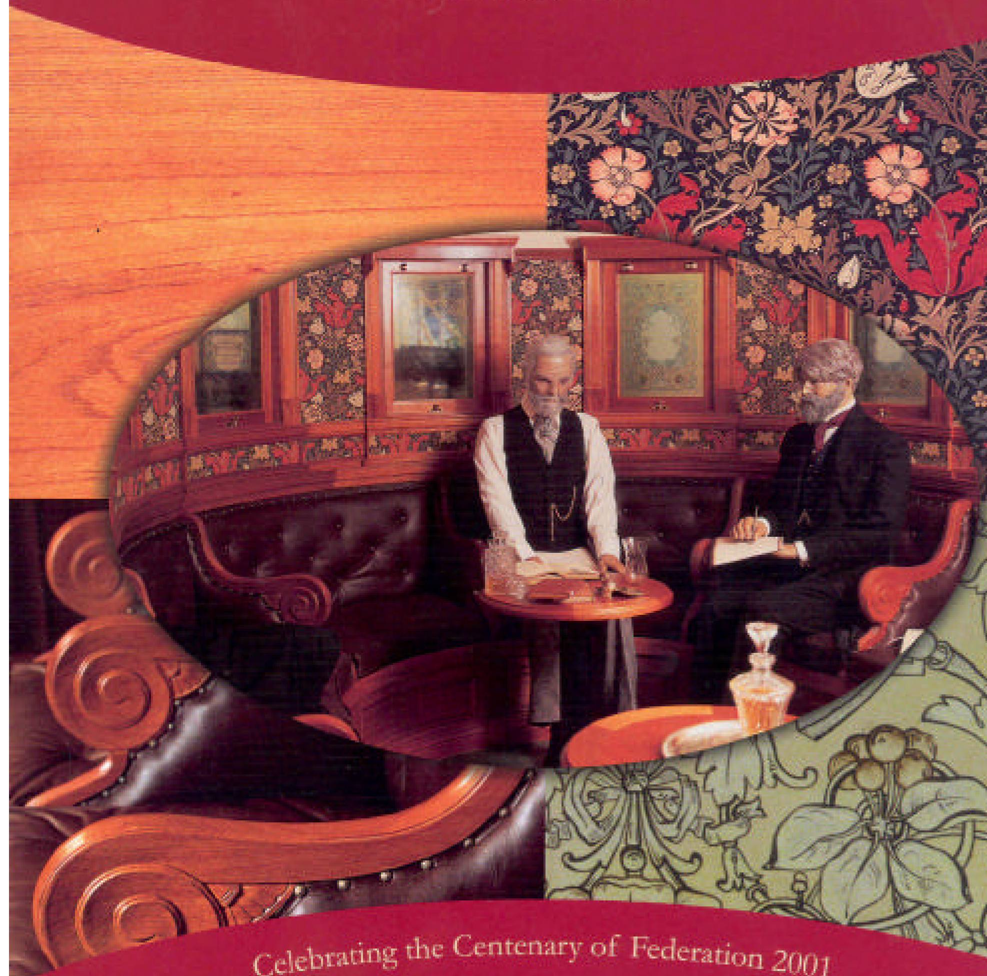
Supreme Court Annual Report

2000-2001



Celebrating the Centenary of Federation 2001

The cover depicts aspects of the interior of the replicated "smoking room" of the QGSY Lucinda established this Centenary of Federation year within the Supreme Courthouse.

The Supreme Court of Queensland
Law Courts Complex
304 George Street, Brisbane

PO Box 167
Brisbane Albert Street 4002

Website: www.courts.qld.gov.au

Registry: Telephone: 3247 4313
Facsimile: 3247 5316

Court Administrator: Telephone: 3247 5015
Facsimile: 3247 3186

CHAMBERS OF THE CHIEF JUSTICE
SUPREME COURT
BRISBANE

FROM CHIEF JUSTICE PAUL DE JERSEY

12 October 2001

The Honourable R Welford, MP
Minister for Justice and Attorney General
18th Floor
State Law Building
Cnr George and Ann Streets
BRISBANE QLD 4000

Dear Attorney

I enclose my report, under s 119 of the *Supreme Court of Queensland Act* 1991, on the operation of the Supreme Court for the year ended 30 June 2001.

Yours sincerely

Paul de Jersey

The Hon P de Jersey AC
Chief Justice

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The Chief Justice's Overview

The Honourable Paul de Jersey AC
Chief Justice

Introduction

The Supreme Court continued to discharge with dedication and effectiveness its role to deliver justice according to law to the people of Queensland. What follows provides detailed support for that view.

I commend the whole of the report to the reader. Those parts relating to the divisions of the court, the Court of Appeal and Trial Divisions, have been prepared by the President and the Senior Judge Administrator in consultation with the Judges of the respective divisions. In my following "overview", as well as setting out some detail of the discharge of my role as Chief Justice, I draw attention to particular aspects of the operation of the court warranting public notice.

It is unfortunate that expressions of concern about persisting inadequacy in the level of financial support provided for the court system by Executive Government should have had to become a regular feature of these reports. In last year's report, I drew attention to two aspects which bear repetition:

1. the lack of proper funding for necessary, continual upgrading of the court's technological resources, one particular manifestation of our current limited facilities being our inability "properly to carry out the rigorous statistical analysis necessary to evaluate the effectiveness of procedures and innovations". It is, as I then suggested, "increasingly necessary to do so: to manage court resources efficiently, to be publicly accountable and, not least, to satisfy conditions in order to justify funding"; and

2. the absence of a "comprehensive plan in place, with assured funding, for redeveloping the fabric of the Supreme Courthouse, which becomes progressively less acceptable measured against a reasonable standard the people might expect to be met for this significant public centre."

Those long outstanding concerns remain substantially unsatisfied, although I am pleased to acknowledge the allocation of $1.2m in the State Budget 2001-02 for technology in the higher courts, and I am grateful to the Hon the Attorney General for his efforts in securing that provision.

In my observations at the traditional ceremony for the exchange of Christmas greetings held in the Banco Court on 13 December 2000, I comprehensively reaffirmed those and other concerns. An extract of my relevant observations on that occasion appears as appendix 1 to this report. In those remarks I spoke among other matters of the inadequacy of the financial resources made available to the court to satisfy basic requirements for maintenance. Information recently provided shows that whereas the estimated cost (as at December 2000) of necessary maintenance across the facilities maintained by the Department of Justice and Attorney General (in accordance with Q-Build recommendations) was $7,369,093.00, the funding provided by Treasury in respect of the relevant period for the Department's maintenance needs was but $2,437,000: a graphic illustration of some of our difficulties.

I also drew attention on that occasion to the "unreasonably depressed treatment of court staff" consequent upon unduly limited financial resourcing, by way of example contrasting the comparatively paltry treatment of the Registrar of the Supreme Court with the comparatively generous treatment of the Registrar of the recently established Land and Resources Tribunal – whose role is manifestly less significant and demanding than that of the Registrar of this court. It is patently unacceptable that the staff of the court should, in terms of their conditions, be left lagging behind.

We are within the Supreme Court poised to embark on a process of restructuring within the registry, following upon a process of review generously facilitated by the Registrar of the Federal Court of Australia, which we hope will lead to some streamlining of managerial structures – but we are ultimately constrained, and unreasonably so, by limitation in the financial resources available to the court.

Another constructive proposal advanced through this report last year which, for reasons of financial limitation, has unfortunately not this year been capable of implementation, was that regional Judges should sit additionally in Brisbane (additionally, that is, to the one Court of Appeal sittings per year they currently complete), with Brisbane Judges sitting more often, as consequently would be necessary, at regional centres: a proposal designed to reduce the isolation of regional Judges from the larger body of judicial support centred in Brisbane, while correspondingly diversifying the experience of the litigating public and the legal profession in regional centres. I repeat that funding recommendation.

I do not raise these issues critically of the Director-General, Dr Levy, and his staff; or his predecessor, Ms Jane Macdonnell: they do and have done their very best to secure the necessary funding and wisely apply what is made available. The problem rests, rather, with the approach of Executive Government.

I concluded my overview last year in these terms:

> "I again ask the Executive Government to adopt a more expansive approach to the funding of the people's court system: let Queensland courts lead, as they should, not follow. Let this part of the administration of a ?smart State' assume the progressive presentation for which, in the interests of the people, it pleads."

I repeat that call.

Performance

Timelines for dispatch of business

On 20 April 2000 the Judges adopted time goals for the disposition of the court's caseload, and published them on the court's webpage. The court's performance over the last year might usefully be analysed in the context of those goals, so far as available statistics permit. The following table provides that analysis, including reference to the court's progressive performance over the last three years.

Table 1:

Court of Appeal Division				
	Benchmark	**1998-99**	**1999-00**	**2000-01**
A. Criminal				
< 6 months	90%	89%	80%	83%
6-12 months	8%	10%	19%	16%
> 12 months	2%	1%	1%	1%
B. Civil				
< 6 months	55%	56%	54%	51%
6-12 months	30%	32%	32%	40%
> 12 months	15%	12%	14%	8%
Trial Division				
	Benchmark	**1998-99**	**1999-00**	**2000-01**
A. Criminal				
< 6 months	80%	70%	66%	78.5%
6-12 months	15%	23%	21%	15.8%
> 12 months	*5%	6%	12%	5.6%
B. Civil				
< 6 months	50%	†	†	†
6-12 months	13%	†	†	†
12-18 months	7%	†	†	†
>18 months	*30%	†	†	†

* Appeals (and possibly rehearings) will sometimes necessarily lead to some cases taking this long.

† Currently available statistics relate to the period from entry for trial, not commencement. Resource limitations currently limit the court's capacity to assemble these statistics.

In this last year, on the criminal side, the Trial Division, having begun the year with 185 active outstanding cases, ended the year with 158, having disposed of 601 incoming matters.

On the civil side, having begun the year with 83 cases awaiting a hearing (as by trial), the Trial Division ended the year with only 56. It is encouraging to compare that position with performance levels in previous years. The numbers of cases outstanding at the end of the years 1996-97, 1997-98, 1998-99 and 1999-00 were respectively 258, 147, 143 and 83.

The court has progressively and substantially improved its level of performance in this area. In the course of the year, the court disposed of 269 civil cases ordinarily destined for trial. The position remained this year that virtually all cases ready for trial could be allotted trial dates within two to three months.

In addition to that trial work commitment, the court disposed in the usual way of a mass of work on the “applications” side of its civil jurisdiction. Details appear in the Trial Division Report below.

The Court of Appeal Division disposed this year of 321 criminal appeals (1997-98 (354), 1998-99 (383), 1999-00 (356)). As at the end of the year, 132 criminal appeals awaited disposition (1999-00, 109). The Court of Appeal also disposed of 282 civil appeals (1998-99 (237), 1999-00 (260)), leaving 116 outstanding as at the end of the year (1998-99 (140), 1999-00 (158).

In summary, in terms of the amount of work completed, and timeliness of disposition, both divisions of the court performed commendably, in the context of both the Judges’ own dispositional goals and national benchmarks.

Comparative performance

It is possible to attempt some comparison of the Supreme Court’s performance with that of other comparable Australian courts, in respect of the year 1999-00, because of the Report on Government Services 2001, released in February 2001 by the Steering Committee for the Review of Commonwealth/State Service Provision. In that period, on the criminal side of the Trial Division’s work, this court disposed of 87% of its criminal cases within 12 months (66% within 6 months), by comparison with the Supreme Courts of Tasmania (97%), Western Australian (95%), South Australia (79%), Victoria (73%) and New South Wales (29%).

On the civil side of the Trial Division’s work, this court’s 68% disposed of within 12 months (61% within 6 months), denoted an improvement on the 42% disposed of within 12 months in the year 1998-99. This court’s 68% disposed of within 12 months compares with disposal rates in Victoria (83%), Western Australia (81%), South Australia (77%), Tasmania (52%) and New South Wales (51%).

The Court of Appeal Division performed creditably within this period, finalising 80% of criminal matters within 6 months, compared with South Australia (87%), Tasmania (77%), Victoria (59%), Western Australia (49%), and New South Wales (29%). On the civil side, the Court of Appeal Division disposed of 86% of its matters within 12 months, to be seen in context of South Australia (96%), Western Australia (81%), Victoria (50%), Tasmania (58%) and New South Wales (56%).

It is very important to recognise, however, that it is not possible, for a number of reasons, to draw completely reliable comparisons between the performance of courts like the Supreme and District Courts of Queensland, and the performance of a number of other Australian courts of similar jurisdiction.

A fundamental difficulty in drawing such comparisons arises from differences between the jurisdictions exercised by the respective courts. The criminal work statistics of the Supreme Court of Queensland, for example, reflect a volume of work not shared by other comparable State courts, because of the Supreme Court’s drugs jurisdiction – upon which the Chief Justice has previously substantially commented. More generally, the existence of criminal jurisdiction, with the consequent need to give priority to cases in which an accused is in custody, creates pressure on State courts in the management of cases not experienced

by some other courts. From time to time, this pressure will affect the court's capacity to attend to civil work. The District Court experiences these pressures more acutely.

Another distinctive circumstance is the necessary breadth of our Supreme Court's State-wide commitment. The Supreme Court sits in 11 centres throughout the State (and the District Court in 32). There are associated infrastructure and circuit costs. This level of regional service is highly desirable, but it results in reduction of the funds generally available for the administration of justice (including for the Office of the Director of Public Prosecutions, Legal Aid Queensland and the provision of forensic services). If the Queensland courts were to move to a form of self governance, the present mode of service delivery must remain unchanged, and the funding provided would have to recognise that State wide commitment.

There is another fundamental point of difference. Because levels of performance depend so much on available resources, it is significant that Queensland courts, unlike, say, the Federal Court of Australia and the Family Court of Australia, depend ultimately on the distribution by Executive Government of the resources allocated by that arm of government. The Federal and Family Courts have the advantage of authority to apply the resources made available to them directly, themselves, in accordance with their own assessment of what is appropriate. The "one line" budgets of those courts, together with the availability of the much more abundant resources of the Commonwealth, give them much greater discretion in the allocation of resources, and the ability liberally to pursue innovative initiatives.

Some other courts, for example the Supreme Court of South Australia, are supported by stand-alone courts administration authorities dedicated solely to the optimal administration of those courts. While the courts of this State are greatly assisted by the Departmental Courts Division, that Division is in the end but a division of a department with financial responsibility not just for the courts, but for a broad range of justice agencies, including, as an example, the Office of the Director of Public Prosecutions.

Another significant point to be made, in assessing our State courts' performance in the criminal jurisdiction in particular, is that before a matter arrives at the court, much work has been done by the Queensland Police Service and the Office of the Director of Public Prosecutions. The courts assume there will have been expeditious treatment by those agencies, and one acknowledges that the capacity of those agencies to ensure that depends likewise on the financial resources available to them. It may not, however, in these circumstances be reasonable, when gauging the "efficiency" of the criminal courts, to have regard to the time which may have elapsed between the alleged commission of an offence and its ultimate judicial disposition. That is why our accounting starts from the time the matter is commenced in the court. Indeed, until an indictment is presented, the Supreme Court does not have jurisdiction and cannot act to ensure timeliness.

Further, the unavailability of legal aid in relation to civil cases inevitably means that the progressing of those cases is often affected by financial considerations unique to the parties. The limited resources of some parties in particular cases of complexity, for example, will mean they are denied the higher level legal representation best suited to the treatment of such cases. That may have consequences for the court. Less than optimal legal representation may mean that the court's capacity to ensure that such a matter is progressed in the best possible way is also consequently limited. (The restricted availability of legal aid means also that the court (particularly registry staff) has to deal with increasing numbers of self-represented litigants.)

For all these reasons, while it is superficially interesting to draw the comparisons set out in the Productivity Commission's report, one should be very careful about assigning particular significance to the comparison: such a comparison should not, with facility, be adopted as the basis for drawing conclusions as to the efficiency of this court's operations.

Productivity

The Chief Justice offers the following additional, general observations on approaches to evaluating the effectiveness of court operations.

There is a developing trend, if not an already established position, that the effectiveness of the performance of courts of law is to be assessed rather as if they were industrial or commercial concerns: what is their output of cases? What are the quality controls which filter the product? Let the extent and quality of the Judges' output affect the extent of his or her remuneration (the most recent published manifestation of the trend).

Courts are astute to the need to manage their lists efficiently. Of course unnecessary delay is intolerable, and judgments must be duly considered. Courts publish details of their "performance" in these respects, and the courts of this State perform very well. But one should not dwell unduly on such considerations. Especially, to regulate the return to Judges by reference to their individual performance ignores the nature and mission of courts of law: they exist to deliver justice according to law. They are not factories or commercial operations.

The quality of justice will suffer if Judges are denied "thinking time" because of the need to get on to the next case at once; or if a Judge is tempted from the courageous, what he or she believes to be correct decision, to the softer middle line, to minimise the possibility of appeal and reversal; or if a Judge who produces only one judgment a year is to be considered less "productive" than the Judge who produces many, even though the former has spent the whole year continuously engaged in the one complex case.

How does one "measure" the effectiveness of courts of law? Allowing for the inaptness of the term "measure", one seeks to reach a view as to the apparent dedication of the Judges to their oaths. That is the ultimately relevant consideration. The courts of this State are conscientious institutions, comprising Judges and other judicial officers dedicated to their immutable mission. Courts are open and accountable to an extent which far surpasses that of the other arms of government: almost everything courts do is done in public. Modern Judges embrace innovation, where that can benefit the litigants and where resources allow. These circumstances in particular should aggregate to an acceptance of the "efficiency" of our courts of law – or perhaps better put, the accomplishment of their mission. Those who, at high public level, are determined to make pronouncements upon the performance of the courts of law, should retreat from, indeed abandon, a current apparent preoccupation with the application of industrial models.

Other monitoring mechanisms

The court remains astute to the need continually to monitor the effectiveness of its processes, and is naturally receptive to the informed views of others as to possible additional streamlining.

The Chief Justice this year established a "Focus Group" comprising, in addition to himself, the President of the Court of Appeal, the Senior Judge Administrator, the Court Administrator and the Registrar, with the Chief Judge an invitee. The objective of this group, which met on 5 March, 10 April, and 3 May 2001, is to facilitate a continual survey

of the court's functioning by those directly responsible for its smooth and progressive operation, with special focus on broad policy direction.

Early in the year 2001 the Senior Judge Administrator, with the support of the Chief Justice, convened a "Criminal Justice Standing Committee", with working subgroups. The committee includes the Chief Judge, the Chief Magistrate, representation of the Director of Public Prosecutions, Legal Aid Queensland and the Criminal Justice Commission, together with departmental officers and members of the private legal profession. Its goal has been to "identify, develop and implement practices and procedures to dispose effectively of (criminal) cases justly and expeditiously with the minimum necessary commitment of resources".

The Chief Justice's Consultative Committee, comprising the Chief Justice, President of the Court of Appeal, Senior Judge Administrator, and office bearers of the professional associations, met on 1 November 2000 and 4 May 2001 for the discussion of matters currently important to the courts and the profession.

The Judges met monthly for their regular, formal meetings, considering a wide range of issues bearing upon the operation of the Court, and met together less formally on many other occasions for the discussion of relevant matters.

Major litigation

The court conducted many major criminal and civil trials and other proceedings over the year. Aspects of three particular criminal trials warrant mention.

For a period of weeks in August and September 2000 the Hon Justice Mackenzie conducted the trial of Fraser for the alleged murder of the child Keyra Steinhardt. The trial was significant, not just for very substantial public concern over the horrifying circumstances of the murder, but also for its demonstration of the beneficial use of modern technology, particularly the computerised re-creation of crime scene technology developed by the Queensland Police Service which was plainly of great utility from the jurors' points of view.

Other cases of major public significance conducted this year in the court's criminal jurisdiction included two trials where the charges fell within the jurisdiction of the District Court. They were the trial of WT D'Arcy, on charges of rape and indecent dealing, and RJ Carroll on a charge of perjury. The Chief Justice acceded to the request of the Director of Public Prosecutions that these trials proceed in the Supreme Court, in the case of D'Arcy in light of his being a former member of the Legislative Assembly, and in the case of Carroll, because the alleged perjury concerned evidence given by Carroll at his earlier trial in this court for alleged murder. Each was convicted, D'Arcy on 1 November 2000 after a fortnight's trial before the Hon Mr Justice Douglas, and Carroll on 2 November 2000 after a month's trial before the Hon Mr Justice Muir.

Rules Committee

The Rules Committee established under the *Supreme Court of Queensland Act* 1991 (s118C) continued conscientiously to discharge its role of monitoring the operation of the *Uniform Civil Procedure Rules* and formulating appropriate further refinements. Its members are the Chief Justice, the Hon Justice Williams (Chairman), the Hon Mr Justice Muir, the Hon Justice Wilson, his Honour Judge Robin QC, his Honour Judge McGill SC, Mr B Gribbin, Magistrate, Ms A Thacker, Magistrate, the Registrar Mr K Toogood, and departmental officer Mr T Ryan as secretary. The committee meet on average once per fortnight usually for a substantial period, and outside normal court hours. The members of

the committee have demonstrated a dedication to their task which warrants particular acknowledgment and recognition.

One statutorily committed task not yet undertaken is to "advise the Minister about the repeal, reform or relocation of the provisions of the *Supreme Court Act* 1995" (s118C(2)(a)). That is a substantial obligation of which the committee is conscious and to which attention will be given in due course as it becomes possible to allocate a sufficient "block" of judicial time to the project. While completion of that task is important, it is not attended by any urgency, and that it remains outstanding presently has no significant practical ramification.

Indigenous Cultural Awareness Committee

During the year under review the court has been represented (by the Hon Justice White) on the Australian Institute of Judicial Administration's Indigenous Cultural Awareness Committee. This committee has been involved in cultural awareness training for the judiciary in Australia for more than a decade. The initiative grew from recommendation 96 of the Royal Commission into Aboriginal Deaths in Custody. The project was funded by ATSIC and by a grant from the Commonwealth Attorney-General's Department.

The committee comprises representatives from the judiciary in each State and Territory and the Federal Court and a number of indigenous members. It meets approximately ever six weeks by telephone conference to exchange reports on initiatives in each jurisdiction aimed at strengthening the judiciary's understanding of indigenous issues.

Some of these initiatives have included mentoring programmes for indigenous law students, an Aboriginal bench book project in Western Australia, and contact visits by the judiciary in South Australia and Victoria to Aboriginal communities. The various jurisdictions are engaged in planning for a second round of cultural awareness seminars, the first having occurred in 1994-96.

The need for qualified interpreters in at least the major indigenous languages has been recognised as an important justice issue by the members of the committee in those jurisdictions where standard English is not an accused person's or witness's first language. The Northern Territory and Western Australia have qualified indigenous interpreters available for court proceedings. Queensland does not and Judges and Magistrates must make do with community elders fulfilling this role as best they can. The "Aboriginal English" facilitators project in Queensland, to which the courts have lent their support, is an important initiative of the Department of Justice but the failure to address the need for interpreters of distinct indigenous languages is a matter of concern.

