REMARKS OF THE HON. MARILYN WARREN AC CHIEF JUSTICE OF VICTORIA UPON THE LAUNCH OF THE VLRC REPORT ON CIVIL JUSTICE

PARLIAMENT HOUSE, VICTORIA
WEDNESDAY 28 MAY 2008

Deputy Premier and Attorney-General, Rob Hulls,

Your Honours

Ladies and Gentlemen

How fitting it is that this morning we have to launch the review:

first, the investigator and reformer – Dr Peter Cashman;

secondly, the policy-maker and legislator – the Deputy Premier and Attorney-General; and

thirdly, the practitioner and the enforcer – my representing the courts.

There is a fourth arm and that is the litigators and the advocates. It is to them that I especially address my remarks.

The time has come in the State of Victoria when everyone involved in the four arms of litigation needs to commit to doing things differently. The courts at all levels are inundated with more cases and longer, harder cases. More judge and magistrate time is being taken up to produce, generally, a decreasing output of cases. In the higher courts, judgments become longer and longer. Only last week in the Supreme Court, three judges each

delivered civil judgments exceeding 140 pages. Those judgments followed cases that were heard over weeks. They were not unusual. That type of case is more and more becoming part of the judicial diet in Victoria (and elsewhere). In the Supreme Court, we now have parties on occasion saying they do not know how long a case will take, maybe months, maybe a year, maybe even a year and a half.

Year in, year out, the burden for judges and magistrates becomes greater.

The time has come for all of us who participate in litigation to commit to a different way. The Review provides a template, an opportunity that must be embraced. Litigators cannot continue to look to the courts to case manage and solve their problems. More needs to be done at the beginning of litigation.

As an indication of its commitment and leadership, the Supreme Court actively engaged with the Law Reform Commission through a committee I chaired made up of judges and masters. We actively engaged with Dr Cashman and those working with him. We explained the way that we have been doing things for many years in our endeavour to control and manage the behemoth of civil litigation we face.

We know from work by the Victorian Bar that litigation contributes over $700 million per annum to the Victorian economy. We are all committed to Victoria becoming a centre for litigation, dispute resolution excellence.

With that in mind, full of expectation of and inspiration from the work of the Commission, the Supreme Court has introduced a new approach to building cases that the commercial judges hope will spread across all civil work in the Supreme Court. It involves resources conferences at the very beginning of the case. Parties will be required to say upfront at the beginning how much the case will cost and how much they expect to win or lose. They will be required to submit to different forms of ADR not only mediation. It is an exciting time.

The Supreme Court judges take the view – come with us and let us try to do things differently.

I congratulate Dr Cashman and the Victorian Law Reform Commission for this great achievement.

I congratulate the Attorney-General for providing this opportunity to all those involved in litigation in Victoria.

Let us make Victoria a centre for dispute resolution excellence together.