comment.

I am, in common with the Law Society of Tasmania and the Tasmanian Independent Bar, very concerned at the proposal to downgrade the Registry capacity that presently exists in Hobart. That downgrading will have an impact on the capacity of both the legal profession and unrepresented litigants to have available to them the personal assistance that the existing structure makes so effectively available.

My own experience as an advocate in the Federal Court and in proceedings in the AAT highlight the importance of the accessibility of a District Registrar who can exercise not only the administrative tasks that are inherent in the operation of the Registry, but also the quasi-judicial and mediation roles which are so ably performed by the current incumbent.

It is important however to not base this argument on simply the convenience of the profession in our state. There are also issues of higher principle about the structure of the Federal Court and the availability of its registries across our national system. That is, in itself, reflected in the terms of the Federal Court Act which provides in Section 34 that there would be a Registry established in each state and the logical understanding created by that provision that each state would be served by a District Registrar appointed under Section 18N.



Section 34 provides

“ (1) The Governor-General shall cause such Registries of the Court to be established as he or she thinks fit, but so that at least one Registry shall be established in each state, in the Australian Capital Territory and in the Northern Territory.

(2) The Governor-General shall designate one of the Registries as the Principal Registry, and each other Registry shall be a District Registry in respect of such District as the Governor-General specifies. ”

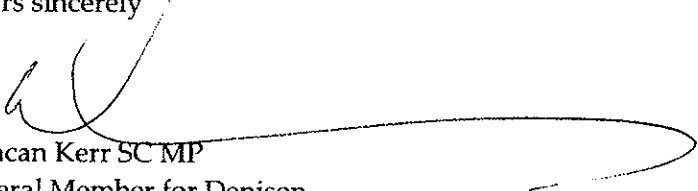
It seems to me quite plain that the intention of the Parliament in establishing the Federal Court was that not only would it exercise a national jurisdiction, but also but that it would be structured with District Registries in each state. It has had this character from its inception until the present day.

It is doubtful that the Australian Parliament would have embraced the conception of the Federal Court without the provisions of the Act that ensure that Court would be truly a national institution with a full presence in each of the constituent elements of the Federation.

I appreciate that as Chief Justice you hold significant and wholly independent administrative responsibilities under the legislation. I also recognise that the allocation of resources is a difficult and challenging task, but what I hope to have explained in the letter is that other values as important as cost-effective efficient administrations were built in to the legislative scheme in the beginning. I know I speak for the Tasmanian profession as a whole in expressing the opinion that these basic propositions should not be forsaken. In making that point I should not be taken as accepting the proposition that the existing Registry system in Tasmania is anything other than cost-effective or beneficial to the operation of the Court. Indeed my experience as a practitioner over many years has been to the contrary.

I'd be very grateful if you would give consideration to the points that I have raised, noting that I have previously taken the opportunity of making formal representations to the Review Team but have not as yet been favoured with any reply.

Yours sincerely



Duncan Kerr SC MP
Federal Member for Denison
Parliamentary Secretary for Pacific Island Affairs

cc

Mr Luke Rheinberger, Law Society of Tasmania
Mr Peter Tree, Tasmanian Independent Bar Inc
The Hon Robert McClelland MP, Attorney-General