Practice Directions

In the course of the year the Chief Justice issued a number of Practice Directions (see appendix 2) covering diverse subject matters designed to streamline the operation of the court in both its criminal and civil jurisdictions.

Practice Directions are issued following a process of consultation involving, if not all the Judges, at least those directly involved in the management of those areas of the court's jurisdiction, and in addition as appropriate from time to time, the Registrar and Sheriff, and representatives of outside agencies, particularly the Director of Public Prosecutions and the Public Defender.

Continuing Judicial Education

The judicial capacities of the Judges are inevitably subject to continual expansion, through regular trial and appeal work at the demandingly high level required and characteristic of Judges of this court, reading and discussing legal literature, attending and delivering papers at seminars, writing articles for publication, and so on. The experience of the approaches of other jurisdictions, also, is interesting, helpful and sometimes enlightening.

The sharing of these experiences makes for a well-informed judiciary vibrantly committed to its role, and not shy of embracing innovative approaches where their adoption will likely prove beneficial.

The Judges held their 7th Annual Pre-Easter Seminar on 11 and 12 April 2001. These seminars continue after some years to prove most worthwhile, featuring lively and penetrating exchanges on a range of germane topics. Presenters at this year's seminar included the Chief Justice – "The Role of the Chief Justice of Queensland", Dr Peter Fama, former Director of the John Oxley Memorial Hospital – "Lunacy and the Law", Ms Sharon Christensen, Senior Lecturer at the Queensland University of Technology – "Contracts in the electronic era", Professor Gillian Whitlock, Professor of Literary Studies at the University of Queensland – "Recent Australian literature", Professor John Deveraux of the University of Queensland – "Homicide", and Professor John Wade of the School of Law, Bond University – "Mediation and criteria for determining what cases are not suitable for mediation".

Chief Justice's sitting, and other commitments

In addition to a substantial administrative load and many official commitments (including for example, receiving the formal calls of some 13 Ambassadors and High Commissioners), the Chief Justice maintained his commitment to sit in court substantially, both at first instance and appellate levels, in and outside Brisbane. In Brisbane, he was rostered to sit for 15 weeks in the Court of Appeal, 2 weeks in criminal sittings, 3 weeks in civil, and 4 weeks in the applications ("chambers") jurisdiction, and for 3 days in each of Toowoomba and Cairns.

The Chief Justice throughout the year presided at all admissions ceremonies conducted in Brisbane, and on 15 June 2001, conducted an admission ceremony at the Supreme Court in Townsville – apparently the first time the Chief Justice had filled that role in a centre outside Brisbane. On such occasions, and speaking for all Judges, the Chief Justice emphasises to the newly admitted practitioners the devotion to public service which should characterise their professional practice, the high standard of ethical conduct required of them – and monitored by the court, and their prospective role in forming part of the mechanism which safeguards the rule of law.

The Chief Justice continued to endeavour to visit the courts, profession and local communities at centres within the State outside Brisbane, as much as was practicable. Examples follow.

On 24 July 2000 he attended the service in the Central District to mark the commencement of the law term, at St Paul's Cathedral, Rockhampton, and delivered the homily.

(The corresponding service in Brisbane was held for the first time at the Greek Orthodox Church of St George [on 10 July 2000]).

An important reflection of the Chief Justice's State-wide commitment is his attendance at district law associations' annual conferences. He (with Mrs de Jersey) attended the Central

Law Association's conference on Great Keppel Island from 12-14 October 2000, and the conference of the North Queensland Law Association on Magnetic Island from 27-29 October 2000 where he delivered a paper on the current direction of technology within the higher courts. He then launched the online trial date allocation system for Townsville, following the successful completion of an 18 month pilot program in Brisbane.

Such meetings facilitate useful exchanges of information about significant issues current within the court and legal systems; and also allow the Chief Justice the opportunity to reaffirm, in person, the support of the judiciary for the important role fulfilled by the large numbers of practitioners outside Brisbane, in rendering service to clients dispersed throughout this vast and decentralised State – as well as support for the dedicated service of the three Judges resident outside Brisbane.

The Courthouse

Assembling and rejuvenation of the State's judicial heritage

This year saw the maturing of a keen focus on preserving, and where possible recovering, material manifestations of the State's interesting legal and judicial heritage. Associated public displays have transformed parts of the courthouse into diverting historical precincts, arousing considerable public interest. The Chief Justice acknowledges with gratitude the particular support in this respect of the Supreme Court Librarian, Mr Aladin Rahemtula, and the Court Administrator, Ms Bronwyn Jolly. Examples follow of what has this year been achieved in this area.

The court was the grateful beneficiary of further generosity on the part of the Queensland Art Gallery and the Queensland Library Foundation. The Gallery lent the court, on a long term basis, the definitive portraits of Queensland's first Supreme Court Judge, Mr Justice Alfred James Peter Lutwyche who held office as resident Judge at Moreton Bay from 1859 and from the inception of the Supreme Court in 1861 until 1880, and Mrs Mary Morris, whom he married in 1855. Members of the judiciary and the legal profession generously supported financially the restoration of the portraits by the Library Foundation. The portraits now hang in the public corridor in the increasingly interesting Rare Books Room precinct, joining the portrait of the State's first Chief Justice, Sir James Cockle, also restored by the Library Foundation, which hangs in the Banco Court.

Various pieces of unused courtroom furniture have been recovered from storage, refurbished and displayed in the public corridors of the courthouse. For example, the bench, witness box, dock and registry counter from the former District Courthouse at Rosewood were recovered, generously restored at virtually no cost to the court by students at the Ithaca College of Technical and Further Education, and now stand displayed in the foyer and on the second level of the courthouse. These items, a valuable part of the State's legal heritage, may now be appreciated by an interested public, to which they effectively belong.

Transport Queensland provided the court, on a six-month loan, a small scale, exceptionally well crafted model of the Queensland Government Steam Yacht, *Lucinda*, on which, at Refuge Bay on the Hawkesbury in 1891, Sir Samuel Griffith and others drafted substantial parts of the Australian Constitution. To herald the construction of the replica of the *Lucinda's* "upper deck gentlemen's smoking room", financially supported by the Community Grants Program of the Centenary of Federation Committee (Qld) and other generous members of the legal profession and the judiciary, the small scale model was displayed on the second floor public corridor of the courthouse, and attracted much interest.

The court has this year been the grateful recipient of numerous other items of historical and other interest, whether by way of gift or loan, and their display has rendered the courthouse a much more interesting place for the many people who annually visit it. They include engraved water glasses which belonged to Sir Pope Cooper, Chief Justice from 1903 to 1922, provided by Mr Allan McCracken, formerly of the District Court; a tricorn worn in Admiralty jurisdiction by the Hon Mr Justice Real, a Judge of the court from 1890 to 1922, lent by the Bar Association of Queensland; also lent by the Bar, a chair which resided behind the bar table in the High Court in Melbourne prior to that court's move to Canberra; finely framed original photograph of the first three Justices of the High Court of Australia, donated by Mr Douglas Aboud, a member of the Bar; a desk used by the Hon TW McCawley, Chief Justice from 1922 to 1925, excellently restored at virtually no cost to the court by the students of the Ithaca TAFE as part of their course work; an 8th edition of *Phipson on Evidence* presented to a former Solicitor-General, Mr Thomas Parslow QC, when he was a student at the University of Queensland in 1950 and awarded the Virgil Power Prize, this provided by Mr Joel Barnett, a member of the Bar; judicial robes of office, including distinctive Advent and Lenten robes originally owned by Sir William Mack, Chief Justice from 1966 to 1971, donated by the Hon Peter Connolly QC, a distinguished Judge of this Court from 1977 to 1990; splendid museum type cases provided on long term loan by the Royal Historical Society of Queensland, and restored at no cost to the court by E Chapman & Son, the talented craftsmen of both the *Lucinda* and the "Rare Books Room" constructions.

Centenary of Federation: the Court's contribution

The court contributed to the celebration of the Centenary of Federation during the period of national "centrepiece" events staged in Brisbane at the end of March 2001 under the auspices of the Centenary of Federation Committee (Qld).

On Friday 30 March, distinguished historian Emeritus Professor Geoffrey Bolton AO formally opened the replicated upper deck gentlemen's smoking room of the *Lucinda* and delivered an oration in the Banco Court on the *Lucinda*. Because of its historical interest in the life of the court, the oration is reproduced as appendix 3 to this report, together with the Chief Justice's remarks on that occasion. Adjacent to the smoking room is an educational display area utilising interactive computerised facilities. (This initiative was the subject of an address to the Senate by Senator Brandis on 4 April 2001 during the adjournment debate.)

The replicated "smoking room" sits at one end of the public corridor on the second floor of the courthouse, with the Rare Books Room at the other end. It is both visually diverting and educationally significant, especially noting that passing through the courthouse are many thousands of people annually, including large numbers of school students. The Speaker of the Parliament has kindly agreed to assist the court with loans and donations of material previously held at Parliament House, to be displayed in these areas.

Then on Saturday 31 March, the Supreme Court History Society (under the leadership of Dr M White QC, with valuable support from the Supreme Court Librarian, Mr A Rahemtula) convened a well-attended all day seminar in the Banco Court on the subject, *Sir Samuel Griffith: The Law and the Constitution*. Distinguished speakers at the seminar included the Hon Justice IDF Callinan, the Hon Mr Justice BH McPherson, CBE, Senator G Brandis, Professor P Botsman, Dr M White QC, Dr R O'Regan AM QC, Mr DF Jackson QC, Mr P Sayer, Mr C Lohe (Crown Solicitor) and the Commonwealth Solicitor-General, Mr D Bennett QC.

Such events in the courthouse draw substantial public support. The *Lucinda* opening, for example, was, on an otherwise busy Friday evening, attended by more than 300 people: a most worthwhile opportunity for refreshing interchange among the judiciary, the profession and the public.

Other public "outreach"

The Supreme Court History Society conducted over the year a series of interesting, well-attended public lectures in the Banco Court, beginning on 25 August 2000 with an address by the Hon Justice Callinan of the High Court of Australia on the subject, "Books which have influenced my life". The Hon Dr Kevin Ryan QC spoke on 6 October 2000 on the subject, "The crisis in parliamentary democracy", and Mrs Quentin Bryce AO, on 24 November 2000, speaking of women in the law in Queensland, presented a paper entitled, "Reflections – 40 years on".

On Wednesday 6 June, Queensland Day, upon the initiative of the Registrar, Mr Toogood, the court hosted guided tours covering the *Lucinda* and Rare Books Room exhibitions and the artwork of the ceremonial Banco Court, and the witnessing of actual court proceedings in progress. The 115 members of the public who participated in the tours displayed considerable interest. There was somewhat surprisingly a common misconception that members of the public were not generally permitted to enter court rooms to listen to proceedings. This being one of the hallmarks of our system of justice, the courts must be astute to emphasise that their proceedings are almost invariably conducted in public, if this is indeed not generally appreciated.

Webpage (www.courts.qld.gov.au)

The court website is a focus of public attention. It is regularly maintained and refurbished. It has been a valuable tool in communication between the court and the profession and unrepresented litigants, as to matters of practice and procedure, and as a mechanism for informing the public about the operation of the court. In that regard, it is noted that the Judges publish up-to-date information on the time taken to dispose of cases within the court, gauged against both the Judges' self-imposed goals, and national benchmarks; and (since 18 September 2000) details of expenditure on Judges' jurisprudential and other court or officially relevant travel.

Other use of the courthouse

The courthouse is used quite substantially for other community-based purposes when not required for actual court sittings. Reference has been made to public lectures and historically interesting presentations. Mooting competitions and advocacy workshops regularly occur.

The Supreme Court again this year, on International Women's Day 8 March 2001, hosted a reception in the Rare Books Room precinct, the occasion this year "celebrating 100 years of women's achievements" at which Ms Judith McLean delivered an address.

The Council of Chief Justices of Australia and New Zealand met at the Supreme Court on 19-20 October 2000. As its name indicates, the Council comprises the Chief Justices of the High Court of Australia and of New Zealand and of the Australian States and Territories. It meets biannually. The previous meeting in Queensland took place in 1996.

International aspects

Experience of other jurisdictions

Last year the Chief Justice's meeting in Tokyo with the Chief Justice of Japan marked an extension of the traditionally largely trade-based Japan-Queensland relationship.

This year, on 26 June 2000, the Chief Justice met in Washington with the Hon William Rehnquist, Chief Justice of the United States. Then in June 2001, the Chief Justice met in Athens with three holders of high level office within the Greek system of justice, the President of the highest national (appeal) court, the Minister for Justice, and the Secretary General of the Ministry for Justice, in company with Queensland's honorary Consul for Greece, Mr A Freeleagus AO CBE RFD, who facilitated the meetings. This was the first time the Chief Justice of Queensland, or indeed apparently any Chief Justice from Australia, had met officially with persons at that level within the Greek justice system.

Comparable meetings at the level of Executive Government are well publicised. The people may be encouraged to know that such meetings also occur, with consequent public benefit, at the enduringly significant level of judicial government. The Judges have over the years forged links with many counterparts in other jurisdictions: drawing on the judicial experience of such others is of continuing benefit to our own system.

Visits by Judges from other jurisdictions

Visits of Judges from other jurisdictions led to interesting and mutually beneficial exchanges.

On 5 March 2001 Mohamed Rasheed Ibrahim, Chief Justice of the Republic of the Maldives, accompanied by Abdullah Saeed, Dean of the Faculty of Shari'ah and Law, Maldives College of Higher Education, visited the Supreme Court, as part of a project of assistance in relation to judicial and legal training sponsored by the TC Beirne School of Law, University of Queensland.

On 18 September 2000 Mr Lu Yiping, Senior Judge of The Intermediate People's Court of Shenzhen, visiting Associate Professor of The State College of Judges and Vice Secretary-General of the Shenzhen Judges' Association, visited the Supreme Court, as part of an eight months' course of study of the Australian legal system (centred at Griffith University).

For the week commencing 18 June 2001, the Hon Mr Hiroaki Murayama, a Judge of the Tokyo District Court, Japan, visited the Supreme Court and studied our procedures against the background of current proposals to reform aspects of the Japanese legal system.

Assistance to other jurisdictions

Judges of this court provided valuable assistance to other regimes. Four instances may be offered.

From 4 to 8 June 2001, the Hon Justice Moynihan SJA, at the invitation of Chief Justice B Martin AO, visited the Supreme Court of the Northern Territory in Darwin, where he advised on the development of case management procedures and otherwise in relation to the administrative operation of that court.

In April 2001 the Hon Justice Byrne travelled to Jakarta in furtherance of a Commonwealth initiative designed to foster co-operation between Australia and Indonesia in relation to legal affairs. Over a period of four days, his Honour participated in meetings and

discussions aimed at identifying assistance which might be provided in future by Australia to the Indonesian judiciary, and assessing Indonesia's broader judicial training needs.

In November/December 2000 and April 2001, the Hon Justice Atkinson visited South Africa at the invitation of the South African Government to assist in the implementation of the *Promotion of Equality and Prevention of Unfair Discrimination Act* 2000. The visit was sponsored by AusAid. With the assistance of Associate Professor Tahminjis, Head of the Law School of QUT, Justice Atkinson prepared a draft curriculum for judicial education, a draft bench book and made a number of recommendations to the judiciary and the executive on the implementation of the Act.

Judges of the court (the Hon Mr Justice McPherson and the Hon Justice Williams) continued to be available to sit on the Court of Appeal of the Solomon Islands

Judicial retirement and appointments

A valedictory ceremony marking the retirement of the Hon Mr Justice CW Pincus, Judge of Appeal, upon his completion of 10 years' distinguished service on this court, was held in Brisbane on 2 March 2001.

On 29 January 2001 the Hon Justice Williams was sworn in as a Judge of Appeal, (following the retirement of Mr Justice Pincus) and the Hon Justice Philippides as a Judge of the Supreme Court (in the light of the appointment of Justice Williams from the Trial Division to the Court of Appeal Division).

Personal

The Judges were, on 12 June 2001, honoured to be joined at luncheon at the Court by His Excellency the Governor, Major-General Peter Arnison, AC. In the course of his visit, His Excellency inspected the *Lucinda* display and the second-floor historical precinct.

Conclusion

The Chief Justice again this year warmly thanks the Judges, officers of the registry and the court's administrative staff for their dedicated, enthusiastic commitment to the discharge by the court of its significant function. The year has been marked by a very substantial collegial effort which has greatly advanced the public interest, and is much appreciated.

Members of the public who attended Queensland Day guided tours of the court complex

Composition of the Court

The Supreme Court comprises the Office of the Chief Justice and two Divisions, the Court of Appeal and the Trial Division.

Chief Justice The Honourable Paul de Jersey, AC

Court of Appeal Division

President The Honourable Margaret Anne McMurdo

Judges of Appeal

The Honourable Geoffrey Lance Davies) of the same seniority
The Honourable Bruce Harvey McPherson, CBE)
The Honourable James Burrows Thomas, AM
The Honourable Glen Norman Williams
(appointed 14 December 2000)

Trial Division

The Honourable Martin Patrick Moynihan
(Senior Judge Administrator)
The Honourable Brian William Ambrose
The Honourable Kenneth George William Mackenzie
The Honourable John Harris Byrne RFD
The Honourable Margaret Jean White
The Honourable Keiran Anthony Cullinane
(Northern Judge, Townsville)
The Honourable Henry George Fryberg
The Honourable John Westlake Barrett Helman
The Honourable John Daniel Murray Muir
The Honourable Stanley Graham Jones
(Far Northern Judge, Cairns)
The Honourable Richard Noel Chesterman RFD
The Honourable Margaret Anne Wilson
The Honourable Roslyn Gay Atkinson
The Honourable Robert Ramsay Douglas RFD
The Honourable Peter Richard Dutney
(Central Judge, Rockhampton)
The Honourable Debra Ann Mullins
The Honourable Catherine Ena Holmes
The Honourable Anthe Ioanna Philippides
(appointed 14 December 2000)

Tribunal Appointments

Mental Health Tribunal	The Honourable Richard Noel Chesterman
Medical Assessment Tribunal	The Honourable Henry George Fryberg The Honourable Margaret Jean White
Chair, Law Reform Commission	The Honourable John Daniel Murray Muir
Land Appeal Court	The Honourable Debra Ann Mullins (Southern District) The Honourable Peter Richard Dutney (Central District) The Honourable Kieran Anthony Cullinane (Northern District) The Honourable Stanley George Jones (Far Northern District)

Judges of the Supreme Court

Court of Appeal division

Workload

This year, 723 matters were commenced in the Court of Appeal compared with 765 matters in the previous year. Six hundred and three matters were heard and a further 147 matters were withdrawn, disposing of a total of 750 matters. These figures demonstrate that the workload of the Court of Appeal this reporting year was very similar to that in 1999-00, when 616 matters were heard and a larger number, 165 matters, were withdrawn. The figures demonstrate a sustained increase in workload since 1997-1998 when only 563 matters were heard and 178 withdrawn. No reason has been discerned for the smaller number of matters withdrawn this year. Withdrawn matters are not calculated in the tables below.

Table 2: Annual caseload, criminal matters

Number of cases	1998-99	1999-00	2000-01
At start of year	115	140	115
Commenced during year	514	404	401
Cases heard	383	356	321
Undisposed of at end of year	140*	115*	132

* Adjustment made to figures due to finalisation of data.

Table 3: Annual caseload, civil matters

Number of cases	1998-99	1999-00	2000-01
At start of year	151	143	160
Filed during year	325	361	322
Cases heard	237	260	282
Cases unheard at end of year	143*	160*	116

* Adjustment made to figures due to finalisation of data.

Table 4: Annual caseload, summary

Number of cases	1998-99	1999-00	2000-01
At start of year	266	283	275
Filed	839	765	723
Heard	620	616	603
Judgments delivered	607	628	587
Cases unheard at end of year	283*	275*	248
Judgments outstanding at end of year	39	27	43

* Adjustment made to figures due to finalisation of data.

Thirty-two percent of criminal matters were disposed of in less than three months, a further 51% in more than three months but less than six months, and a further 16% in more than six months but less than 12 months, so that 99% of all criminal matters were disposed of within 12 months of filing.

Thirty-seven and a half percent of civil matters were disposed of in less than three months, a further 13.5% in more than three months but less than six months, and a further 40% in more than six months but less than 12 months, so that 91% of civil matters were disposed of within 12 months of filing.

Table 5: Age of cases disposed of*

Time for disposition (Date of filing to delivery of judgment)	Percentage disposed of	
	Criminal	Civil
<3 months	32	37.5
3-6 months	51	13.5
6-12 months	16	40
>12 months	0	8

* This table includes where judgment was delivered *ex tempore* and reserved judgments.

This court has disposed of 83% of its criminal cases (compared to 80% last year) and 51% of its civil cases (compared to 54% last year) within six months of filing. The court has disposed of 99% of its criminal cases (the same as last year) and 91% of its civil cases (compared to 86% last year) within 12 months of filing. This continues to compare favourably with the benchmark adopted by the court in page 3 of this report.

In both civil and criminal caseloads, the court has met its benchmark in the disposal of cases within 12 months of filing.

Table 6: Judgments, criminal matters

Judgments	1998-99	1999-00	2000-01
Outstanding at start of year	13	19	10
Reserved	153	141	127
Ex tempore judgments delivered	230	215	194
Reserved judgments delivered	147	150	118
Outstanding at end of year	19	10	19

Table 7: Judgments, civil matters

Judgments	1998-99	1999-00	2000-01
Outstanding at start of year	13	20	17
Reserved	140	148	159
Ex tempore judgments delivered	97	112	123
Reserved judgments delivered	133	151	152
Outstanding at end of year	20	17	24

Table 8: Time between hearing and delivery of reserved judgments

Type of case	Median number of days		
	1998-99	1999-00	2000-01
Criminal cases	23	28	23
Civil cases	25	38	33
All cases	24	34	29

This table shows the median time between the hearing and delivery of reserved judgments. It demonstrates the court's sustained commitment to the timely delivery of reserved judgments.

The tables demonstrate that the court has improved its performance in the median time for delivery of judgments in both criminal and civil cases over the last year and the court continues to perform favourably against the benchmark for disposition of cases set out in page 3 of this report.

Table 9 below shows the court in which matters filed were commenced.

Table 9: Court in which matters were commenced

Court	Number of matters filed	
	1999-00	2000-01
Trial Division – civil	188*	156*
Trial Division – criminal	89*	100*
District Court – civil	150	126
District Court – criminal	314	296
Planning and Environment Court	14	26
Other – civil (cases stated, tribunals etc)	9	14
Magistrates Court – criminal	0	0
Other – criminal	1	5

* These statistics include circuit court matters.

The incidence of appeals from the civil jurisdiction of the Trial Division and the District Court have decreased moderately whilst criminal appeals from the Trial Division and appeals and applications for leave to appeal from the Planning & Environment Court have increased. Criminal appeals from the District Court have also decreased slightly. These variations do not appear to be significant.

The types of appeals filed during the year are shown in Table 10 below.

Table 10: Types of appeals filed

Appeal type	1998-99	1999-00	2000-01
Civil			
• general including personal injury	201	216	174
• applications	74	139*	47
• leave applications	38	-	85
• planning and environment	7	-	10
• other	5	6	6
Criminal			
• sentence applications	276	192	162
• conviction appeals	65	73	78
• conviction and sentence appeals	62	47	62
• extensions (sentence applications)	30	11	24
• extensions (convictions appeals)	11	15	14
• extensions (conviction and sentence)	11	7	13
• sentence appeals (A-G/C'wth DPP)	40	42	23
• other	14	17	25**

* In previous years planning and environment appeals were classified independently, but they are currently by way of applications for leave to appeal to the Court of Appeal.

** Includes criminal s 118 extensions and s 118 applications.

Unrepresented litigants

The number of unrepresented litigants shown in Table 11 below has remained proportionally significant. The number of unrepresented litigants in criminal appeals has decreased but the number of unrepresented litigants in civil appeals has increased so that they now represent approximately 29% of all civil litigants before the Court of Appeal. This is a significantly higher proportion of unrepresented litigants than in civil matters before the Trial Division and places additional strains on the Court of Appeal and its registry and staff.

The slight decrease in the number of self-represented litigants in criminal matters is probably related to the Court of Appeal's introduction of a pro bono scheme in the last reporting year. The Judges of Appeal were concerned that litigants who have been refused legal aid, especially those convicted of murder or manslaughter, may be disadvantaged in the presentation of their appeals. The Judges, with the assistance of the Bar Association and the Law Society, established a pro bono scheme to represent those appellants. The court has not been required to call on the scheme as much as anticipated[1] because it seems Legal Aid Queensland has now adopted a more generous approach to the granting of legal aid in these matters. The Judges of Appeal commend that approach which can only

[1] The scheme has been used twice in this reporting year: *R v Semyraha* [2000] QCA 303; CA No 373 of 1999, 1 August 2000 and *R v Maroney* [2000] QCA 310; CA No 20 and 172 of 2000, 4 August 2000.

enhance the quality of the criminal justice system in Queensland. The Court of Appeal is grateful to Legal Aid Queensland and to the public spirited barristers who have agreed to take part in the pro bono scheme and whose names appear below:

Court of Appeal Pro Bono List (as at 30 June 2001):

Boddice, David	Griffin QC, John	MacSporran, Alan
Burns, Martin	Griffin SC, Milton	Martin SC, Terry
Callaghan, Peter	Glynn SC, Tony	Martin, Frank (Toowoomba)
Devlin, Ralph	Johnson, Mark	Nolan, Peter
Durward SC, Stuart (Townsville)	Keim, Stephen	Rafter, Tony
Farr, Bradley	Kimmins, Tony	Richards, Peter
Gaffney, Paul	Long, Gary	Ryan, Tim
Gardiner, Terry	Macgroarty, Kelly	Thomas, Barry

The significant number of unrepresented litigants in matters before the Court of Appeal places an additional burden on the Judges. A matter involving an unrepresented litigant tends to take longer to hear and determine because often the standard of preparation is poor and the litigants are unable to clearly articulate the real points of the case. In addition, the outlines of argument of unrepresented litigants are often filed late and sometimes are not served on the respondent.

Represented litigants in criminal matters do not generally appear in person before the Court of Appeal. Safety issues for Judges and associates sometimes arise when unrepresented litigants present their own cases; on occasions it has been necessary to have additional security in the court room.

Unrepresented litigants place a heavy burden on registry staff. These litigants require greater time, attention and support which is invariably supplied by the registry staff, despite the helpful and detailed information sheets available to self-represented litigants. Registry correspondence on the files of unrepresented litigants is approximately three times the norm. The Senior Deputy Registrar (Appeals) is often required to specially case manage matters involving unrepresented litigants. Unrepresented litigants are sometimes abusive, aggressive, confused, accusatory or unstable; their presence in the registry can raise safety concerns for registry staff. A survey of time spent on self-represented litigants was conducted during June 2001. Appeals registry staff spent conservatively 21 hours with 27 unrepresented litigants which involved 73 contacts. This is a much greater time than that spent on the equivalent number of represented litigants.

The Australian Institute of Judicial Administration's recent report *Litigants in Person Management Plans: Issues for Courts and Tribunals* raises the need for court staff to be given qualified immunity in respect of assistance to litigants in person with information, services and rules governing unauthorised practice of law.[2] That report also raises the need for properly staffed information desks and permanent advice centres.[3]

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2 At p 19; Goldschmidt et al, *Meeting the Challenge of Pro Se Litigation* (1998) American Judicature Society, State Justice Institute, Recommendation (II), 34-35.

3 At p 19; Lord Woolf Access to Justice; Interim Report to the Lord Chancellor on the Civil Justice System in England and Wales, Ch 17 (“The Woolf Report”) (1995), 134.

The Court of Appeal will need to address these issues to both properly serve unrepresented litigants and protect registry staff.

Table 11: Matters heard where one or both parties unrepresented

	1998-99	1999-00	2000-01
Civil	47	68	82
Criminal	102	89	78
TOTAL	**149**	**157**	**160**

Organisation of Work

The exercise of accrued leave entitlements by all the Judges of Appeal again reduced the number of available Judges of Appeal for significant periods during the year. Similar patterns of leave must be expected and planned for in future years.

The Court of Appeal has continued to rely on regular assistance from the Chief Justice, who sat for 15 weeks, and the Trial Division Judges who provided 42 judge weeks compared to 40 judge weeks in 1999-00 and 42 weeks in 1998-99. It is desirable for Trial Division Judges to contribute their particular experience to the Court of Appeal. Normally every Trial Division Judge will sit on the Court of Appeal for at least one three week period each year. The consistently high number of appeals heard by the Court of Appeal over recent years ensures that the Trial Division Judges continue to play a substantial role. Without their assistance the Court of Appeal could not continue to sit its usual five days each week.

The consistently heavy workload of the Court of Appeal, combined with the inevitable leave requirements of the Judges of Appeal demonstrates the need for at least one additional Judge of Appeal. Whilst the assistance of the Trial Division Judges is valuable, the special contribution of a separate Court of Appeal is consistency and specialisation; this can be best achieved by an additional permanent member of the Court of Appeal.

The Court of Appeal sat for 44 weeks during the year. As in the past two years, the court sat during one week of its traditional winter vacation and like last year for only three days because of the limited availability of Judges; those Judges will take compensating leave at other times during the year.

Ordinarily, the court comprises three Judges;[4] when there are six Judges available, each will ordinarily sit eight days in each three week period. The efficient disposition of the court's matters relies heavily on the prepared written outlines of argument. A Court of Appeal Judge's workload comprises far more than the time spent in court hearing cases. It must be appreciated that the preparation of the appeals and the writing of judgments, especially in long and complex cases, is demanding and sometimes requires many days or even weeks of careful work. In addition, the Judges often give freely of their time, including leave periods, to lecture, address or attend conferences, seminars and workshops for the benefit of the court, the profession and the public. Leave periods are often spent writing judgments.

The court usually hears 15 criminal conviction appeals, 10 to 12 civil appeals and up to 35 criminal or civil applications in each three week period. When Trial Division Judges are rostered to sit, they then generally have a week out of court in which to write their judgments. The Judges of Appeal do not usually take judgment writing time in that way

[4] A court of five Judges sat in the case *I & L Securities Pty Ltd v HTW Valuers (Brisbane) Pty Ltd* [2000] QCA 383; Appeal No 10277 of 1999, 29 September 2000.

and will ordinarily commence the next three week routine immediately. The Judges of Appeal were however allocated four weeks and two days for judgment writing during the year.

The established practice of the President delegating responsibility for case management including preparation of the daily court list to the Senior Deputy Registrar (Appeals) remains. Ms Robyn Hill this year continued in her role as Senior Deputy Registrar (Appeals). In her absence, whilst on leave or working on the redevelopment of the Court of Appeal Management System (CAMS), that role was undertaken by Mr Neville Greig, the Deputy Registrar (Appeals). Ms Hill and Mr Greig effectively performed that task making most necessary decisions in consultation, where appropriate, with the President or other Judges of Appeal. The President has continued to judicially case manage those matters where one or both parties have consistently failed to meet time guidelines or where judicial intervention was otherwise necessary.

Registry

The Appeals registry staff have again provided excellent service to the court despite continued difficulties with the redevelopment of CAMS. Last year this report noted the difficult working conditions for staff in the Court of Appeal registry caused by inadequate storage space and unsuitable desks and work stations. This has recently been remedied and the Judges thank the Director-General for providing funds for the refurbishment and Q-Build for their efficient management of the project.

The Court of Appeal registry staff still do not have appropriate staff toilet facilities. They are required to use public toilets (which can raise security issues) or a wheel-chair access toilet which should be kept free for those with disabilities.

Judgments and Catchwords

The Court of Appeal judgments have been available free of charge on the Internet through AUSTLII since November 1998. Judgments are e-mailed to AUSTLII on the day of delivery. AUSTLII has recently been dilatory in publishing this court's judgments, but the Court of Appeal now provides AUSTLII with our judgments in rich text format (RTF) to assist AUSTLII in the more timely publication of our judgments.

Court of Appeal judgments from 2000 onwards are also available on the Internet through the Queensland Judgments site www.courts.qld.gov.au/qjudgment/ca.htm. Reserved judgments are available on the day of delivery and ex tempore judgments are published as soon as they have been corrected or, in matters of significant public interest, on the day of hearing.

The Court of Appeal has adopted the AIJA recommendations as to the electronic reporting of judgments. Ms Maree Liessmann, Court of Appeal Research Officer, continues to coordinate the preparation of cover sheets to the Court of Appeal judgments.

The Hon Mr Justice Pincus' associate in 2000 and the Hon Justice Williams' associate in 2001 have prepared, under the Judges' supervision, helpful brief outlines of judgments delivered in the Court of Appeal which are published on the Queensland Courts site www.courts.qld.gov.au. Copies are distributed to interested Queensland Judges and Magistrates, as well as the Law Society, the Bar Association and other interested organisations. These outlines are published in *Proctor*, the journal of the Queensland Law Society Inc.

The Court of Appeal Research Officer has continued to liaise with LawNow Limited on the preparation of its commercial database of Court of Appeal judgments (Caseline) to which Judges have access free of charge through the Judicial Virtual Library (JVL). The future of this relationship is currently uncertain as LawNow Limited is in liquidation and the liquidator has recently sold the business.

The Research Officer provides judgments to the media upon request and under the supervision of the Judges prepares and distributes to the media and other interested parties summaries of important Court of Appeal judgments.

The Research Officer in consultation with staff from the Supreme Court library ensures that the Queensland judgments site is updated as to Court of Appeal judgments (highlighting the delivery of important Court of Appeal judgments), changes to the *Criminal Practice Rules* and the *Uniform Civil Procedure Rules*, practice directions and information sheets.

Speeches of the Judges of Appeal

Speeches of the Judges of Appeal can also be found on the Queensland judgments site.

Information Technology

Court of Appeal Case Management System (CAMS)

The problematical redevelopment of CAMS is now complete and operating satisfactorily. The Court thanks the Director-General, the Court Administrator and Ms Robyn Hill for their on-going support in this redevelopment.

Adequate funding for the maintenance and refinement of CAMS in the next financial year is essential to maintain the efficient performance of the Court of Appeal.

Electronic filing and appeal books

The redeveloped CAMS has the capacity for expansion to permit future electronic filing. The court remains cognisant of the recommendations of the Working Party of the Council of Australian and New Zealand Chief Justices' Electronic Appeals Project and hopes in the future, with proper funding, to pilot a prototype electronic appeal book. The court has attempted to pilot such an appeal during this reporting year. These attempts came close to fruition but in the end did not bear fruit; in one case one party decided late not to conduct the appeal electronically and in another case the appeal settled shortly before hearing. The President and the Senior Deputy Registrar (Appeals) continue to monitor the position in other jurisdictions, and will actively encourage the filing and conduct of electronic appeals in appropriate cases.

Audio and video link

During the year a number of applications and appeals have utilised the audio and video link equipment installed in the Court of Appeal. Greater use of this equipment could be made if correctional centres outside the Brisbane metropolitan area installed video link equipment. This would save the Department of Corrective Services the substantial cost of escorting unrepresented litigants in custody from distant parts of the State and would provide greater security for the courts and the community. Litigants in custody would also benefit from avoiding the disruption to rehabilitative programs and other commitments occasioned by travelling to Brisbane for a hearing.

More frequent use of the audio and video link in the Court of Appeal will continue to improve affordable access to justice for all litigants outside Brisbane.

Computers

The Judges of Appeal, their associates, the Court Research Officer and the Senior Deputy Registrar (Appeals) have continued to use their personal computers for legal research and to utilise the JVL provided by the Supreme Court library.

The Judges' Library

Following amendments in 1997 to the *Supreme Court of Queensland Act* 1991, the Court of Appeal ceased to have its own budget. Until that time, the Court of Appeal maintained the Judges' library which is in the precincts of the Court of Appeal. Whilst that library is used by all Supreme Court Judges, it is of particular importance to the Judges of Appeal and their support staff. The library contains a number of reports and text books which are not available electronically through the JVL. Those which are able to be accessed through JVL are not in the same format as the printed reports and it is often time-consuming to locate cited passages from reports in the JVL format. In any case, the JVL is not always accessible when there is a system failure, which is not a rare occurrence. As a result, the Judges' library is diminishing in value as an asset. Funds are urgently needed to update and maintain the Judges' library which contributes significantly to the efficiency of the Court of Appeal. The Supreme Court library does not have the means to update and maintain the Judges' library which has been traditionally funded through the Court of Appeal budget. The Court budget does not currently have funding available to either update or to maintain these subscriptions. Provision for this must be made. It is significant that the New South Wales and Victorian Courts of Appeal each have a small working library comparable to our Judges' library and which, unlike ours, is current.

Inaugural Court of Appeal Sittings, Cairns

The inaugural Court of Appeal sittings in Cairns was held from 18 to 22 June 2001.

The court heard fifteen (15) matters, thirteen (13) criminal and two (2) civil. Another matter was adjourned. Decisions were given ex tempore in three matters and judgments in another six matters were delivered during the course of the sittings. Judgments in six appeals were reserved. Five Supreme Court Judges took part in the sittings: the President, Justices of Appeal Davies and Thomas from Brisbane, the Northern Judge, the Hon Justice Cullinane from Townsville, and the Far Northern Judge, the Hon Justice Jones, who is resident in Cairns. The sittings primarily comprised criminal matters involving the Director of Public Prosecutions (DPP) and Legal Aid Queensland (LAQ). In some matters, LAQ briefed local barristers; other matters were dealt with by LAQ's specialist appellate advocates. LAQ has a Cairns office but a specialist appellate officer instructed from Brisbane. The DPP also has an office in Cairns. Unfortunately, Mr Winn, the DPP's Cairns Legal Practice Manager, was injured and Brisbane prosecutors appeared in all matters on behalf of the Crown, instructed by an officer from Cairns. Five North Queensland barristers, two from Cairns and three from Townsville appeared in nine matters during the sittings. Apart from officers of the DPP and LAQ, a further three Brisbane barristers appeared in civil matters. In these civil matters, two parties were represented by Mackay solicitors and two parties were represented by Townsville solicitors. Two matters involved self-represented litigants. A third matter involving a self-represented litigant was adjourned to enable him to obtain legal representation. The

sittings was warmly received by the legal practitioners and the people of North Queensland. It provided an opportunity for the North Queensland legal profession to appear before or observe the Court of Appeal and for law students from James Cook University to observe the Court of Appeal in their own city. Self-represented litigants also took the opportunity to appear before the Court of Appeal without incurring the expenses of travelling to Brisbane. Most importantly, it gave the people of North Queensland an opportunity to observe the justice system, especially the criminal justice system, operating at, what is in most instances the final, appellate level within their own community. The sittings could not have taken place without the financial support of the office of the Honourable the Attorney-General, Mr Rod Welford, the assistance of the Chief Justice, the Judges of Appeal, the Far Northern Judge, Justice Jones, the Northern Judge, Justice Cullinane, the registry staff in Cairns and Brisbane, the DPP and LAQ, the State Reporting Bureau, and the court support staff. During this sittings, the Judges of Appeal were accompanied by only two support staff, the President's associate and Justice Davies' executive secretary; this was a cost saving initiative by the Judges of Appeal. Unfortunately, this placed unreasonable burdens on the two support staff and the Judges. More support staff will be required during any future sittings. The Judges of the Court of Appeal hope to conduct a further sittings in North Queensland in 2002, either in Townsville or Cairns. This will, as always, be dependant on the provision of sufficient funding to the court to conduct the sittings and sufficient work to justify the cost of the sittings.

The Retirement of The Hon Mr Justice C W Pincus

The Hon Mr Justice Pincus, an inaugural member of the Court of Appeal Division upon its establishment in 1991, retired on 3 March 2001. The Court of Appeal will miss Mr Justice Pincus' intellectual strength, integrity, capacity for hard work and compassion and his ability to use these qualities to achieve justice according to law. Mr Justice Pincus was instrumental in establishing the Court of Appeal pro bono scheme. The Judges of Appeal thank Mr Justice Pincus for his contribution to the life and work of the Court of Appeal Division and wish him and his wife, Gillian, health and happiness.

The Hon Justice G N Williams

The Court of Appeal warmly welcomes the Hon Justice Glen Norman Williams, formerly a member of the Trial Division of the Supreme Court of Queensland, who was sworn in as a Judge of Appeal on 29 January 2001. His appointment was effective from 14 December 2000, but the swearing-in was not conducted until after the legal vacation on the first sitting day of the new legal year. The timely appointment of Justice Williams has meant that the Court of Appeal did not lose sitting time through Mr Justice Pincus' retirement. Mr Justice Pincus spent the weeks after Justice Williams' appointment judgment writing to ensure the delivery prior to his retirement of all judgments in which he was involved.

Waiver of Payment for Record Book Fees (r 759(5) UCPR)

Rule 759(5) *UCPR* 1999 was inserted by Subordinate Legislation 127 of 2000 r 57 (*Uniform Civil Procedure Amendment Rule (No 1)* 2000) and commenced on 1 July 2000. The rule allows an appellant to apply to the Registrar for exemption from payment of record book fees. During the reporting year, 13 such applications were made, five were granted and five were refused by the Registrar; two applicants appealed from the Registrar's

decision to a single Judge of Appeal and one is currently on appeal to a court of three Judges of Appeal from a refusal of a single Judge of Appeal.

Appeals from the Court of Appeal to the High Court

The registry of the High Court of Australia has provided the following statistics as to applications for special leave to appeal and appeals for this reporting year from the Court of Appeal Division of the Supreme Court of Queensland to the High Court of Australia.

Application for special leave

Civil	25	(4 granted and 15 refused)
Criminal	20	(2 granted and 12 refused)
Total	45	

Appeals

Civil	5	(3 allowed and 2 dismissed)
Criminal	2	(nil decided)
Total	7	

These statistics confirm that the Court of Appeal is effectively the final appellate court for Queensland. Of the 603 matters heard by the Court of Appeal this reporting year, only seven or 1.1% resulted in appeals to the High Court, three or .05% of which were successful.

Conclusion

When the recently retired Mr Justice Pincus was sworn in as an inaugural Judge of Appeal in 1991, his Honour expressed the hope that he would be able to leave behind "something worthwhile: a model of efficiency and justice for Australian courts". At Mr Justice Pincus' valedictory on 3 March 2001, the Hon the Attorney-General, Mr Rod Welford, quoted these words and commented to his Honour: "… you have done that with great distinction". This report confirms those observations of the Hon the Attorney-General.

The President thanks all who have helped achieve these pleasing levels of performance, especially the Chief Justice, who, despite his otherwise heavy workload, has continued to sit regularly in the Court of Appeal, the Judges of Appeal, the Senior Judge Administrator for his co-operation in making Trial Division Judges available, the Trial Division Judges who have assisted in the Court of Appeal, the Court Administrator, Ms Bronwyn Jolly, the State Reporting Bureau, the Supreme Court Librarian, the Senior Deputy Registrar (Appeals), Ms Robyn Hill, and her staff, the Court of Appeal Research Officer and all Judges' associates and secretaries.

The court again acknowledges the support of the Hon the Attorney-General and the Director-General, especially in the timely replacement of Mr Justice Pincus, the refurbishment of the Court of Appeal registry and in undertaking the Cairns Court of Appeal sittings.

The continuing heavy workload of the Chief Justice may mean he is unable to sit in the Court of Appeal in the future as regularly as he has in past years. The exercise of leave entitlements by Judges of Appeal and the continued heavy workload of the Court of Appeal

Judges demonstrate that an additional Judge of Appeal is required if the court is to maintain or improve its present efficiency.

Funding is needed urgently to update and maintain the Judges' library within the Court of Appeal precinct.

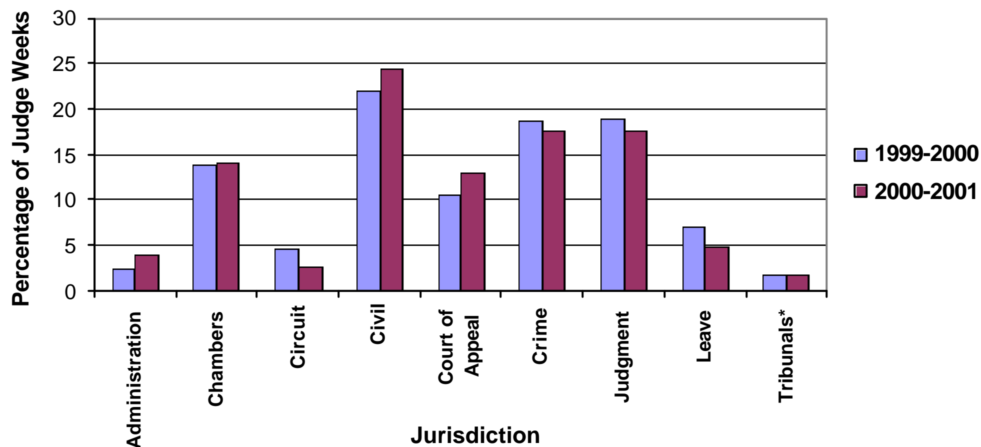
The court cannot perform effectively without the assistance of a properly resourced registry. The Court of Appeal and its registry will need continued adequate resources and funding to maintain and refine the redeveloped CAMS and to pilot, in appropriate cases, the electronic filing of appeals, the preparation of electronic appeal record books and the hearing of electronic appeals. Careful planning is also required as to the best management of unrepresented litigants.

Trial Division

There are 18 Judges of the Trial Division, 15 in Brisbane, the Central Judge in Rockhampton, the Northern Judge in Townsville and the Far Northern Judge in Cairns.

Trial Division Judges engage in a wide range of activities in discharging their functions. That is illustrated by the table which sets out the categories and percentage of time allocated to each for the Brisbane based Judges.

Table 12: Trial Division Judge Allocation Brisbane 1999-01



Note:
1. This includes the Land Appeal Court.
2. The time specifically allocated to administration is exceeded by the time actually used.
3. The time allocated to administration includes the time Judges are involved in the AIJA/Law Foundation of NSW Judicial Orientation Course.
4. The major current project is the preparation of a benchbook for use in the criminal jurisdiction.

Dispositional goals

As reported last year the Trial Division has adopted comprehensive goals for the disposition of its work. These are benchmarked against the national disposal figures in the annual report on Australian Government Services. Table 1 in the Chief Justice's overview sets out the position for the 2000-01 year.

The Trial Division has adhered to its protocol to deliver reserved judgments in all but exceptional cases within three months of the conclusion of the hearing.

Criminal Jurisdiction - Brisbane

Organisation of the work

This section deals with work in Brisbane. The position in other centres is dealt with in this report under the relevant court district.

The Hon Justice Mackenzie continued as the Judge responsible for the management of the criminal list in Brisbane during the year under review.

Indictments presented in Brisbane are presented before him on designated presentation days. Then, and at subsequent review hearings, the Criminal List Judge endeavours:

- to identify as soon as possible those cases in which there will likely be a plea of guilty with a view to early finalisation;
- to identify cases where a pre-trial ruling pursuant to s 592A of the Code would be useful;
- to ensure that cases are ready for trial on the allocated dates, and that preparation for trial is undertaken by the parties to ensure the trials will proceed efficiently (especially ensuring that evidence is not unnecessarily called and that maximum use is made of the technology the court has).

More complex criminal cases or groups of cases may be assigned to a designated Judge for management prior to trial, and for trial.

The Criminal List Manager continues to play a vital role in the effective disposition of criminal cases in Brisbane.

The Central, Northern and Far Northern Judges are responsible for the management of criminal jurisdiction work in their own districts. Circuits are monitored from Brisbane and by the Central, Northern and Far Northern Judges where the circuit is in their district.

The point has been made many times now that efficient disposition of criminal matters depends on ensuring that responsible, informed and appropriately authorised prosecution and defence representatives are available to confer and make early realistic decisions whether the matter must proceed to trial (and if so, as to its scope) or whether a plea of guilty will be entered either to the original charge or a lesser charge. The key to this is the appointment of a prosecutor who can become familiar with the case and is able to make decisions about its conduct at an early stage.

The workload

Table 13: Annual caseload – criminal jurisdiction, Brisbane

Number of cases*	1998-99	1999-00	2000-01
At start of year	188	203	185
Commenced during year	591	594	578
Disposed of during year†	571	603	601
Undisposed of at end of year**	205	186	158

* In this and other tables the term 'case' means person on an indictment.
† "Disposed of" includes trial, sentence, *nolle prosequi* and no true bill.
** Figures may not reconcile because of breaches and bench warrants issued and executed.

Table 14: Method of disposal

Type	Number		
	1998-99	1999-00	2000-01
Trial	66	47	43
Plea of guilty	424	460	475
Other*	81	96	83
TOTAL	**571**	**603**	**601**

* "Other" includes *nolle prosequi* and no true bill.

Table 15: Age of cases disposed of – criminal jurisdiction, Brisbane 2000-01

Time from presentation of indictment to disposal	Cases disposed of 1 July 2000 to 30 June 2001			
	Trial (%)	Sentence (%)	Other* (%)	Total (%)
<3 months	25.6	59.6	65.1	57.9
3-6 months	25.6	21.0	15.7	20.6
6-9 months	32.6	9.0	10.8	11.0
9-12 months	9.3	4.5	4.8	4.8
>12 months*	6.9	5.9	3.6	5.7
TOTAL	**100**	**100**	**100**	**100**

* The disposition of cases in this category may be delayed because an offender has absconded, because of outstanding appeals to the Court of Appeal or High Court, the trial of co-offenders, etc.

Table 16: Criminal jurisdiction applications, Brisbane, dealt with in the applications (chambers) jurisdiction

Type of application	Number of applications		
	1998-99	1999-00	2000-01
Proceeds of crime	91	92	88
Compensation to victims of crime	33	32	42
Pre-trial bail	491	481	574
TOTAL	**615**	**605**	**704**

Note: A substantial number of criminal compensation, forfeiture of proceeds of crime and bail are also dealt with by trial Judges but the statistics for those are not available under the Court's current information collection regime.

Criminal Justice Workshop

On 26 February 2001 the court convened a Criminal Justice Workshop designed to focus on identifying ways to improve outcomes in criminal jurisdiction in the Supreme and District Courts. The Workshop, facilitated by Mr Michael Barnes, was attended by Judges from the Supreme and District Courts, the Chief Magistrate, the Director of Public Prosecutions and other officers, Legal Aid Queensland, the Public Defender, representatives of the Police Service and a wide range of private practitioners. As a result a Criminal Justice Standing Committee comprising the Senior Judge Administrator, the Chief Justice District Court, the Chief Magistrate, the Chair of the Criminal Justice Commission, the Director of Public

Prosecutions, the Director Legal Aid Queensland and the Public Defender to develop the issues identified by the workshop. Three workgroups - the Data Audit & Utilisation, Regional and Implementation working groups were formed. The members of those groups which report to the Standing Committee are drawn from the various agencies and the private profession. The work is continuing. The experience demonstrates the difficulty developing and implementing a co-ordinated approach across the criminal justice system notwithstanding the goodwill of the participants.

Benchbook

Before the jury delivers its verdict, the most important task of the Judge who presides at a criminal trial is to sum up the case to the jury. Every summing up is different, being tailored to the circumstances of the case. But many directions are commonly given to juries: for example, those that describe the jury's task, explain the law to be applied, and warn about matters the jury must consider to avoid a perceptible risk of a miscarriage of justice.

The summing-up has to be prepared during trial and is delivered immediately at the conclusion of the addresses of the lawyers. So it must often be prepared in haste, even in complicated cases.

Errors in a summing-up can lead to successful appeals resulting in re-trials. A re-trial always involves additional expense and inconvenience to those involved. And if the re-trial is of a long case, the cost can be very substantial.

It is therefore highly desirable that Judges have available a resource that collects in one convenient place a variety of the numerous directions and warnings that might be required to be given to the jury. Such a benchbook has been under preparation for more than a year.

At first, a committee of Judges of the Supreme Court and the District Court began by collating contributions of many of the Judges of both courts. In the year under review, this work has continued. Two Judges, working in conjunction with two Judges of the District Court, have used several weeks out of court sittings to compose directions and to edit the contributions of the many other Judges who have submitted suggestions.

The benchbook is a resource of such significance that it is intended to make it available through the courts' website to the profession and the public.

Changes to legislation

The introduction of ss 592A, 651 and 652 to the Criminal Code has had a noticeable effect on the way the court disposes of its workload. Twenty-one applications under s 592A have been listed for hearing in the court. Some of these applications have resulted in pleas of guilty without the necessity of commencing trial proceedings involving a jury. Consequently considerable time, expense and resources have been saved.

The Supreme Court deals with many summary offences under s 651 when dealing with indictable offences. This allows the Court to dispose of all related offences that a person was committed on in a succinct manner. Time is saved by Magistrates and legal practitioners appearing in the matters.

Results and court records of related offences are recorded and disseminated in an orderly manner. Compliance with s 652 by external agencies still causes problems for criminal registry staff.

One of the biggest changes to the way criminal matters are heard is the discontinuance of the concept of criminal sittings. Since late last year Magistrates have ceased committing defendants to a particular sittings of a higher court and instead commit them to a higher court to appear when notified in writing by the Director of Public Prosecutions.

The Director of Public Prosecutions is required by the Criminal Code to present an indictment within 6 months of the date of committal. Several further legislative changes will be necessary to give full effect to the concept. Notably it is envisaged that the *Bail Act* will be amended so that when a person is granted bail, that bail will continue until the charge/s are finalised without the need to have it enlarged. This will lead to reduced paper work for court registries and less confusion about a defendant's custody status. The latter should assist the Corrective Services Department and the many correctional centres in determining whether a person should be in custody or on bail.

Practice Directions

Practice Direction 12 of 1999 was introduced to ensure that pleas of guilty were communicated to the court in a timely manner to avoid wasting the time set aside for lengthy trials. Recently the Senior Judge Administrator has embellished the thrust of that Practice Direction by placing on the courts' website notification of the court's response to practitioners who fail to comply with the Direction. This involves the offending practitioner having to file an affidavit to explain the non-compliance. Further compliance will then be monitored by the criminal registry.

Practice Direction 1 of 2001 was issued to ensure that summary offences to be dealt with by the Supreme Court were transmitted in accordance with s 652 of the Criminal Code and were received in a timely manner.

The Director of Public Prosecutions has issued a directive to all Crown Prosecutors that except in unusual circumstances the Crown will not consent, as is required by s 651, to the court dealing with summary offences that are not directly related to the indictable offences currently being dealt with by the court.

Civil Jurisdiction - Brisbane

This section deals with the work in Brisbane. Other centres are dealt with elsewhere in this report under the relevant district.

Organisation of the work

The cases in the civil jurisdiction are governed by the *Uniform Civil Procedure Rules* 1999.

Practice Direction 4 of 2000 Setting Trial Dates – Civil Jurisdiction Brisbane was published on 22 August 2000 and Practice Direction 6 of 2000 Supervised Case List on 22 September 2000. These practice directions are to be found on the Courts' website (www.courts.qld.gov.au).

The practice directions deal comprehensively with the organisation of the work in the civil jurisdiction in Brisbane. They replace a number of earlier practice directions and reflect:

- changes in practice and procedure consequent on the *Uniform Civil Procedure Rules* 1999 and experience the operation of those rules;
- the expanding roles of the Civil List and Supervised Case List Managers;
- the increasing use of electronic communications in the conduct of the court's business.

During the year notifications were published on the courts' website (www.courts.qld.gov.au) to draw attention to matters of concern and notify the profession how the court propose to deal with them. One published on 29 March 2001 addressed concerns about applications to vacate hearing dates because matters which had been certified or represented as ready for trial but were not. Another published on 14 August 2000 dealt with concerns about failures to comply with directions given in supervised cases.

The workload

Table 17: Initiating documents in contested matters, Brisbane

Types of document	1998-99	1999-00	2000-01
Claims	3,297	1,825	2,098
Originating applications	2,658	3,200	3,388
TOTAL	**5,955**	**5,025**	**5,486**

Note: Under the *Uniform Civil Procedure Rules*, actions previously commenced by issuing a writ are commenced by filing a claim.

Table 18: Annual caseload* - civil jurisdiction, Brisbane

Applications for trial dates	1998-99	1999-00	2000-01
At start of year	147	143	83
Application for trial date	295	291	242
Disposed of during year	299	352	269
At end of year	143	83	56

* Matters dealt with in the applications (chambers) jurisdiction are not included.

Table 19: Method of disposal of cases* - civil jurisdiction, Brisbane

Method of disposal	1998-99	1999-00	2000-01
Judgment	90	109	79
Settled	180	166	119
Vacated	35	11	28
Discontinued	29	11	6
Other	4	54	26
TOTAL	**338**	**351**	**258**

* Includes matters placed on the civil list without a request for trial date being filed.

Table 20: Percentage of cases disposed of within 12 months of application for trial date – civil jurisdiction, Brisbane

1998-99	1999-00	2000-01
81%	92%	94.8%

Table 21: Cases awaiting hearing – civil jurisdiction, Brisbane

Number of cases and days sought	At end 1998-99	At end 1999-00	At end 2000-01
Number of cases	143	83	56
Number of cases seeking more than five days	30	19	20
Total days sought	480	279	274
Average days sought per case	3.34	3.36	4.89

Cases in which a request for trial date has been filed are usually allocated trial dates at a callover.

Table 22: Callover outcomes

At callover	1998-99	1999-00	2000-01
Cases taking up available dates at first callover after application for trial date	58%	53%	56%
Cases where no appearances for plaintiff at callover	3%	2%	7%
Cases where no appearances for defendant	2%	4%	8%
Cases adjourned to next callover	15%	26%	25%

Post-callover	1998-99	1999-00	2000-01
Cases set down at callover then settled	65%	53%	51%
Cases set down then date vacated because parties not in a position to proceed	9%	11%	12%
Cases adjourned because no judge available	6%	2%	3%
Cases taking available dates at first callover which proceed to trial	20%	36%	34%

Practice Direction 4 of 2000 provides that cases may also be allocated trial dates electronically or directly through the appropriate list manager. Figures for those modes of obtaining trial dates are not available.

Supervised Case List

Cases placed on the list continued to be managed in accordance with Practice Direction 6 of 2000 to effect just and timely resolution with the minimum necessary commitment of resources by the court and litigants. Longer or more demanding cases are subjected to a higher degree of supervision.

Cases are placed on the list on the application of a party, made through the Supervised Case List Manager, or as a consequence of a more than five day trial estimate, or by a Judge who identifies the case as one which should be listed.

Cases are usually listed when:

- there is an estimated hearing time in excess of five days;
- a case (or a group of cases) is identified as imposing a greater than normal demand on resources because of such considerations as the likely length of the hearing, multiplicity of parties, complexity of issues, extent of documents involved or heavy reliance on expert evidence.

The Senior Judge Administrator is responsible for the management of the list with the indispensable assistance of the Supervised Case List Manager. The Manager facilitates the development by practitioners of a dispute resolution plan, provides a channel of communication with the Senior Judge Administrator or the Judge responsible for the management of the particular case, and to other course officers who can assist the progress of the case.

During the year 42 cases (including groups made up of from 3 to 30 individual cases) were referred to a designated judge for management or management and trial.

Table 23: Supervised Case List activity

Number of cases	1998-99	1999-00	2000-01
At start of year:	165	78	104
• Single supervised cases	78	72	77
• Group supervised cases	87	6	27
Listed during year:	212	79	87
• Identified more than five days sought for hearing or complex	124	5	21
• Pursuant to direction of a judge	17	25	32
• Pursuant to practitioner request	71	49	34
Reviewed:	213	299	353
Disposed of during year:	154	69	59
Tried to judgment:	14	16	12
• after an unsuccessful case appraisal	1	-	-
• after an unsuccessful mediation	11	7	4
Disposed of without trial:	N/A	53	47
• settled at mediation, mediator's certificate filed	5	9	8
• mediation ordered but settled before mediation conducted	5	2	1
• case appraised and case appraiser's certificate filed	1	-	-
• case appraisal ordered, no case appraiser's certificate filed otherwise/discontinued	58	-	-
• taken off the supervised case list because of eg inactivity, insolvency, bankruptcy	5	5	11
• actions remitted to the District Court	1	-	-
• set down for trial but settled before trial started	43	3	12
• settled after an unsuccessful mediation but before trial dated allocated	11	6	2
• settled at trial	3	8	4
• settled where no ADR process ordered	2	16	9
• unsuccessful case appraisal, allocated trial dates but settled before trial commenced	1	1	-
• unsuccessful mediation, allocated trial dates but settled before trial commenced	2	3	-
Cases on Supervised Case List as at 30 June:	78	112	131
• single supervised cases	72	80	92
• group supervised cases	6	32	39

Applications Jurisdiction

Proceedings commenced by originating application or applications in matters already before the court (interlocutory applications) are returnable in the applications court in the first instance. A return date is nearly always available within a week or two of filing. The case is disposed of by an applications judge on the first return, adjourned for disposition at a later date or placed on the callover list. The latter applies to cases too long or complex to be disposed of in the applications court. The great majority of cases are disposed of on the first return date.

The Applications List Manager complements the work of the Civil List Manager and Supervised Case List Manager in facilitating the administration of the civil jurisdiction in Brisbane.

Table 24: Applications jurisdiction workload

Matter	1998-99	1999-00	2000-01
Originating applications	2,645	3,118	3,144
Interlocutory applications	2,661	2,670	2,246
TOTAL	**5,306**	**5,788**	**5,390**

Decision on papers without an oral hearing

One of the initiatives introduced by the *Uniform Civil Procedure Rules* provides for a Judge to make a decision on the papers without the need for oral hearing; rr 487-498. An application must be accompanied by the necessary supporting evidence, written submissions and a draft order. The Rules provide for service on other parties, for a response, and for a respondent to require an oral hearing. The process offers the potential of considerable savings in costs and the take up though increasingly used has not yet met expectations.

Table 25: Decision on papers without an oral hearing

Outcome	1998-99	1999-00	2000-01
Applications filed	N/A	46	61
Orders made on the papers	N/A	28	39
Oral hearing required	N/A	N/A	5

Mediation and case appraisal

The *Uniform Civil Procedure Rules* provide for mediation and case appraisal.

Mediation is the facilitation of an agreed resolution of a dispute with the assistance of an independent third party.

Case appraisal is a process in which an experienced lawyer forms a sound opinion of the likely outcome of proceedings. If a party does not accept a case appraiser's opinion, that party may elect to proceed to trial.

Approval of court approved mediators and case appraisers is the responsibility of the Senior Judge Administrator in consultation with the Chief Justice.

The registries have available, free of charge, lists of approved mediators and case appraisers that give details of fees, experience and areas of interest. These lists are also available on the courts' website. As at 30 June 2001, there are 231 approved mediators and 154 approved case appraisers.

Table 26: Approval of case appraisers, mediators and venue providers

Type	1998-99	1999-00	2000-01
Case appraisers	14	8	13
Mediators	21	23	24
Venue providers	N/A	N/A*	N/A

* Amended figure.

The court continues to exercise its power to refer proceedings to either mediation or case appraisal to facilitate an expeditious, potentially less traumatic and relatively cheap resolution short of trial. The court's involvement has diminished largely because insurers and efficient practitioners consider the use of these processes and undertake them in appropriate cases without the need for intervention by the court. There is reason to believe that many cases are successfully informally mediated without an order being made but it is impossible to say how many.

Unresolved interlocutory issues are frequently advanced as a reason for mediation not being embarked on at an early stage. Experience shows that frequently pursuit of these issues about pleadings, particulars and disclosure for example, before mediation, has the outcome that the parties (or their legal advisers) become entrenched in adversarial positions and the costs of interlocutory issues become an impediment to a consensual resolution.

The court deals with this in appropriate cases by the referring order providing that interlocutory disputes are to be referred to the mediator before any application is referred to the court. The mediator can resolve the dispute or determine whether it constitutes an impediment to the mediation proceeding. If it is necessary to resolve the dispute, clauses providing for a streamlined procedure based on rr 442-448 of the *Uniform Civil Procedure Rules* which deal with the exchange of correspondence instead of affidavit evidence are provided.

As indicated in last year's report, cases having outstanding mediation or case appraisal were previously removed from the callover list resulting in delay and lost opportunities to take up earlier trial dates. The practice of allocating hearing dates to cases irrespective of whether or not mediation or case appraisal has been completed has continued in the year under review thereby speeding up the ADR process as well as providing an earlier trial date (if it is necessary).

In almost all cases the identity of the mediator or case appraiser is agreed between the parties.

The Hon Justice Byrne was again the judge responsible for the management and monitoring of progress of these matters during the year under review.

Table 27: Consent orders to ADR by the parties

Consent order to ADR (by parties)	1998-99	1999-00	2000-01
After notice of intention to refer	54	16	16
Without notice	170*	211	243
TOTAL	**224**	**227**	**259**

* Amended figure.

Table 28: Notice of intention to refer to appraisal or mediation

Notices and outcome	1998-99	1999-00	2000-01
Notice	79	43	37
Objections	12	5	7
Matters reviewed after objection	2	2	2

Note: As these figures show more often than not the notice of objections satisfies the court that there should not be a referral.

Table 29: Case appraisal orders

Appraisal orders made	1998-99	1999-00	2000-01
Orders referring to case appraisal:			
• consent	23	13	5
• not consent	21	16	6
TOTAL	**44**	**29**	**11**

Table 30: Case appraisal outcomes

Outcome	1998-99	1999-00	2000-01
Case appraisal certificates	46	24	9
Case appraisal election to proceed to trial	9	3	1
Outcome of election to proceed to trial:			
• worse	1	2	0
• better	0	0	0
Settled after election but before judgment	2	2	1
Remitted to District Court	1	0	0

Table 31: Mediation orders

Type of order	1998-99	1999-00	2000-01
Orders referring to mediation:			
• consent	198	214	253
• not consent	106	81	74
TOTAL	**304**	**295**	**327**

Table 32: Mediation outcomes

Outcome	1998-99	1999-00	2000-01
Certified as settled	142	184	207
Certified as not settled	137	96	93

Cross-vesting scheme

The jurisdiction of *Courts (Cross-vesting) Act* 1987 continues to allow certain courts to transfer proceedings to other courts.

This cross-vesting jurisdiction between the courts does not detract from the existing jurisdiction of any court.

Table 33: Number of cases cross-vested from Federal and State Supreme Courts

To Supreme Court of Queensland			From Supreme Court of Queensland		
1998-99	1999-00	2000-01	1998-99	1999-00	2000-01
11	**6**	**4**	**10**	**7**	**2**

Funds in court

As at the end of the year, there were 43 accounts relating to Supreme Court matters credited to the Court Suitors Fund Account Brisbane, totalling $6,864,854.38.

Regulation 30 (1) of the *Court Funds Regulation* 1999 requires that a list be made of accounts which have not been dealt with during the previous six years other than under continuous investment or by payment of interest. Three accounts in that category were advertised, and as a result of no action being taken to recover the monies, the Registrar was ordered by the court to transfer the sum of $28,111.04 to the Consolidated Revenue Fund.

Judicial Review Act

The *Judicial Review Act* 1991 provides, broadly speaking, for review by the court of certain administrative decisions on a specific basis. These include directions orders.

Table 34: Judicial Review Act

Type of matter and result	1998-99	1999-00	2000-01
Applications*	102	94	117
Orders made	135	149	185
Referred to Civil List	11	23	8

* Matters not referred to the civil list are disposed of by the chamber judge.

Unrepresented litigants

Section 209 of the *Supreme Court Act* 1995 permits, in all matters and proceedings, the appearance of a litigant in person or by a barrister or solicitor or by any person allowed special leave of the Judge. The traditional position of parties appearing before the court by barristers and solicitors is gradually changing as more and more parties are opting to file, prepare and argue their own cases before the court.

This is not only happening in Queensland but in most jurisdictions within the country. The number of persons who choose this course of action is on the increase. Approximately 10.5% of all parties involved in the year's filings were unrepresented, however some were associated with non-contentious matters. This places additional burden on the court and its resources and, in particular, registry staff.

The challenge facing the courts today is how to deal with this growing situation in order to best serve the public and ensure equal access to justice. Improvement of access to the courts has been achieved through the implementation of the *Uniform Civil Procedure Rules* in 1999. The implementation and drafting of relatively simple forms and their wide accessibility has improved access for unrepresented litigants. However, registry staff are experiencing additional burdens and to deal with unrepresented litigants at the registry takes longer time as staff need to explain court procedures to those persons.

Registry staff have a need and a duty to explain court registry processes but there is a fine line between the giving of assistance and the giving of legal advice. Persons acting for themselves at times find the distinction difficult to comprehend and this can result in stressful situations arising between the litigant and registry staff who are called upon to deal with registry issues at the counters. Increasingly, the demand for non-simple matters involving unrepresented litigants have to be referred to Deputy Registrars. To assist unrepresented litigants the registry including the Court of Appeal registry, have produced fact sheets and brochures available to inform litigants acting for themselves how to deal with some particular issues. These fact sheets and brochures are available from the registry and are also accessible on the courts' website (www.courts.qld.gov.au). A one month survey undertaken by the registry showed 280 unrepresented clients had contact with registry staff about a variety of matters.

In some case, inappropriate behavior occurs and is directed towards court staff. This caused the Registrar to have prepared a guide for registry staff in dealing with unrepresented litigants. However, the situation is one which cannot be adequately addressed by the registry alone.

> *"What is needed is to develop a better understanding of the nature and extent of the problem which should then be addressed by a co-operative approach involving the courts, the justice department, the legal profession and the government".* [5]

During the year, a number of matters were referred to a Judge by the Registrar. As a result of the referral, the Registrar was directed not to receive the documents for filing due to the frivolous or vexatious nature of them.

Currently there are seven persons declared vexatious litigants pursuant to the *Vexatious Litigants Act* 1981.

Listening devices

Various statutory enactments eg *Criminal Justice Act* 1989 provide for an application to be made to a Judge of the Supreme Court to enable law enforcement agencies to install and monitor surveillance devices to assist in the resolution of criminal activity.

Orders to install and monitor such devices are regularly sought by the Criminal Justice Commission, Crime Commission and the police to assist in their investigations.

The statutory enactments under which the orders are sought contain provisions prohibiting the publication of information about the names of persons, the order and other matters and impose penalties where the provisions are breached.

In the year under review, 74 applications for orders for surveillance devices were made to Judges in Brisbane under the various legislative enactments.

Registrar's Court Jurisdiction

Corporations law

Registrars (the term includes Deputy Registrars) have the power to hear various contested and uncontested applications under the Corporations Law since 1993. The Chief Justice is authorised to allocate the power to hear applications in addition to those specified in the Schedule.

By Subordinate Legislation No 232 of 2000 made by the Governor in Council 7 September 2000, the *Corporations (Queensland) Rules* 1993 were repealed and replaced with the *Corporations Law Rules*.

The *Corporations Law Rules* 2000 are the result of a national committee set up to achieve consistency of practice throughout Australia and are intended to apply in harmony with similar rules in the Federal and other Australian Courts.

Matters that may be dealt with include applications for:

- winding up of companies;
- appointment of provisional liquidators;
- substitution of applicants/creditors;
- remuneration of office holders;

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5 "The unrepresented litigant" 16th Annual conference of the Australian Institute of Judicial Administration - 1992

- issuing of summonses to persons for their examination in relation to the affairs of a company;
- giving leave to bring proceedings against companies in liquidation;
- reinstatement of companies;
- the inspection of books of a company by creditors or contributories.

As in previous years the majority of matters heard by a Registrar were the winding up of companies (generally in insolvency).

Table 35: Corporations law applications heard by a Registrar and results – Brisbane

Result of application	1998-99	1999-00	2000-01
Order	764	575	573
Adjourned	785	593	563
Dismissed	342	211	262
Referred to judge	61	89	48
TOTAL	**1,952**	**1,468**	**1,446**

Judgment by default

The *Uniform Civil Procedure Rules*, notably rr 283, 284, 285 and 286 increased both the range of situations in which a Registrar may enter judgment by default and a Registrar's powers to do so. A default judgment is no longer simply an administrative act.

Table 36: Judgment by default

	1998-99	1999-00	2000-01
Applications	467	536	568
Judgments entered	328	362	398

Consent orders

Rule 666 of the *Uniform Civil Procedure Rules* allows the Registrar (including Deputy Registrars) to give judgment or make another order if the parties consent in writing and the Registrar considers it appropriate. The court encourages practitioners and parties to utilise this rule where agreement has being reached between them as to the resolution of an issue or issues. Practice Direction 3 of 2001 was introduced to support this.

Table 37: Consents under Rule 666 dealt with by the Registrar for 2000-01

Number of Applications Considered	Orders Made	Refused
200	175	25

The advantages of a Registrar having jurisdiction to deal with these categories include:

- judges are freed to deal with more complex applications more expeditiously;
- cost savings to litigants;

- greater use of the court staff skills and experience.

Amendments to the *Property Law Act* 1974 allow for an order to be made in the Supreme Court about de facto arrangements and agreements. Where the parties agree to the terms of an order to be made, the option is open to the parties to file a consent under r 666 to permit a Registrar to make an order. In the period under review only three orders were made.

Legal practitioners

Admissions

During the year, eight admission ceremonies were conducted in Brisbane all presided over by the Chief Justice. In total 747 applicants were admitted by the court to the rolls as either barristers or solicitors.

The admissions ceremony conducted on 29 January 2001, heard applications for 181 solicitors, which was the largest contingent of solicitors in the last 10 years to be admitted on the one day. Of the 181 applicants admitted that day, 109 were female applicants.

Most applicants for admission obtain the certificate of the admissions boards and their applications proceed unhindered. In a small number of cases the board opposes the applications or gives qualified certificates which take up the time of the court in determining the application. The court acknowledges the valuable work done by the members and staff of the Barristers' and Solicitors' Admission Boards to assist the court in the consideration of applications for admission.

The Chief Justice offers the court's congratulations to the new admittees and addresses those gathered to watch the occasion. The Chief Justice's speech is then published on the courts' website within 24 hours (www.courts.qld.gov.au).

Admissions ceremonies are also conducted in Rockhampton, Townsville and Cairns for applicants who hold clear certificates. The Chief Justice presided over an admission ceremony in Townsville in June.

Mutual Recognition

In addition to the admissions granted by the court, the Registrar in Brisbane is empowered under the guidelines issued by the Judges for the *Mutual Recognition (Qld) Act* 1992 and the *Trans-Tasman Mutual Recognition (Qld) Act* 1999 to admit barristers and solicitors registered in other Australian jurisdictions and New Zealand.

Those Acts provide for the recognition of uniform standards in occupations and callings in all Australian States, Territories and New Zealand. The Acts have particular application for legal practitioners as barristers and solicitors registered in other Australian jurisdictions and New Zealand are eligible to practice in Queensland with a simplified process for registration in the State. Two hundred and fifty-eight applications under mutual recognition were dealt with by the Registrar this year.

Table 38: Admissions

Admission as barristers	1998-99	1999-00	2000-01
• Under the *Queensland Admission Rules*	69	96	70
• Under the *Mutual Recognition Act*	77	74	63
• Under the *Trans-Tasman Mutual Recognition Act*	0	0	2

Admission as solicitors	1998-99	1999-00	2000-01
• under the *Queensland Admission Rules*	371	371	419
• under the *Mutual Recognition Act*	179	253	179
• under the *Trans-Tasman Mutual Recognition Act*	1	13	14

As part of the reciprocal arrangements with Chief Justices of all Australian courts, the Registrar administers oaths and affirmations to Queensland practitioners admitted or to be admitted by other Australian jurisdictions. Approximately 185 oaths or affirmations were taken or made before the Registrar in Brisbane during the year.

Non-contentious estate matters

Probate and letters of administration applications have increased by 6.29% during the year. Recent changes in staff resources and registry practices has seen the turnaround time for processing applications greatly improved upon.

The number of applications for grants that are processed requisition free is 87% of total lodgments.

Table 39: Probate workload

New processes lodged	1998-99	1999-00	2000-01
Letters of administration and letters of administration with the will	310	351	345
Probate	2,547	2,671	3,855
Reseals	92	91	109
Elections	168	128	184
Orders to administer	402	403	443
TOTAL	**3,519**	**3,644**	**4,936**

During the year under review, a survey of practitioners across the State was conducted evaluating the registries' probate service at the four centres. The survey showed a high level of satisfaction with the overall service with 90% of respondents rating it as good or excellent. To address the findings of the survey in relation to the unsatisfactory (5.1%) result for turnaround time for the granting of grants in the Brisbane registry, a speedier process for the preparation of engrossments has turned this figure around. In the main, and

for applications which are requisition free, a turnaround time of four working days for 100% of applications was achieved. Similarly, in relation to the survey results of 5.1% of respondents who said they rarely considered requisitions were understandable or comprehensive, the Registrar caused to be drawn up and placed on the courts' website, a list of the most common requisitions issued in estate applications together with information on or about how to address those requisitions www.courts.qld.gov.au/publications/infosheets/estates). Results of the findings of the survey and comparisons for 1998, are in appendix 4.

Assessment of costs

The Costs Assessment Section located in the Brisbane registry of the Supreme Court, is presently comprised of two full-time Assessing Registrars, the Senior Deputy Registrar (Assessments) and the Deputy Registrar (Assessments). Both are responsible for the assessment of all costs statements filed in the Brisbane registry, all Court of Appeal matters and matters transferred by order from other registries for costs assessment. The Deputy Registrar (Assessments) is also responsible in the first instance for assessing all costs statements filed in the District Court at Brisbane.

The role of the Assessing Registrar is a judicial one. Historically, a Judge of the court performed the function of assessing costs. The current occupants of the positions of Senior Deputy Registrar (Assessments) (R Houghton) and Deputy Registrar (Assessments) (C Figg) are both qualified solicitors of longer than five years standing. The duties of Assessing Registrar include conducting assessment hearings, making directions about the conduct of the assessment process, and delivering written reasons for decisions made at the assessment hearing, if a party makes an application to the Registrar for a reconsideration.

Written responses to applications for reconsideration filed after an assessment hearing has occurred can often be a time consuming process for the Assessing Registrar. Every endeavour is made by the Assessing Registrars to provide a written reply to applications for reconsideration within a three month period after the application has been filed. This is consistent with the current protocol adopted by the Judges of the Supreme Court.

Table 40:

	1998-99	1999-00	2000-01
Reserved as at 1 July	N/A+	4	5
Number of applications for reconsideration filed	N/A	15	15
Disposed of < 3 months	N/A	10	9
Disposed of > 3 months	N/A	0	0
Otherwise disposed of*	N/A	0	2
Outstanding as at 30 June	4	5	4

* eg settled or withdrawn.
\+ not available.

Prior to proceeding to assessment hearing, each costs statement filed is allocated a directions hearing appointment before an Assessing Registrar. The purpose of this appointment is principally to ensure the costs statement can be allocated an assessment hearing date.

Table 41 below identifies how costs statements are disposed of upon directions hearing appointments.

Table 41: Assessment directions hearings

Type of case	1998-99	1999-00	2000-01
Settled	81	76	37
Adjourned	131	68	67
Default allowance	95	84	58
Assessment date given	320	249	241
TOTAL	**624**	**477**	**403**

Table 42 represents the disposal of costs statements after the directions hearing appointment has occurred, and an assessment hearing date has been allocated.

Table 42: Result of cases set for assessment

Result of case	1998-99	1999-00	2000-01
Adjourned	41	15	29
Settled	170	104	95
Assessed	173	120	74
TOTAL	**384**	**239**	**198**

Central District

The Central Judge, the Hon Justice Dutney exercises responsibility for the work of the court in Rockhampton and in the circuit courts at Mackay, Bundaberg and Longreach.

In Rockhampton a total of 60 criminal matters were disposed of in eight weeks gazetted sittings, all but one by way of pleas of guilty. Because of the change in the district boundary in the south referred to in last year's report the volume of criminal work in Rockhampton has decreased and the volume of work in Bundaberg increased. This has resulted in some inconvenience and delay. The area affected is that around Agnes Waters from which a significant percentage of the Bundaberg criminal work is generated. This would be more expeditiously disposed of in Rockhampton rather than in a circuit court and consideration should be given to restoring the old boundary.

In Rockhampton all but one criminal matter were disposed of at the sittings to which the accused was committed. The exception has been outstanding for some time as a result of a trial on another charge and subsequent appeal. It is expected to be disposed of in the second half of the year.

The number of civil cases in Rockhampton has remained steady with cases usually being listed and disposed of at the next civil sittings after a request for trial dates has been filed.

All criminal and civil sittings in Rockhampton were presided over by Justice Dutney.

Justice Dutney sat for a total of eight weeks in Mackay during the year. In addition, the Hon Justice Cullinane sat for four weeks and the Hon Justice Jones for two weeks. The bulk of the court's time in Mackay is occupied with civil work. There has been a decline in

the number of cases being tried to judgment and all cases requesting trial dates were able to be accommodated.

Justice Dutney sat for one week in Bundaberg during the year and the Hon Mr Justice Muir sat for one week. There is currently some delay in having criminal trials heard which will be addressed in the coming year.

Justice Dutney sat in Longreach for three days to hear a civil trial. This was the first civil trial in Longreach for some years. There were no criminal matters for hearing in Longreach during the year.

In total, the Central Judge sat in all jurisdictions and locations for a total of 40 weeks including three weeks in Brisbane and two weeks in Cairns.

Caseloads for all courts under the supervision of the Central District are shown in the following tables:

Table 43: Rockhampton criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	3	5	4
Commenced during year	72	60	59
Disposed of during year	70	61	60
Undisposed of at end of year	5	4	3

Table 44: Rockhampton civil

Number of cases	1998-99	1999-00	2000-01
At start of year	61	22	8
Entered during year	47	43	39
Disposed of during year	86	57	41
At end of year	22	8	6

Table 45: Mackay criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	1	5	1
Commenced during year	12	26	20
Disposed of during year	11	30	21
Undisposed of at end of year	2	1	0

Table 46: Mackay civil

Number of cases	1998-99	1999-00	2000-01
At start of year	28	31	10
Entered during year	91	57	34
Disposed of during year	88	78	40
At end of year	31	10	4

Table 47: Bundaberg criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	12	0	7
Commenced during year	12	37	63
Disposed of during year	24	30	45
Undisposed of at end of year	0	7	25

Table 48: Bundaberg civil

Number of cases	1998-99	1999-00	2000-01
At start of year	3	4	0
Entered during year	5	2	0
Disposed of during year	4	6	0
At end of year	4	0	0

Table 49: Longreach criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	2	1	0
Commenced during year	0	0	0
Disposed of during year	1	1	0
Undisposed of at end of year	1	0	0

Table 50: Longreach civil

Number of cases	1998-99	1999-00	2000-01
At start of year	0	0	1
Entered during year	0	1	0
Disposed of during year	0	0	1
At end of year	0	1	0

Northern District

The Northern Judge, the Hon Justice Cullinane, sat in Townsville in civil jurisdiction for 11 weeks, criminal jurisdiction for 19 weeks, Mackay on two occasions totalling four weeks, the Court of Appeal, Brisbane for three weeks and the Court of Appeal's inaugural sittings in Cairns for one week.

Criminal cases awaiting hearing have decreased since last year. With a recent three week retrial disposed of and another lengthy retrial shortly to be heard, the trend is expected to continue.

Although there was an increase in civil cases awaiting hearing, three include applications for extension of the limitation period. Generally the list remains up to date with almost all cases being offered a hearing date at each sittings.

Table 51: Townsville criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	15	9	13
Presented for trial during year	59	56	68
Disposed of during year	65	54	73
At end of year	9	13	8

Table 52: Townsville civil

Number of cases	1998-99	1999-00	2000-01
At start of year	33	22	8
Entered for trial during year	61	25	42
Disposed of during year	72	39	34
Tried	7	7	6
At end of year	22	8	16

Far Northern District

The workload in the Far Northern District continues to increase. Whilst the actual number of cases disposed of is less than the previous years, the contested matters have taken more of the court's time. The applications list also has required increased allocation of time throughout the year, particularly outside the 20 days gazetted.

The Far Northern Judge, the Hon Justice Jones, received assistance throughout the year with visits from the Chief Justice, Justices Cullinane, Douglas and Dutney, whose combined sitting time exceeded seven weeks. To facilitate better administration of judicial time it is proposed that the provision of additional Judge time in Cairns be gazetted in the court calendar in future years.

The highlight of the year was the first ever sitting of the Court of Appeal in Cairns. This visit was enthusiastically received by members of the profession and the community at large. The timing of the sittings unfortunately coincided with university examinations which prevented law students from taking full advantage of the visit. Steps will be taken to ensure that no such clash occurs in any future sittings.

Interaction between the court and the law students at the Cairns campus of James Cook University continues through the students' use of the library facilities. Contact was further enhanced by the appointment of Stuart Kaye as the first Professor of Law in Cairns. Professor Kaye is admitted to the Bar in Queensland.

The court premises have been used for a workshop conducted by the Australian Advocacy Institute and for various Continuing Legal Education seminars.

The sitting time for the Far Northern Judge, the Hon Justice Jones, has been spent in Cairns (29 weeks), Brisbane (three weeks), Mackay (two weeks) and Mount Isa (two weeks) with six weeks allowed for judgment writing.

Table 53: Cairns criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	55	55	47
Presented for trial during year	165	137	141
Disposed of during year	159	143	128
At end of year	61	47	60

Table 54: Cairns civil

Number of cases	1998-99	1999-00	2000-01
At start of year	10	16	14
Entered for trial during year	49	60	40
Disposed of during year	43	62	38
At end of year	16	14	16

Table 55: Mount Isa criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	8	0	0
Presented for trial during year	7	10	4
Disposed of during year	14	10	4
At end of year	1	0	0

Table 56: Mount Isa civil

Number of cases	1998-99	1999-00	2000-01
At start of year	12	3	3
Entered for trial during year	6	4	1
Disposed of during year	15	4	4
At end of year	3	3	0

Southern District Centres

The Brisbane based Judges serviced the Southern District centres.

Table 57: Toowoomba criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	0	5	3
Presented for trial during year	16	23	15
Disposed of during year	11	26	14
At end of year	5	3	4

Table 58: Toowoomba civil

Number of cases	1998-99	1999-00	2000-01
At start of year	3	0	9
Entered for trial during year	20	12	5
Disposed of during year	23	3	13
At end of year	0	9	1

Table 59: Roma criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	0	1	0
Presented for trial during year	2	4	3
Disposed of during year	1	4	3
At end of year	1	0	0

Table 60: Roma civil

Number of cases	1998-99	1999-00	2000-01
At start of year	0	0	0
Entered for trial during year	0	1	0
Disposed of during year	0	1	0
At end of year	0	0	0

Table 61: Maryborough criminal

Number of cases	1998-99	1999-00	2000-01
At start of year	0	0	4
Presented for trial during year	18	30	6
Disposed of during year	18	26	10
At end of year	0	4	0

Table 62: Maryborough civil

Number of cases	1998-99	1999-00	2000-01
At start of year	3	3	2
Entered for trial during year	11	9	4
Disposed of during year	11	10	6
At end of year	3	2	0

Tribunals

Mental Health Tribunal

The Tribunal is constituted under the *Mental Health Act* 1974 and is given three important functions:

- it removes from the criminal justice system, at an early stage, persons accused of committing criminal offences who were, at the time, of unsound mind (as defined by s 7 of the *Criminal Code*). Considerable court time and resources are thereby saved. As well there is a saving in time and costs to the prosecuting authorities and to those who fund criminal defence;
- its second function is to return persons in need of specialist psychiatric treatment and support to the mental health system where they can obtain that care, with obvious community benefit;
- it returns to the criminal justice system those who were not of unsound mind but about whose mental state there was initial doubt.

It may be noted that the Tribunal is unique to Queensland. In its absence persons of unsound mind who commit criminal offences because of their condition are obliged to defend the charge on that ground in the ordinary courts of law. This adds complexity and uncertainty to trials and adds to their length and cost. Often, one suspects, such persons charged with less serious offences simply plead guilty; are punished but receive no treatment.

Accordingly, when a reference is made to the Tribunal in respect of an alleged offender, the Tribunal:

- determines whether the offender (who is designated for the purpose of the proceedings a "patient") was of unsound mind at the time the alleged offence was committed;
- determines whether a patient who is charged with murder and is not found to be of unsound mind was suffering from diminished responsibility as defined by s 304A of the *Criminal Code* at the time of the offence;
- decides whether a patient is fit for trial.

As well, the Tribunal has jurisdiction to hear appeals from decisions of Patient Review Tribunals and to determine applications to remove patients regulated by the *Mental Health Act* out of the State. However, most of the Tribunal's work is concerned with a patient's sanity at the time he or she is alleged to have committed an offence.

The Tribunal consists of a Judge of the Supreme Court (the Hon Mr Justice Chesterman was appointed to constitute the Tribunal in June 1998) who is assisted by two psychiatrists. The psychiatrists do not constitute part of the Tribunal. Their function is to assist the Judge constituting the Tribunal in his understanding of the effect and meaning of technical psychiatric evidence especially where there are contradictory conclusions by experts. The assisting psychiatrists for this period were Dr A Dodds, MB ChB (Glasgow), FRACP, DPM, FRANZCP and Dr JF Wood, MB ChB (Aberdeen), DMP (Lond), MRCP, FRANZCP.

The Tribunal is vested with the powers conferred by the *Commissions of Inquiries Act* 1950. Its proceedings are deemed to be judicial and are conducted publicly. Both adversarial and inquisitorial procedures are combined in the hearings conducted by the

Tribunal. The patient, the Director of Prosecutions and the Director of Mental Health may each refer questions of unsoundness of mind to the Tribunal, and are represented at its hearings. Most expert evidence is obtained at the instigation of the Tribunal so that witnesses are seen to be free of partisan interest. The parties have the opportunity to consider the experts' reports well in advance of hearings and to discuss them with the witnesses. This facilitates the expedition of the hearings.

During the year 2000-01 the Tribunal dealt with 243 matters. The following table shows the breakdown:

Table 63: Matters dealt with by the Mental Health Tribunal

	1998-99	1999-00	2000-01
References:			
• Director of Mental Health	147	159	163
• Director of Public Prosecutions	1	4	7
• Patient or legal adviser	67	67	60
• Courts of law	1	2	1
Appeals against the Patient Review Tribunals	10	6	3
Section 45 application for removal of patient from Queensland to:			
• Australian Capital Territory	7	-	-
• Victoria	2	1	1
• New Zealand	1	1	-
• South Australia	-	2	1
• Tasmania	-	1	-
• Sweden	-	1	-
• New South Wales	-	-	6
• Europe	-	-	1
Section 70 application for order to visit and examine patient	-	-	-
TOTAL	**236**	**244**	**243**

The result of matters dealt with are shown in the following table:

Table 64: Results of matters dealt with by the Mental Health Tribunal

Findings of the Mental Health Tribunal	1998-99	1999-00	2000-01
References:			
• Unsoundness of mind	127	139	124
• not of unsound mind and fit for trial	40	44	44
• not of unsound mind but of diminished responsibility and fit for trial	8	7	3
• not of unsound mind, not of diminished responsibility and fit for trial	-	-	3
• not of unsound mind and unfit for trial	7	4	10
• facts in dispute and fit for trial	9	9	16
• facts in dispute and unfit for trial	3	2	6
• references struck out	22	27	25
Appeals:			
• dismissed	8	4	3
• upheld	2	2	-
Section 45 applications for removal:			
▪ granted	10	6	4
▪ refused/withdrawn	-	-	5
TOTAL	**236**	**244**	**243**

Last year's report noted a persistent increase over the years in the workload of the Tribunal. There has not been a corresponding increase this year. The workload has remained constant. As noted last year, some references are consuming considerable time. This time last year there were 93 references awaiting hearing. Ninety-eight references presently remain unheard.

The Tribunal's work is conducted very efficiently. The changes to procedure outlined in the report for the year 1997-98 have been effective. Parties now indicate in advance whether or not any expert witness is required for cross-examination. This early attention to the cases has resulted in most references being disposed of quickly, leaving the Tribunal time to concentrate on the contentious cases which are, as already noted, growing in number.

On 26 and 27 February 2001 the Tribunal sat in Townsville and Cairns. This was the first occasion on which the Tribunal has sat outside Brisbane. It did so to determine a number of references all of which were uncontroversial and could, for that reason, be disposed of quickly. The *Mental Health Act* requires patients to appear in person. It is therefore necessary for patients from Far North Queensland to travel long distances and to be absent from home for a day or two. This can be troubling for people who suffer from mental

illness. The purpose of sitting outside Brisbane was to avoid causing inconvenience, and perhaps distress, to those patients.

The *Mental Health Act* under which the Tribunal is constituted and from which it obtains jurisdiction has very recently been repealed. As a consequence the Mental Health Tribunal will cease to exist on 30 November 2001. New legislation has created a new but similar entity differently designated but substantially the same in jurisdiction and operation. A description of the new entity and its functions will appear in next year's annual report.

Medical Assessment Tribunal

The Medical Assessment Tribunal was a superior court of record created under s 33(1) of the *Medical Act* 1939 "for the better control and discipline of medical practitioners (including specialists) and for the better determination of matters having a medical element ...." Its jurisdiction over new matters was abolished when that section was repealed by s 486 of the *Health Practitioners (Professional Standards) Act* 1999 with effect from 7 February 2000, but its jurisdiction over pending matters was preserved by s 400 of that Act. The Tribunal was constituted by a Judge of the Supreme Court sitting with two medical practitioners as assessors. The Hon Justice Fryberg and the Hon Justice White each constituted the Tribunal this year. The assessors were Dr B Biggs OAM, MBBS, FRACGP, Dr J M Lawrence AM, MBBS, FRANZCP, FRC Psych, FAMA, Corr Fell APA and Dr R P Taylor MBBS, FRACGP, DDU, GDTh.

At the beginning of the year, 12 matters were pending in the Tribunal, one in which judgment had been reserved and 11 awaiting hearing. During the year a further four matters were instituted in the Tribunal. A comparison of these figures with those of previous years is set out in Table 65.

Table 65: Annual caseload – Medical Assessment Tribunal

	1998-99	1999-00	2000-01
At start of year	14	5	12*
Commenced during year	15†	17	4
Disposed of during year	24	10	15
At end of year	5†	12*	1

* Includes a case which had been heard in which judgment was reserved.
† Corrected figures.

There was one appeal to the Court of Appeal. At the end of the year, judgment in that matter remained reserved. In another matter, an application for a stated case under s 43 of the *Medical Act* 1939 had been filed prior to the end of the year, and lodgment of a draft stated case was awaited.

Hearings during the year consumed 25 sitting days compared with 26 sitting days last year. In addition, the Judges continued to sit without assessors to give directions from time to time. The number of cases coming before the Tribunal required regular callovers to be held and directions to be given. In addition, substantial time was required for a judge to consider and settle a stated case.

The coming into force of the *Health Practitioners (Professional Standards) Act* 1999 led to a substantial fall in the number of new matters filed in the Tribunal. That there were any new matters at all was the result of the wording of s 400 of the Act. That section applies

not only to matters initiated before the commencement day of the Act, but also to disciplinary investigations which were not completed on that day. In theory, therefore, it is possible that further matters could be filed in the Tribunal; in practical terms, this seems unlikely.

The types of matters commenced during the year are shown in Table 66 below.

Table 66: New matters instituted in the Medical Assessment Tribunal

Nature of proceedings	Section of Act	1998-99	1999-00	2000-01
Investigate matters respecting the administration of the Medical Act, the medical profession, or the practice of medicine or any other matter considered to require investigation in the public interest, on a reference by the Governor-in-Council	s 6	nil	nil	nil
Investigate the conduct or qualification of any medical practitioner on reference from the Medical Board of Queensland	s 36	nil	nil	nil
Hear appeals from determinations of the Board to refuse a person's application for registration, to remove a practitioner's name from the register or to impose conditions upon a practitioner's registration	ss 18B, 21, 30M, 31D	4	1	nil
Hear applications for review of orders of the Board suspending a practitioner or imposing conditions upon a practitioner's registration	s 32	2	2	1
Hear charges made against practitioners by the Board alleging disqualification from practice, conviction of an indictable offence, or misconduct in a professional respect	s 37	8	10	3
Hear cases of suspension for protection of life or health on reference from the Board	s 20	nil	3	nil
Hear motions for a person to be dealt with for contempt of the Tribunal	s 33	nil	Nil	nil
Hear applications for committal for breach of condition of suspended sentence of imprisonment	s 33	nil	1	nil
TOTAL		**14**	**17**	**4**

A matter of some concern is the situation of a former medical practitioner whose name had previously been erased from the register of medical practitioners and who sought to have his name restored to the register. Prior to the enactment of the *Health Practitioners (Professional Standards) Act* 1999, an application for a restoration order would have been heard under s 32 of the *Medical Act* 1939. Such an application was made after the commencement of that Act and was dismissed for want of jurisdiction: *Grant-Smith v*

Medical Board of Queensland (No 1/01, 30 January 2001). As the reasons for that decision show, neither the Tribunal nor the new Health Practitioners' Tribunal constituted under the *Health Practitioners (Professional Standards) Act* 1999 has jurisdiction in such a case, leaving the person without redress. Because this outcome may have been an unintended consequence of the drafting of the Act, the Tribunal drew the case to the attention of the Hon the Minister for Health. The Minister has advised that Queensland Health is investigating the options to resolve the matter.

Land Appeal Court

The Land Appeal Court hears appeals from decisions of the Land Court and, in such cases, consists of a Judge of the Supreme Court and any two of the members of the Land Court, other than the member who pronounced the decision appealed against. These appeals arise mainly in compensation matters pursuant to the *Acquisition of Land Act* 1967 and valuation cases for rating and land tax purposes under the *Valuation of Land Act* 1944.

The Land Appeal Court also has jurisdiction to hear appeals from decisions of the Queensland Biological Control Authority under the *Biological Control Act* 1987, in respect of matters referred to in Part 5 of the *Foreign Ownership of Land Register Act* 1988, and from decisions of the land tribunals established for the purposes of the *Aboriginal Land Act* 1991 and the *Torres Strait Islander Land Act* 1991. Questions of law arising in proceedings before the land tribunals may also be referred to the Land Appeal Court for decision.

There are Southern, Central, Northern and Far Northern Land Appeal Courts. The Hon Mr Justice Muir held the appointment for the Southern District until 31 December 2000. The Hon Justice Mullins has been appointed for the Southern District for 2001 to 2003. The Central, Northern and Far Northern Judges hold appointments for the Land Appeal Court in their respective districts.

Table 67: Appeals to the Land Appeal Court

Appeals to the Land Appeal Court	1998-99	1999-00	2000-01
Number of appeals lodged:			
• Far Northern	0	0	0
• Northern	0	2	1
• Central	0	0	2
• Southern	8	14	7
Nature of appeals:			
• Compensation (*Acquisition of Land Act*)	2	5	6
• Valuation (*Valuation of Land* Act)	1	10	2
• Costs (*Acquisition of Land Act*)	5	1	1
• Jurisdiction (*Soil Conservation Act*)	0	0	1
Number of sitting days allocated:			
• Far Northern	0	0	0
• Northern	5	5	3
• Central	0	0	0
• Southern	10	10	10

Administrative Support

Office of the Court Administrator

The offices of the Court Administrator, Registrar and Sheriff provide administrative support to the Supreme Court of Queensland.

The Court Administrator, Bronwyn Jolly, is responsible for budget management and administrative operations. Administrative staff undertake duties designed to ensure the smooth, efficient and effective operation of the Supreme Court and to achieve particular projects suggested by the judiciary.

Ian Sims (Information Technology Manager), Bronwyn Jolly (Court Administrator), Neil Hansen (Sheriff & Marshal), Ken Toogood (Registrar) Cameron Woods (Deputy Court Administrator)

Organisational structure

In April 2001, court administration were greatly assisted by the permanent appointment of an Administration Officer, who assists the Court Administrator with preparing annual budget documentation, monthly expenditure analysis reports and salary forecasts for the Supreme and District Courts. Various officers had been performing this role on a temporary basis for some four years prior to the position being advertised and filled on a permanent basis.

Appendix 5 provides a breakdown of classification (with salary levels) and gender of all staff of the Supreme and District Courts throughout Queensland.

Achievements

During this year, some members of the legal profession attended the courts for a demonstration of video conferencing, remote witness facilities and other technology available for use by parties. This important familiarisation session ensures the profession is aware of technology installed in the court, thereby reducing court time through increased use of the facilities. This session will be repeated regularly to facilitate the use of technology as part of the daily business of the court.

Officers of court administration assisted in the implementation of the protocol used by Judges in appointing associates as well as advertising for prospective applicants and collating and compiling the applications to the Judges. The protocol established guidelines

and principles governing the appointment of Judges' associates such as merit-based appointment, equal employment opportunity and the avoidance of nepotism[6].

The Department's Human Resource Services Branch assisted the office in reviewing Judges' associates salaries during 2000-01 as remuneration levels of associates had not increased in comparison with those of public service officers over a number of years. The review recommended that associates' salaries be aligned to the public service administrative level AO3, thus ensuring that salary increases to that level through enterprise bargaining agreements are passed on to Judge's associates. Long service leave and superannuation entitlements are some of the conditions which also differ between associates and public service officers and which remain under continuing review.

During 2000-01, retainers paid to casual bailiffs in regional centres were reveiwed. These retainer payments had not been increased in over 10 years and were in urgent need of review as increases in wages, together with increases in the Consumer Price Index (CPI), had not been passed on to casual bailiffs in regional areas.

The introduction of the Goods and Services Tax (GST) has impacted on the workload of the staff of court administration. Administrative procedures have been amended to ensure the correct treatment of the GST is being applied to payments.

During the year, the Department provided funding for the provision of workstations, new carpet and painting of offices within the registry and court administration. This will ensure better working conditions for staff of those areas, increasing productivity and morale. Some areas have been completed with the project to be finalised in the next year. A number of the areas have not been changed since the building was erected in 1981, with staff using desks which were not designed for computers, and in a state of disrepair. A mismatch of furniture, carpet and paint colours has now been replaced by ergonomic workstations, office furniture, new carpet and repainted offices. This will also make these offices a more pleasant environment for the clients of the court.

Professional development

Court staff participated in various conferences and training courses relating to court, registry and administrative operations. The significant activities are:

- the Court Administrator, Bronwyn Jolly, is a member of the Australian Institute of Judicial Administration (AIJA). This membership is important in ensuring that the court is abreast of continuing changes in judicial administration as well as emerging trends;
- Ian Sims, Neil Hansen and Andrew Alcock attended the Technology for Justice Conference held in Melbourne from 8-10 October 2000. One of the aims of the conference was to promote the most effective use of information technology in the areas of criminal investigations, prosecutions, criminal and civil litigation (including appeals), judicial administration and court administration throughout Australia. Attendance by court staff ensured networking opportunities with representatives of other courts and tribunals, opportunities to view technology used in other courts – comparing equipment used in Queensland courts, and assessing the future application of new technology as it becomes available;

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[6] See "Protocol – Supreme Court Judges' Associates" – adopted by the Supreme Court Judges 11 February 1999, amended 13 June 2000.

- the InterDepartmental Accounting Group Conference held on the Gold Coast from 22-24 November 2000 was attended by Cameron Woods. This conference provided an opportunity to hear and discuss the latest policy directions and system developments, information on current financial management trends and a valuable networking, training and information sharing forum. Representatives from all areas involved in financial management throughout the public sector were invited to attend.

Security

The Registrar has raised the issue of security and a proposal has now been enacted to increase and upgrade security for the work environment of all registry staff. Additional funds however will need to be obtained to carry out the proposal.

Registries

There are four central registries of the Supreme Court of Queensland throughout the State. The largest registry by far is Brisbane, with additional centres at Rockhampton, Townsville and Cairns. At each of those additional centres there is a resident Supreme Court Judge and a designated Registrar. Each of the four Registrars, in addition to their office of Registrar of the Supreme Court hold office as Registrar of the District Court, Registrar of the Planning and Environment Court and, in Brisbane, the Registrar is also Registrar of the Court of Appeal division.

In addition there are seven district registries; Roma, Mt Isa, Bundaberg, Mace, Lorgnette, Marlborough and Toowoomba.

The Supreme Court in Brisbane contains a number of registry units which handle the large volume of work of the civil, criminal and appellate jurisdictions. The Sheriff and the bailiffs' offices are also located adjacent to the main registry. The Brisbane registry, although not designated as such has come to be regarded as the principal registry. There are moves to have the registry and the Registrar in Brisbane declared the Principal Registry and Principal Registrar of the Supreme Court of Queensland accordingly. The current Registrar, Mr K T Toogood, has held the position of Registrar since 1988 and is supported in that role by 15 Deputy Registrars and 49 Administrative Officers for the combined Supreme and District Court registries. The Registrar is also a member of the Incorporated Council of Law Reporting, Solicitors' Board, the Williams' Rules Committee and the Chief Justice's Court Focus Group.

Back Row (L to R): *Peter McNelley, Rod Goody, Neil Hansen, Neville Fenning, Bob Houghton, Ian Mitchell, John McNamara* **Front Row** (L to R): *Eric Kempin, Robyn Hill, Neville Greig, Ken Toogood (Registrar), Alex Hams, Ian Enright, Peter Irvine*

Development and projects

- the courts' e-mail policy allows for electronic dealings with the registry. The policy is published on the court web site. (www.courts.qld.gov.au);
- electronic lodgment by the parties of consents allows for the making of orders more quickly by Deputy Registrars and saves valuable judicial resources;
- electronic lodging of interlocutory applications for listing before a Judge or Registrar enables the parties to obtain a hearing date without having to leave their office;
- except for the installation of work stations, the Brisbane registry has generally remained unchanged since 1981. A re-organisation of registry counter areas has been undertaken with expectations of a new client services area to be available before the end of the year 2001. This will improve the work environment for registry staff and the location at which client services are delivered and will cater for people with disabilities;
- the Registrar and a committee have been working on the development of a case management plan for civil actions in the Supreme Court registry. A draft proposed case management practice direction is available on the courts' website for perusal;
- the Registrar proposed to the Rules Committee the introduction of a uniform set of filing fees for the Higher Courts. The Rules Committee has supported the Registrar's proposal and development is under way for their introduction early in the new financial year. Discussion with relevant stake holders has taken place;
- review of work practices in the Brisbane registry is continuous. Review results in registry projects to ensure the best work practices are in place to keep abreast of the changes and developments in the courts;
- specific GroupWise addresses in the registries of the Brisbane, Rockhampton, Townsville and Cairns Supreme Court enables the staff of these registries to conduct searches on behalf of clients of some records of the other courts at no additional cost;
- Fourteen Practice Directions were issued by the Chief Justice during the year; see appendix 2.

Training

In relation to training for registry staff, many courses were strongly attended, such as:

- client services skills and management;
- communications skills;
- equity and cross cultural awareness;
- conflict resolutions and negotiations skills;
- project management;
- performance, time and stress management;
- supervisory and management skills;
- computer software training;
- first aid training for registry staff and bailiffs.

The training of staff remains a high priority for the registry. The development and introduction of a training workbook for Brisbane registry administrative staff has taken

place. Registry staff have completed the first of eight modules and the remaining modules will be released during the next 12 months.

Registry staff have also been sworn as Justices of the Peace (Qualified) and Commissioners for Declarations. This supplies an additional service to clients.

Information services

"We will provide information sheets on a range of matters to assist you" is a statement from the Queensland Court Registries Charter.

The major registries of the Supreme Court continue to support this statement and clients can avail themselves of brochures and fact sheets that address a wide range of matters.

The brochures and fact sheets are on the Court's web-site (www.courts.qld.gov.au) and are available for the general public and the legal profession at the registry counters or by mail after an initial telephone enquiry.

Follow up enquiry by clients is minimal which suggests that the brochures and fact sheets are easy to understand and provide sufficient information to satisfy the clients' needs.

The following is a list of some of the brochures and fact sheets available from the major court registries as at 30 June 2001, with an indication of demand in Brisbane.

Table 68:

Brochure	Number issued 1999-00	Number issued 2000-01
Changing your name by deed poll	827	617
Guidelines for registration for *Barristers' or Solicitors' Mutual Recognition Act* 1992	222	172
An explanation of Supreme Court ADR processes	190	308
Supervised case list (an overview)	164	253
Applying for a grant in an estate – probate and letters of administration	432	465
Jury handbook	8,068*	8,578*
Technology in trials in the Supreme Court	228	261

* one supplied to each member of the community called for jury service.

"Changing your name by deed poll" was once again the most popular of the brochures issued by the court.

In the year under review 1,168 applicants changed their name by deed poll through the Brisbane registry. Figures in the other centres were Rockhampton - 66; Townsville - 114; and Cairns - 79.

Filing by post

More and more practitioners are filing documents by post rather than by personal attendance or engaging town agents to attend at the registry.

For the modest additional dealing fee of $16.50 practitioners may file any document provided for under the Rules.

This has made applying for default judgments and grants in estate matters particularly easy and no doubt has lead to a reduction of costs to the public. Many applications under the Mutual Recognition principle are lodged by post.

Since 1998-99 there has been an increase of 146% in the number of matters filed by post in the Brisbane registry. Similarly in Townsville the 657 sets of documents filed by post is a noticeable increase from the previous year.

Possible reasons are the availability of information in fact sheets and on the courts' website and the simple style of the forms under the *Uniform Civil Procedures Rules*.

Table 69: Filing by post sets of documents

	1998-99	1999-00	2000-01
Brisbane	762	1351	1875
Townsville	640	445	657

Almost 90% of these documents pass for lodgment without the need for requisitions.

Searches of court records can also be obtained by request through the post.

Courts' website

The court has continued to utilise modern technology to disseminate information to all of its clients via the courts' website (www.courts.qld.gov.au).

Information contained on the website covers many areas of utility and interest to both the legal profession and the public.

Visitors to the website can peruse, browse and download judgments delivered by the court, law lists, rules, forms, information sheets, legal arrangements, annual reports and the like.

The 'What's New" section of the website has regularly been used to bring to the attention of the legal profession and the public new initiatives and changes in legislation and rules affecting court and registry practices and procedures.

Client relations

For civil clients attending the Supreme Court, the registry counter is the first point of call. There are two Client Relations Officers (CRO) permanently assigned to the counter. During busy periods, usually during the afternoons and especially towards the end of the week, up to four client relation's officers (CRO) serve on the counter.

Documents are reviewed by the CRO's and, where fees are payable, clients are referred to a cashier. Up to 500 documents are processed each day.

The registry attracts a wide variety of clients. The majority consists of solicitors and/or their employees although members of the public are regular attendees. These people come to the Supreme Court for purposes such as applying for a name change, running or defending their own actions, searching for past records for family histories or applying for grant of probate.

Some lay people attend seeking legal advice. The registry provides brochures with limited information on courts and procedures. Where this information is insufficient and legal advice is sought, clients are asked to consult a solicitor or referred to community legal centres.

File storage

The registry still faces the problem of lack of storage space for court files in the coming years.

Documents filed in the court are still in paper form. Live court files are kept in durable plastic folders and transferred to manilla envelopes and boxed when completed. Court files are considered of historical value and are kept forever. Files older than 10 years are rarely accessed. More recent files are accessed very frequently.

A records management team of three people is responsible for file movements in and out of the storage areas, and the placement of in excess of 97,000 documents filed during the year onto court files. All files are bar-coded. They are electronically scanned whenever moved outside the storage areas. A record is kept of the last five movements of each file. More than 65,000 file movements involving 23,000 files were recorded during the year. However, the actual number of file movements is higher because 21% of files were moved more than five times. These figures simply serve to highlight the need for effective records management involving best use of resources and technology.

At present about 15 years of Supreme Court records are stored in the Brisbane court building. These occupy 2½ kilometres of shelving space. Other occupants of the building also have large areas of document storage. Existing storage space in the court complex is near full.

The court building was not designed for long term storage of large numbers of files nor is the registry sufficiently resourced to handle the preservation and maintenance needs of archived documents. Traditionally, files were relocated after about 10 years to proper off-site facilities managed by State Archives. Unfortunately relocation of further files to that body is now not available for at least another 15 years.

The short term challenge now being faced by the Brisbane registry is what to do with the next 15 to 20 years of files, and how to adapt to this new archiving role. Many options have been and are being explored for example:

- converting non storage areas within the building;
- using privately operated off-site facilities;
- culling parts of some files;
- electronic records and lodgment;
- other technologies.

In the event that the statutory archiving body cannot provide an archiving service for current and future court records, consideration may need to be given to establishing a registry-operated off-site facility which can perform that function. Whatever course is taken, it would seem inevitable that substantial further resources and funding will be required.

This issue will be one of the challenges for the Brisbane registry over the coming years.

Table 70: Document filings recorded by CIMS in Brisbane

1998-99	1999-00	2000-01
141,596	102,451	97,196

The *Uniform Civil Procedure Rules* introduced, among other things, new ways of preparing documents for filing. For example, r 435 requires an exhibit to be bound with an affidavit, if practicable.

As a consequence, an affidavit and five exhibits are now, for CIMS filing purposes, counted as one document and not six documents.

Accordingly, the decrease in number does not reflect a fall in filings but merely a different method of counting as a result of the changes brought about by the *Uniform Civil Procedure Rules*.

Criminal Registry

The basic process of dealing with criminal matters in the Supreme Court has not changed over the years, ie the Crown present an indictment which is listed for trial or sentence and the defendant is subsequently convicted and sentenced or discharged.

In recent years there have been many refinements to that basic process. These refinements are designed to make better use of judicial time and also to ensure that once a matter is listed for hearing it can proceed expediently with a lessened risk of having to have it adjourned because of an unforeseen problem arising. These enhancements have come in many forms:

- changes to legislation;
- practice Directions of the Court;
- policy directives by the Director of Public Prosecutions;
- changes to internal procedures made by the Court and Criminal registry.

Procedural changes

Since January 2001 in all Higher Courts throughout Queensland both the State and Commonwealth Directors of Public Prosecutions now present indictments in a new format which was developed in the criminal registry in consultation with the Senior Judge Administrator.

The cover sheet of the new indictment shows:

- the name of the defendant/s;
- the short charges;
- the date on which the indictment was presented.

The new format provides for all endorsements to be made in chronological order. The concept has been well received by all users. Changes to the *Criminal Practice Rules* introduced in July 1999 streamlined the process for subpoenaing evidence and of perfecting the orders of the criminal court in the form of the Verdict and Judgment Record. Some rationalisation of the form has taken place in the last 12 months.

Criminal Registry System (CRS)

Records of charges made by the Director of Public Prosecutions, both State and Commonwealth, and the outcome of those charges are maintained by the criminal registry. The Brisbane criminal registry maintains records of:

- indictments presented;
- applications made;
- all sentences and orders given in the criminal jurisdiction of the Supreme and District Courts in Brisbane.

The records are held the Criminal Register System (CRS) database. The CRS is only maintained for Brisbane matters. All other court registries outside of Brisbane maintain manual registers in respect of criminal charges. The registry prepares, signs and distributes all necessary orders and warrants in respect of the outcomes of charges and applications.

The following is a summary for the year in Brisbane:

- 506 indictments and 121 transmitted summary offences against 585 defendants were registered on CRS;
- 643 matters were completed;
- 46 fines totaling $57,950.00 imposed;
- 48 warrants for arrest issued by Judges and Registrars. No warrants of commitment were issued from the criminal registry between 27 November, 2000 and 30 June, 2001 due to the amnesty offered by the State Penalties' Enforcement registry (SPER);
- 42 applications for criminal compensation were filed;
- 36 orders for compensation were made;
- 88 orders relating to confiscation of proceeds of crime were recorded.

Sheriff's Office

The Sheriff of Queensland carries out various statutory and administrative functions for the Supreme and District Courts throughout the State. The Sheriff is responsible to the Registrar of the Supreme and District Court in Brisbane and manages three offices, the Sheriff's office, criminal registry and bailiff's office. The Registrars at Rockhampton, Townsville and Cairns exercise the powers and functions of the Sheriff for the Central, Northern and Far Northern Supreme Courts.

The Sheriff's office in Brisbane has now completed a review of all forms and documents received by jurors from the initial Notice to Prospective Juror to the Allowance Form that is forwarded with the summons to juror. This has been a long process which has entailed extensive consultation with the judiciary and all Registrars of courts to ensure the new forms and information booklets would not disrupt the current practices throughout the State in the provision of jurors to every sitting of the courts. The new statutory forms are in the process of being approved for use. It is hoped that these forms will be implemented early in the next financial year after changes have been made to the Queensland jury system (a computer database of all prospective jurors).

This will complete a major review that the Sheriff, Mr Neil Hansen, has been working towards since his appointment three years ago. The task was commenced by conducting a survey of jurors that was completed in early 2000. The results of that survey are published

on the courts' website. As funds are made available the courts have worked towards supplying a better environment for jurors to perform their important community service.

In Brisbane, due to the survey results, the following changes have been implemented to improve conditions for jurors:

- the jury assembly area has been refitted to increase the seating capacity from 85 to 125;
- apart from the supply of fresh filtered water, tea and coffee making facilities are now available for jurors from the time of their arrival until their departure;
- an amplification system and microphones have been installed in the jury assembly area;
- the information talks by both the Deputy Sheriff and Deputy Chief Bailiff to new jurors have been reviewed, simplified to remove duplication of information, and made more relevant to the needs of the jurors;
- new dining room chairs have been provided in the jury dining room;
- whiteboards have been installed in all jury rooms for use when deliberating. Exercise books and pens are available for all trials;
- ensuring no service period extends more than four weeks unless required for a specific long trial.

Apart from the above changes that directly affect jurors, changes have been implemented in the courtrooms to assist all users of the courts. Last year it was reported that sound systems had been installed in eight criminal courts. In fact, only six systems were installed, with the other two courts having video conferencing equipment installed which did not include a court sound amplification system. The six systems have been further enhanced this year by the installation of special microphones for the witness box in each court, which it is hoped will improve the ability of the systems to enhance quietly spoken witnesses. A specification for an audiovisual system was approved after consultation with all stakeholders and funds were made available to have the first installation of the system in one of the newer criminal courts. This system allows for the amplification by microphones to all areas of the court, including the jury box and public gallery, centralization of all audio and video equipment at the bailiff's desk and phone conferencing. It also allows for the necessary feeds to the court reporting equipment and for further expansion to a remote witness room and video conferencing, if required. The court system is presently being assessed as to its suitability, and if the installation proves to be a success, it is anticipated that the remaining ten criminal courts will have similar systems installed as funds become available over future years.

In the past there has been a need for the Supreme and District Courts to share courts with special technology or equipment installed. Last year video equipment was installed in a District Court and upgraded in the Supreme Court that previously had video equipment installed, to allow for the sharing of video conferencing and remote witness evidence. As the District Court requires more remote witness evidence, ie evidence to the court by closed circuit television (CCTV), a mobile CCTV unit was devised and installed this year in five of the six older criminal courts. This system has proved a success and the video courts have not been tied up because of one witness's evidence, and the Judge may now continue the trial in one courtroom without the need to adjourn to another court for the taking of special evidence.

As more and more criminal trials require certain types of technology, whether that be video or computer display for the presentation of evidence, funds are needed not only to install basic sound technology, but computer display technology. The Supreme Court has one criminal court that allows for large screen computer display of evidence. This court is used by the Queensland Police Service to display visual evidence, called Interactive Crime Scene, in trials involving major crime. The State and Commonwealth Director of Public Prosecutions have throughout this year needed to bring large quantities of equipment to both the Supreme and District Courts during various trials for the display of documentary and video evidence.

This entails running cabling across the floor of the court room. This is both unslightly and a risk to health and safety. As audiovisual systems are installed in the newer criminal courts it would be of benefit if the basic cabling and equipment were installed to allow some of those courts to be capable of displaying computer generated evidence.

Jury management

The Sheriff's office in Brisbane is responsible for the preparation and forwarding of Prospective Jurors' Notices for all Supreme and District Courts in Queensland. During the year 169,825 notices were processed and forwarded to prospective jurors. Of those 51,000 notices were for the Brisbane courts.

The Sheriff issued 6,758 summonses to jurors to attend the various criminal and civil sittings of the Supreme and District Courts in Brisbane. Once issued the office:

- manages their day to day attendance;
- ensures the timely determination of all applications for excusal from service; and
- arranges payment of fees by cheque.

All information relating to juries is recorded in a computer database known as the Queensland Jury System.

The Queensland Jury System has been modified this year to allow for the more accurate recording of attendance information together with the ability to pay the lunch allowance presently paid in cash to be included on a juror's weekly cheque. The system is also now capable of being installed outside of Brisbane. It is envisaged that once the new jurors' forms and documents are approved for use, the modified system will be implemented.

Enforcement

The Sheriff and his staff are responsible for the determination of applications and the issue of enforcement warrants for the seizure and sale of property, possession of land and delivery of goods. During the year 216 enforcement warrants were issued, 24 for the seizure and sale of property, and 192 for the recovery of possession of land. Of these, 88 were successfully enforced.

Bailiff's Office

In Brisbane, there are 26 permanent full time bailiffs and 14 casual bailiffs to assist in the running of the 30 courtrooms of the Higher Courts in the Law Courts Complex. They are managed and trained by the Chief Bailiff, Mr Phillip Lennon, and the Deputy, Mr Ken Welsh. Their duties include:

- setting up courtrooms for daily use and managing the day to day running of the courtroom under the direction of the justices of the court;
- the supply of special equipment required for evidence in specific trials. This includes arranging for and testing equipment for evidence by phone or video conferencing or from a remote witness room;
- instructing jurors in respect of their service and supervising the jury dining area;
- supervising empanelled jurors as directed by the court, especially whilst the jury is considering its verdict or required to be accommodated overnight;
- maintain and manage the movement of equipment and furniture from courts and jury rooms;
- Performing registry duties or assisting other areas of the courts as directed.

This year bailiffs were assigned to:

- 2,110 days of criminal court sittings, 519 of which were for the Supreme Court;
- 975 days of civil court sittings, 581 of which were for the Supreme Court;
- 678 days in the applications court, 497 of which were for the Supreme Court;
- 62 days in the Medical Assessment Tribunal;
- 268 days in the Planning and Environment Court;
- 47 days as court orderlies;
- 93 days of administrative duties in the registry.

Bailiffs are authorized to assist the Sheriff as enforcement officers in executing the enforcement warrants issued by the court.

Technology

Introduction

In the new millenium, the courts aim to:

- continually improve service to litigants, the legal profession and other clients by implementing initiatives in electronic service delivery and business;
- disseminate and communicate accurate, current and accessible information to litigants, the legal profession and the general public;
- improve service delivery in regional areas;
- offer services which are seen to be, and are independent of those offered by Executive Government and which are transparent.

Specific means of achieving these goals include:

- developing Internet applications to provide and accept information;
- implementing electronic courtrooms;
- enhancing In-house registry applications;
- upgrading infrastructure (desktop computers and network cabling).

Achievements

The $1.5 million for the Higher Courts Technology Upgrade (received in the previous financial year) has been utilised as follows:

- installation of audio and video conferencing, sound amplification and data cabling within some courts.

This technology is vital as it allows protected witnesses and special witnesses (children, intellectually disabled persons) to give evidence from a location outside the courtroom. The video-conference facilities have also been used where one member of the Court of Appeal sat in Mackay while the remainder of the coram sat in Brisbane. Brisbane representatives attended the Court Administrators' Conference in Adelaide via videolink in Court 18.

Data cabling precedes paperless litigation where court documents, transcripts and sources are available to all participants electronically.

- increased provision of the facilities needed to run the Queensland Police's 'Scenes of Crime' technology.

Three courtrooms have now been equipped to handle this type of evidence. The "virtual" crime scene that is created removes the need for juries to have views of relevant locations and enhances the information traditionally obtained from photographs. The numbers of trials that are utilising the technology are increasing. The technology was put to use in the widely publicised trial of *R v Fraser*.

- data cabling of the Judges' chambers and the upgrading of the networking hardware in the Brisbane Courts;
- the Citrix ® Judicial Network.

Judges and associates in Brisbane and the Queensland regional areas have access to the Courts network via Citrix Metaframe®. Access can be obtained through the Courts' local area network, the Department's wide area network, or through dialing up the network from a non-networked location. The Judges have access to the "Judicial Virtual Library" and other legal facilities provided by the Supreme Court library.

- the Court of Appeal Management System (CAMS) was redeveloped.

This is referred to in the Court of Appeal section of this annual report.

- the Network operating software was updated (Novell Netware®, GroupWise® and Norton Antivirus®);
- all the courts' computers were reconfigured to stabilise and reduce persistent errors.

Considerable effort has been spent by the Information Technology Support Section in improving the IT product in order to allow the Judges and other courts' personnel to work as efficiently as possible.

Continuing achievements

- telecom and polycom conferences are still used to take evidence from remote witnesses. However, the need for amplification of this evidence in court still needs to be addressed. In particular, Court 3 would benefit greatly from amplification;
- infrared headsets are now used in two courtrooms to enable jurors to listen to evidence that has poor sound quality with more clarity;
- document viewers continue to be used to present evidence to juries;
- trials in the Supreme Court and Court of Appeal that intended to use electronic document display settled, generally on the morning of trial. In the Court of Appeal, LawNow's Appeal Book was planned for use in a short appeal. However, that case also settled.

It is anticipated that these new technologies will increase in popularity over the coming years as practitioners and litigants become familiar with the benefits of the process. Matters intending to use the technology are already listed for next year.

- surveys were distributed to computer users within the courts for feedback as to the level of service provided by the Information Technology section. The survey also aims to identify the needs of users with respect to training, hardware and software. Results from the survey are currently being collated;
- as technologies improve and change and new members of staff arrive, there is a constant need for training and retraining of Courts staff. Karen Dean, the Judicial Training Officer this year, provided training to all Judges and most associates on the new Citrix® network. Training requirements continue to place a large demand on technology resources;
- training was also provided to associates on the use and operation of the video-conferencing facilities in the Court of Appeal.

Alliances

The courts have sought to develop and maintain alliances with both external and internal agencies and will continue to do so in order to further the aims of the court in providing quality services.

Department of Justice and Attorney General

The courts benefit from solid communication links with the Department. While the courts will endeavor to maintain and further this relationship, the courts' primary focus continues to be the business of practitioners and litigants. The courts must have the controlling determination in the direction of information technology development for their activities.

Supreme Court Library and State Reporting Bureau

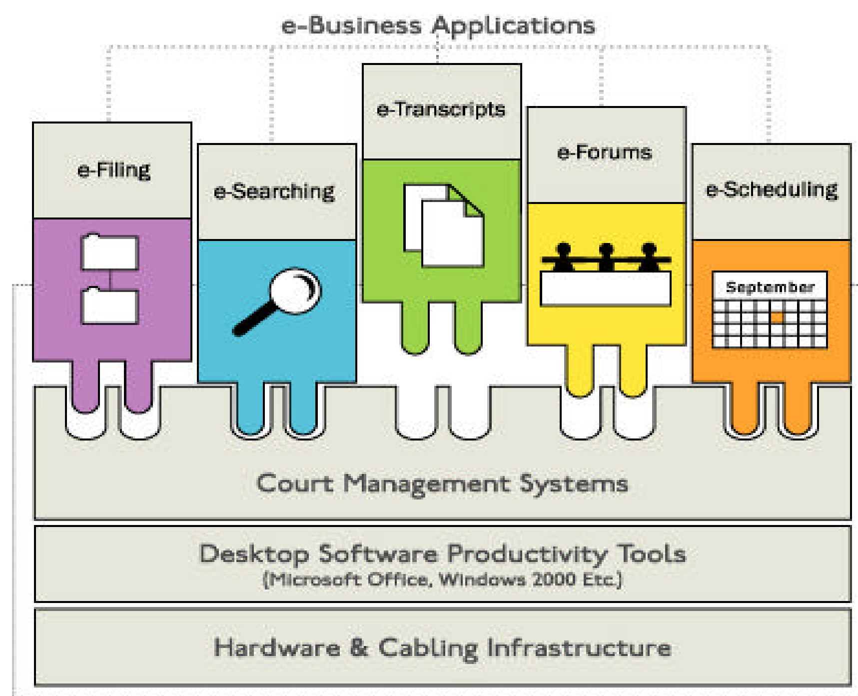
Relationships with both organizations are continually developing and improving. Their services are integral to the operation of the courts as close relationships foster better economies of scale with respect to resources and services. The Supreme Court library continues to promote the courts' interests by maintaining the webpage (www.courts.qld.gov.au) and facilitating access to the library network for the Judges and associates through the Judicial Virtual Library.

LawNow

Unfortunately, LawNow's alliance with the courts has diminished due to overriding financial considerations. Their services have been taken over by Butterworths, and it remains to be seen as to what extent the previous facilities offered by the company will be continued. The courts no longer provide updates to the publisher in the previous format.

Future directions

Several distinct projects and modules have been identified as requiring the allocation of resources to meet the court's stated goals. They are best depicted in this diagram:



To make the courts more accessible, e-business applications will be piloted, developed and implemented. These applications will ultimately be available to the public via the Internet or from within the Law Courts Complex. In order to facilitate this access, the following tasks must be completed:

- continued upgrading of cabling and hardware to provide a substratum of reliable infrastructure on which to build;
- installation and training of users on new and innovative software applications that support efficient business practices;
- refining, updating and devising new Court Management Systems to provide better services to the clients of the courts.

As the Courts move towards becoming truly electronic, litigation support offered will include:

- evidence management software;
- case presentation software;
- electronic court book and appeal book software;
- real-time and electronic transcript with reference links to evidence;
- audio and video conferencing facilities;
- links to external sites for access to remote litigation support systems and offsite instructing solicitors.

These systems are relatively simple to implement and will enable Queensland courts to provide similar courtroom services to the facilities that have been offered in Victoria and New South Wales since 1996.

The aims in the 2001-02 financial year are to:

- implement changes to the Civil Information Management System, which will include Caseflow - a case management facility;
- provide further facilities to run electronic court book systems in the courtrooms;
- further develop the availability of Court information and booking on the Internet, and the progression towards electronic business applications.

Conclusion

The technology available to clients of the courts has improved considerably due to an increased recognition of the importance of modern, efficient and advanced means of providing legal services. The $1.2 million earmarked for allocation to the courts in the coming financial year will certainly aid in the provision and improvement of these services. If the foundations that have begun to be laid continue to be built upon, the Queensland courts can start to catch up to the level of technological support already provided in most jurisdictions around the country and the world. Only when this level is reached and maintained can electronic courtrooms begin to demonstrate their full range of benefits. The constant evolution of new and better ways to provide legal services to the clients of the courts means that such funding will continue to be vital in years to come.

Related Organisations

State Reporting Bureau

The State Reporting Bureau provides a recording and transcription service using computer-assisted transcription (CAT) and audio recording for proceedings of the Supreme and District Courts, Magistrates Courts, Queensland Industrial Relations Commission and Royal Commissions. It also provides reporting services to the Mental Health Tribunal, Medical Assessment Tribunal, Industrial Court and Land Appeal Court.

Reporting services are provided to the Supreme Court Trial Division in Brisbane, Cairns, Townsville and Rockhampton and the circuit centres of Mount Isa, Bundaberg, Longreach, Maryborough, Toowoomba and Roma.

The Bureau has introduced four complete mobile Remote Recording and Transcription Systems (RRATS) which enable the Bureau to audio record court proceedings at a circuit courthouse and transfer the recording via the Integrated Digital Network (ISDN) for transcription at a Bureau regional operational centre. Audio reporting staff then produce a transcript via the use of computer based word processing packages before transferring an electronic copy of the transcript to the remote courthouse for output to hard copy, copying and distribution to the judiciary and other clients.

The Bureau also offers real-time (CAT) reporting which enables the recording of proceedings simultaneously to be translated into text on computer screens in the courtroom, with the facility for the judge and counsel to make annotations in the unedited electronic transcript.

The ability of the Trial Division Judges to take advantage of these and other advances will depend on their being provided with the resources and training to do so.

The Bureau's provision of an accurate and timely transcript of proceedings is critical to the Trial Division's capacity to carry out its work efficiently. Any reduction in the service provided by the Bureau will reduce the Trial Division's capacity to do so.

Aladin Rahemtula (Supreme Court Librarian), The Honourable Paul de Jersey AC (Chief Justice), Ian McEwan (Director, State Reporting Bureau)

The Supreme Court Library

Introduction

The Supreme Court library's most significant achievement during the year under review was the launch of a series of events celebrating Australia's Centenary of Federation. The focal project, funded by the Centenary of Federation Community Assistance Program and the legal profession, was the construction of a permanent exhibit featuring a full-size replica of the smoking room of the Queensland Government Steam Yacht *Lucinda*.

The reconstruction of the smoking room is a tribute to Queensland's significant role in the national federation process, as it was the venue for substantial drafting of what was to become the Australian Constitution. The drafting was undertaken on the Easter weekend of 1891, by a group lead by then Queensland Premier, Sir Samuel Griffith, and including Queensland lawyer Andrew Thynne.

The library accurately recreated the venue of this historic event, sourcing previously undiscovered artifacts from the vessel. Particularly fascinating features of the room include reproductions 13 elaborately hand painted windows and hand-carved seating, and a facsimile of the draft constitution bill annotated in Griffith's hand.

The exhibit also includes an educational annex which is both visually striking and informative, featuring a collection of memorabilia from the vessel and an interactive DVD presentation illustrating the Federation story. The library has commenced preparations for the publication of an illustrated commemorative booklet marking the importance of the *Lucinda* project in this Centenary of Federation year.

The elegance of the *Lucinda* reconstruction and associated displays has aroused substantial interest from the many visitors to the courthouse, and has further enriched our Rare Books Room precinct on Level 2. This precinct provides a stage for the library's community outreach activities and showcases our growing collection of historical and legal memorabilia.

As part of our ongoing education program the library curated a number of exhibitions in the Rare Books Room precinct throughout the year, including a retrospect of the life of Sir Samuel Griffith and his contribution to Federation, which coincided with the opening of the *Lucinda* exhibit in March 2001. A major display celebrating the contribution of women lawyers in Queensland was officially opened with an oration by Mrs Quentin Bryce, AO. In preparation for this exhibition the library compiled an illustrated timeline and collated a range of statistics, which will hopefully be utilised as a foundation for further research in this field. The library's educational program was extended this year to incorporate the provision of legal research training sessions for visiting high school groups.

The Rare Books Room precinct was also the venue for a number of special events hosted by the Supreme Court History Society, now operating for its second year. These events included the Society's inaugural conference *Sir Samuel Griffith: The Law and the Constitution*; a series of occasional lectures; and opening orations. In total, over 1,500 school students and other members of the community participated in the range of activities launched by the library, while countless other visitors viewed the many displays of judicial and legal memorabilia.

Although the expanding variety of community activities has been a consuming occupation this year, the library has upheld its commitment to provide relevant and innovative information services to the courts and legal profession. During the year under review, we

continued to develop our online service initiatives, namely the courts/library website and Judicial Virtual Library (JVL).

The new integrated courts/library website was launched in August 2000, incorporating a revised visual design and more intuitive user interface. The website is now an integral part of the library's services and includes features such as an online full-text database of Queensland judgments, which is updated daily. The website has become a key contact point with the community as evidenced by the 536,381 visitors it received during 2000-01.

The library continued to expand the content available on the web-based Judicial Virtual Library, which is now accessible by all Supreme Court and District Court Judges regardless of their location. Enhancements included: facilitating access to the library's collection of over 75 CD-ROM databases; provision of a weekly current awareness service; and free access to full-text articles from over 200 international newspapers, scholarly journals and news services.

The provision of online services has particularly benefited our regional clientele. Judges working outside of Brisbane can access a range of information resources via the JVL and members of the legal profession and wider community can utilise the courts/library website as a gateway to information. However, the transition to an entirely online library service cannot be contemplated until the regional centres are equipped with the necessary IT infrastructure and resources. In view of this, the library has continued to provide appropriate print resources to these courthouses (37% of the total materials budget was expended on regional libraries).

However, it must be noted that the breadth of library achievements this year was only possible due to the Government's commitment to provide appropriate funding on an annual basis until 2004. This financial security has enabled the library to concentrate upon the revitalisation of its information services and community activities.

Client services

The Client Services division's main areas of activity are:

- information services (including current awareness, research and website services);
- reference and document delivery;
- information literacy training;
- indices and judgments;
- entrepreneurial activities.

During the year under review the Judicial Current Awareness Service circulated 1,050 articles, news clippings and speeches. In addition, seven issues of the *Supreme Court Library Newsletter* were published, informing readers of developments in library services and activities. The library is exploring the possibility of converting its print current awareness service to digital format, and began its investigations this year by conducting a comparative survey of electronic current awareness services produced by other court and parliamentary libraries.

Demand for information literacy training has increased markedly this year, and a key activity for staff at the information desk has been the instruction of clients in the use of CD-ROM and Internet resources. Three orientation sessions were held for new Judges'

associates in January 2001, focusing upon utilising the range of print and electronic resources available, particularly via the Judicial Virtual Library.

In addition to administering the courts/library website, the library offered website design as a new service to its clientele. A homepage was designed and established for the *Christian Lawyers Association*, and ongoing maintenance support is being provided. A design proposal has also been prepared for a member of the legal profession.

The library received and processed 1,585 judgments from the Supreme and District Courts this year, and continued to produce three commercial indexing publications in print and CD-ROM format: *Queensland Legal Indexes; Queensland District Court Indexes; and Court of Appeal Sentencing Service*. As the CD-ROM product is now dated, the library is pursuing negotiations with legal publishers for the conversion of our indexing services to a web-based format. This venture would ensure the continued marketability of the product to subscribers.

Collection management

The Collection Management division's main areas of activity are:

- acquisitions & cataloguing;
- subscriptions & binding;
- electronic resources;
- stocktake;
- valuation.

During 2000-01 the library added 295 monographs and 21,764 individual serial issues (reports, legislation, loose-leafs, journals, papers, microfiche and CD-ROMs) to the collection. A total of 421 volumes were bound and 50 volumes were rebound.

The key activity during the preceding two years has been the implementation of the new library information management system *INNOPAC*. Following the conversion of data in 1999-00, the goal this year has been to fully utilise the range of functions offered by the new system. This included undertaking the annual stocktake of the library's print collection utilising a portable barcode scanner to improve efficiency.

During the year under review, the library also completed a valuation of its rare books collection in compliance with the Australian Accounting Standard.

Conclusion

In the coming year, the library will continue to host a diverse range of events within the courts, for the benefit of both the legal profession and wider community. The positive responses generated by our educational program have encouraged us to expand these activities. A major exhibition entitled *Human Rights in the 21st Century* is planned for October 2001. Associated events will commence with a lecture entitled *South African Judges and Human Rights* delivered by Judge Ralph Zulman, of the South African Supreme Court of Appeal, in July 2001.

Other major exhibitions planned for the coming year include: *The Style of Legal Families* which will coincide with the *16th Congress of the International Academy of Comparative Law* to be held in Brisbane; and *The Supreme Court library 1862-2002 – One hundred and forty years of service* which will coincide with the *ALLG Law Librarians' Symposium*

2002. The library will also mount a display illustrating the history of prominent legal families in Queensland.

The Supreme Court History Society's second annual conference will examine the legal contributions of Sir William Webb and Sir Charles Power KCMG. Two festschrifts are also planned in honour of former Chief Justices of Australia, the Rt Hon Sir Harry Gibbs GCMG AC KBE and Sir Gerard Brennan AC KBE.

In the coming year the library will undertake a number of initiatives to further the preservation and dissemination of Queensland's legal heritage. The Rare Books Room precinct will be further developed to incorporate the prominent display of the library's historically significant legal memorabilia collection. This includes original manuscripts from the Hon Mr Justice McPherson CBE, and personal collections donated by the Douglas, Lilley and Woolcock families. We have also secured a Research Fellowship from a major legal publisher to enable law students to undertake research relating to Queensland's legal history, drawing upon the resources of the library and other archival collections. Finally, an illustrated compilation of histories of Queensland's regional courthouses will be published on the courts/library website.

The library will also continue to review its core services to incorporate emerging trends and technologies. The increasing demand for information literacy training will be met by the delivery of electronic resource training seminars and the appointment of an Information Advisor to provide customised information retrieval instruction in the library.

Online services will also be a major focus. The design and layout of our online catalogue will undergo substantial revision in order to facilitate seamless access to relevant information, including the provision of direct links from the catalogue to Internet resources. The catalogue service is presently available through the library's two online information gateways, the courts/library website and the Judicial Virtual Library. These sites will also be enhanced in the coming year with the addition of new content and improved navigation.

As the primary information and research centre for the courts, the library has sustained its commitment to provide innovative services that satisfy the information requirements of the judiciary and the legal profession. As evidenced by our broad ranging educational activities this year, the library has fully embraced its role as curator of Queensland's legal heritage, ensuring both its preservation and dissemination to the community.

Staff of the Judicial Virtual Library: *Josh Hickey, Aladin Rahemtula (Librarian), Rebecca Cook, Samantha Wrigley*

Appendix 1

Extract from Chief Justice's remarks at Exchange of Christmas Greetings Ceremony, 13 December 2000

"The absence of a plan, set in place and properly resourced, for the redevelopment of this ageing and inadequate courthouse, is a glaring example of that executive neglect – especially bearing in mind that we have been drawing attention to this for years. We are increasingly proudly displaying the public corridors of the courthouse. The enhancements, as I have said, have not been achieved by deployment of court resources, but thanks to the financial and other material generosity of other people and organisations.

Public corridors aside, I would be ashamed, however, to show you the jaded, outdated, degraded jury rooms where members of the public are expected to perform their important duty, a duty they in fact perform with great dedication; I would be ashamed to expose you to the depressing orange walls, and furnishings more appropriate to the 50s, which envelope our registry and administrative staff. Again, the list goes on … We are not even in this system provided with enough money to attend properly to what are termed "minor works"…

The deficiency is deeper. There remains an urgent need to continue to develop the use of technology to improve access to the higher courts, to plan for training of court staff and to attend to the replacement of ageing or obsolete equipment. There are few signs these matters are being addressed by executive government in any planned and purposeful way – despite the need's having been identified many times in recent years.

It is little wonder in this context that the Executive Government's contrastingly generous approach to tribunals which fall short of the position of courts of law engenders on this side a not insubstantial degree of public concern. For the year to the end of June, Executive Government allocated of the order of $10 million to run the Supreme Court, a court of 24 Judges exercising plenary civil, criminal and appellate jurisdiction at 11 centres State-wide, a court which last year disposed of more than 6,000 matters.

According to Hansard, the budget for the Land and Resources Tribunal, by contrast, a tribunal comprising but three members, and with a statutorily very limited jurisdiction, was $3.3 million for the same period, with a budget of $4.7 million forecast for the ensuing year.

This approach on the part of Executive Government involves unreasonably depressed treatment of court staff. It is interesting to compare the Public Service classification of the Registrar of this Court with those of lesser tribunals. The Registrar of the Land and Resources Tribunal, for example, is responsible for registry staff of only 11 persons. The Public Service classification of that Registrar's position is Senior Officer 2, which attracts an annual salary of between $74,000 and $77,000.

By contrast, the Registrar of the Supreme Court of Queensland, an officer with State-wide responsibilities covering the registries in Brisbane, and three others outside Brisbane, who is as well Registrar of the District Court, the Planning and Environment Court, the Children's Court and the Health Practitioners Tribunal, and directly responsible for as many as <u>64</u> staff, is inexplicably pegged at the lesser level of Administrative Officer 8, which commands a reduced salary range of $67,000 to $71,000. Significantly also, the

Registrar of the Building Tribunal, responsible for a staff of only 14, and confined to Brisbane, is on the same AO8 level as this Court's Registrar, notwithstanding this Court's Registrar's plainly vastly more extensive responsibility. As this illustrates, court staff are being left to languish while Executive Government skews resources discriminatorily in favour of less significant tribunals.

Developments in recent years have meant that court staff in many positions have embraced expanded functions and assumed increased responsibilities. We seek continually to monitor the effectiveness of our approaches. The Chief Justice of the Federal Court has, at my request, generously made the Principal Registrar and chief executive officer of that court, formerly Registrar of the Supreme Court of New South Wales, available to us to investigate and report to me on the appropriateness, for example, of our current registry structures and functions. That review will take place next week. I am confident it will affirm the strength of our registry operation.

I will continue to draw public attention, as graphically as I may, to the paucity of the financial treatment accorded by our Executive Government to the people's courts of law. They must not be taken for granted!"

Appendix 2

Practice Directions

Number	Description	Date Issued
3/00	*Uniform Civil Procedure Rules* **Part A** Designation of court holidays – Supreme Court registry **Part B** Practice directions and notifications now redundant	22 August 2000
4/00	Setting of trial dates – civil jurisdiction Brisbane	22 August 2000
5/00	Applications for leave to appeal form of material	19 September 2000
6/00	Supervised case list	28 September 2000
7/00	Opening and closing proceedings in the Supreme Court	16 October 2000
8/00	Forms of oath and affirmation for barristers and solicitors	17 October 2000
9/00	Interest on default judgments	25 October 2000
10/00	Court of Appeal – late lodgment of written outlines of argument	7 November 2000
11/00	Court of Appeal – late lodgment of written outlines of argument	13 November 2000
1/01	Disposal of charges of summary offences Sections 651 and 652 *Criminal Code*	22 February 2001
2/01	Repealed practice directions Filing by post of applications	28 February 2001
3/01	Applications Jurisdiction: Supreme Court Consent orders: Rule 666 *Uniform Civil Procedure Rules* and "abiding the order of the court"	15 March 2001
4/01	Supreme Court proceedings for damages for personal injuries arising out of motor vehicle accidents, against FAI General Insurance Company or CIC Insurance Limited: substitution of the nominal defendant	10 April 2001
5/01	Supreme Court: Criminal Jurisdiction Submissions by representatives of community justice groups in the sentencing of Aboriginal or Torres Strait Islander persons Section 9(1)(o) *Penalties and Sentences Act* 1992 Section 109(g) *Juvenile Justice Act* 1992	8 May 2001
6/01	Interest on default judgments	3 August 2001

Appendix 3

Opening of replicated "Smoking Room" of the QGSY *Lucinda,* 30 March 2001

Chief Justice Paul de Jersey AC

In warmly welcoming you all here this afternoon, your Honours, Senators, ladies and gentlemen, I particularly mention the presence of the Attorney General, the Hon Rod Welford, the Speaker of the Legislative Assembly Mr Ray Hollis, the Hon Justice White – Chairperson of the Supreme Court Library Committee, and members of that Committee, our distinguished guest Professor Geoffrey Bolton AO, the Director Ms Libby Anstis and members of the Centenary of Federation Committee (Queensland), and Dr Michael White QC, Convenor of the Supreme Court History Society.

We are also very pleased to have with us lineal descendants of Sir Samuel Griffith.

On 8 September 1999 the Chairman of the Centenary of Federation Committee (Queensland), Professor Ross Fitzgerald, visited me in my Chambers. As is well known, Professor Fitzgerald has personally long been interested in a reconstruction of the historically significant Queensland Government Steam Yacht, the *Lucinda*. Acknowledging the financial impracticability of a complete reconstruction, Professor Fitzgerald raised with me the prospect of a replication of the *Lucinda*'s to us most fascinating section, the constitutionally interesting, so-called "smoking room of the upper floor cabin" – the room in which Sir Samuel Griffith's party engaged, over Easter 1891, in substantial drafting of the Constitution – with the vessel then moored on the Hawkesbury. Would the Supreme Court be interested in housing such a thing? The prospect at once fired my imagination – and that of my colleagues.

Today we see the accomplishment of the vision – and an intriguing result it is: creatively inspired by Professor Fitzgerald; substantially developed by the Supreme Court Librarian Mr Aladin Rahemtula in conjunction with Justice White and the members of the Supreme Court Library Committee; financially facilitated, by the Queensland Government through the Centenary of Federation Community Grants Program, and by generous private donors from the legal profession and the judiciary; and brilliantly executed by the master craftsmen of E Chapman and Son.

Let me at once gratefully acknowledge some outstanding contributions: first, the uniquely talented Chapman personnel, especially the proprietor, Mr Greg Chapman, and his skilled employees Mr Charles Denby and Mr Glynn Hasthorpe; the accomplished and enthusiastic consultant to the project, Mr Chris Gladwell; Mr Bruce Wilson, the Director-General of Transport Queensland, and his Executive Director (Maritime), Captain John Watkinson, for their generous loan of the elegant *Lucinda* model; the Speaker, and his Executive Officer Mr Stirling Hinchliffe, for their preparedness to lend the Court, permanently, an impressive collection of original silverware from the vessel – previously housed in the Parliamentary Annexe, and now, within a cabinet superbly crafted and donated by Chapman & Son; I thank Mr Kim Robinson and Mrs Enid Robinson for their generous gift of sections of the original *Lucinda* seating, including armrests and front panels of the benches; Mr Mark Williamson, who lent a number of original *Lucinda* items for reproduction, including the finely decorated windows, window frames and ceiling panels; Mr Rod Newton, the departmental Director of Finance, and his staff, for their assistance on legal and technical matters; Senator George Brandis, for not only his personal financial support, but also his

successful intercession on our behalf with the President of the Senate, to permit our reproduction of the grand Tom Roberts' painting of the Opening of the First Parliament by the Duke of Cornwall and York, the painting on permanent loan to the Australian Parliament from the British Royal Collection; I thank the Law Book Company for its generous financial sponsorship; and our accomplished library staff, especially Ms Rebecca Cook, Ms Claire Eardley, Ms Rowen Henderson, and Ms Madeline Cocolas. Claire's father, the solicitor Mr Peter Eardley, incidentally, donated the decanters within the smoking room: they have been filled with liquid the colour of which bears some resemblance to that of the liquor from which Sir Samuel Griffith is said to have drawn, if only occasionally (!), a degree of inspiration.

Professor Fitzgerald reminds me it is said that while, on the *Lucinda,* Griffith and Sir Edmund Barton imbibed copiously, the teetotal Sir Charles Kingston impatiently paced the deck! The figures within our room, by the way, represent Sir Samuel Griffith and Mr Andrew Thynne, also a Queenslander – and founder of the firm Thynne and Macartney, generous contributors to the project.

For its era, the *Lucinda* was upmarket and sophisticated. We have replicated its smoking room. And as to what occurred in that smoking room, our purpose has not been to encourage, here, the smoking of tobacco or the drinking of whisky! Within, a constitution may not be drafted, but our nation's Constitution will undoubtedly be thought about. We hope this display will, in its own way, invigorate consideration of the nature and history of our system of government – matters of which Australians are, generally, somewhat under-informed.

The person I would call the "originator" of the project, Professor Fitzgerald, greatly regrets his inability to be present this evening because of Parole Board commitments. He asked me specifically to mention that, and in doing so, I record my gratitude and the Court's gratitude for his inspiration and unfailing support.

And speaking of support, the Librarian invites me to mention we are still $10,000 short of our total: any further contribution will be most welcome!

I warmly welcome Professor Bolton this evening. Professor Bolton greatly honours the Court by his distinguished presence and by his most generous preparedness to travel from Perth for this occasion.

But a year ago, on Friday 11 February 2000, His Excellency the Governor opened our distinctive Rare Books Room. Over the period of only 13 months since, the public corridor outside this courtroom has been transformed, and without resort to the Court's financial resources, into a quite remarkable historical precinct, one which elevates the public presentation of the Supreme Courthouse into a diverting new dimension.

This particular centenary year initiative of the Supreme Court Library Committee is something of which the Judges of the Court are extremely proud. I know it will enure to the benefit and delight of all who see and pass through it!

Mr Attorney, would you honour us by introducing Professor Bolton?

Professor Bolton AM

It is an honour to be asked to deliver the oration at the dedication of this replica of the smoking-room of the *Lucinda*, and it is an occasion well worth commemorating. It is not simply that we are marking the 110th anniversary of the drafting of the Australian

Constitution, as well as the exact centenary of the first federal elections on 29 and 30 March 1901.

It suits Australian maritime traditions that our constitution should have been drafted not on dry land but on shipboard on the Pacific Ocean, although some might object that our later record of constitutional amendment has been all at sea ever since. Others might observe more prosaically that

Broken Bay on the Hawkesbury estuary hardly qualifies as the high seas, although during the Easter weekend when the drafting committee and their colleagues were at work on the *Lucinda* the conditions were rough enough for at least one member of the party to succumb to seasickness.

All the same, Australia is probably unique in possessing a constitution whose first draft was compiled in such circumstances, though unlike the citizens of the United States we did not take good care of the place where our constitution was framed. As is well known, the original *Lucinda*, built in 1885, was discarded by the Queensland government in 1922 as obsolete and expensive and finished her days as a hulk. It was Premier E.G. Theodore's most reprehensible decision, compared to which Mungana was a peccadillo.

My friend and colleague Professor Ross Fitzgerald informs me that when it was proposed to scrap the *Lucinda* there was no word of protest from the academic or professional community. Only the crew, some of whom went back to the memorable Sydney voyage of 1891, wrote a moving letter to the Brisbane Courier protesting against the loss of the birthplace of the Australian constitution, but nobody took any notice. At that time the Australian historical imagination was not highly developed, and ranged little further than convicts and explorers. Nor were steps taken to preserve the three tables on which the constitution was drafted. It is thought that they went to the National Hotel in Brisbane and thence to private hands, but the rest is silence. Perhaps the tables have long since been chopped up for firewood. More probably they are still in service in some suburban dining-rooms in Paddington or Clayfield, cherished as antiques by some family or families with no conception of their past.

From time to time there are reports that one of the tables has been identified - the Sunday Mail carried one such story a few years ago - but in an odd way it suits the Australian character that, instead of reposing in a glass case in a museum for uncomprehending schoolchildren to gape at, the tables from the *Lucinda* are still doing duty for the purpose for which they were intended, an anonymous part of the fabric of Australian social history.

All the same, it is a fine thing that the Supreme Court of Queensland is to house this replica of the smoking-room of the *Lucinda.* To my eye it seems a wonderfully faithful and well crafted recreation of the original, even to the empty glasses of whisky, and lacking only a warm aroma of cigar smoke to evoke the atmosphere in which Griffith, Barton, and their colleagues worked. It is well worth undertaking such a project if only because, despite all the efforts of all the Centenary of Federation committees, there is still a surprising reluctance in some quarters to admit the quality of the achievement which went into the making of the Australian Commonwealth.

It is disappointing, on reading the latest [March 2001] edition of the Australian Review of Books, to find so admirable and respected a historian as Inga Clendinnen dismissing Australian federation as 'that solemn affair of words, beards, and waistcoats'. I strongly doubt whether such a cheap shot would be fired at a similarly significant episode in Mexican or Caribbean history. Perhaps the comment is just another episode of our

egregious Australian talent for self-belittlement. Yet in my view it is not necessary to go to the other extreme of triumphalism or chauvinism to find something inspiriting in the process by which the federated Australian Commonwealth came into being.

Consider the circumstances which brought together the individuals who walked up the gangplank of the *Lucinda* early on the somewhat wet and blustery morning of Good Friday 1891. Eighteen months earlier few if any could have imagined that delegates from all the Australian colonies and New Zealand would be meeting to consider the possibility of entering into some form of union which would knit the British colonies of the Southwest Pacific into a single political unit.

The concept of federation had been flickering on the political horizon for at least forty years. Earl Grey, British colonial secretary from 1846 to 1852, a statesman whose misfortune it was to state sensible truths so disagreeably that they went unheeded, had urged federation just as he urged the desirability of a common railway gauge throughout Australia. He even initiated a short-lived experiment of designating the governor of New South Wales as governor-general with an implied superiority of status over other Australasian governors. But in a decade which saw the creation of Victoria in 1851 and Queensland in 1859 and the grant of self- government to all the colonies except Western Australia, Grey's advice went against the temper of the times. The newly enfranchised colonial governments were enjoying their new responsibilities far too much to look over their shoulders at Whitehall. For more than thirty years, it has been said, the concept of federation remained as soothing and as ineffectual as the sound of distant church bells.

All this changed, according to a legend cherished in the vicinity of Tenterfield, when the veteran premier of New South Wales, Sir Henry Parkes, delivered a speech in the School of Arts at that town in October 1889, proclaiming that the time was ripe for the Australasian colonies to unite. Some months earlier the 74-year-old politician, searching for a finale which would set the seal on his career, had told the governor of New South Wales, Lord Carrington: 'I could federate these colonies in twelve months', and Carrington, no doubt realising what was expected of him, had replied 'Why don't you do it?'

Parkes waited some months until the release of a report by the British Major-General Bevan Edwards strongly advocating closer co-ordination of the defence forces of the various colonies. He then visited Brisbane to secure the support of the Queensland government - for Queensland, with its exposure to Papua-New Guinea and the Southwest Pacific, was probably the colony with the liveliest interest in regional defence and diplomacy - and it was on the return journey from this visit that Parkes stopped over to deliver his oration to his former constituents at Tenterfield.

Perhaps the drama of the Tenterfield oration has been exaggerated in retrospect. Old citizens asked fifty years later for their recollections of the event remembered mainly that the hall had been very warm and the speeches very long. Professor AGL Shaw has pointed out that the Sydney Morning Herald on the following day gave more prominence to the speed at which Sir Henry's express train bore him back to Sydney than to the message in his speech. All the same, Parkes had a lifetime's experience to sharpen his sense of political timing, and he spoke at a propitious moment.

There was more than the defence argument to bring Australians together. Even Parkes' journey by train had its symbolic importance, because it was less than seven years since Sydney had been linked by rail to Melbourne, Adelaide, and subsequently Brisbane. Once the four south-eastern colonies of Australia were linked by rail, albeit with breaks of gauge at the border, other linkages followed. Businesses and trade unions began to organise on a

nationwide basis. Admittedly Tasmania was still separated by a tedious sea voyage and Western Australia and New Zealand by a lengthier sea voyage, but even these colonies had shown their interest in closer links. When a conference in 1883 resolved to set up a Federal Council to meet every two years to co-ordinate policies between the colonies, the resulting Council was rendered rather toothless by the refusal of New South Wales and New Zealand, and for much of the time South Australia to attend; but the outer colonies, Tasmania and Western Australia - and in this audience, I might add Queensland - attended faithfully.

This leads me to endorse the argument advanced by John Hirst in his recent history of federation, The Sentimental Nation. (I commend it to you). Hirst considers that the practical advantages of federation, such as a common market, a common defence policy, a united front against non-European immigration - were not in the end crucial determining factors, since all might have been successfully negotiated without resorting to federation. Something more was required: the growth of Australian national sentiment among the first generation since 1788 when a majority of Australian adults were native-born.

Hirst looks beyond the well-known cultural icons such as the Sydney Bulletin and the Heidelberg painters to the versifiers in country newspapers and the countless clubs and societies which found supporters in that generation. From all these activities he concludes that popular concepts were forming of what it meant to be Australian. The voting public would become increasingly responsive to appeals to give that sense of nationalism some kind of formal political recognition.

So it was that Parkes' Tenterfield message, artfully publicised, drew responses from some of the most promising public figures in the next generation. In New South Wales Edmund Barton, a prominent member of the Opposition, made a speech at Lithgow one week after Parkes' Tenterfield oration, endorsing federation as the most important political issue of the day. Hitherto Barton was regarded as an able but lazy man, liked by everyone but too fond of good food, good wine, and good talk to live up to his promise. His participation ensured bipartisan support for the cause, and he would now be driven by an enthusiasm which would carry him through years of hard work to leadership of the federal movement, and ultimately of the first national government.

In Tasmania the federal movement caught the imagination of the attorney-general, Andrew Inglis Clark, a short intense man who admired the United States and its constitution, and proclaimed himself a republican; not such a disadvantage then in Tasmanian politics as it might have been later. In South Australia the burly and tumultuous Charles Cameron Kingston, a fire-eater capable of challenging a political opponent to a duel with pistols, but also a radical democrat and hard-working professional, was only the foremost of a remarkable generation of innovative Adelaide politicians willing to embrace change. All these were men in their early forties, not yet quite at the pinnacle of the political landscape, but clearly on their way. Youngest of all at thirty-four, but probably the subtlest intelligence and finest orator of them all, Alfred Deakin of Victoria had already established his credentials as a reforming cabinet minister - he created Australia's first significant irrigation policy - and also as a nationalist spokesman prepared to stand up even to the august British prime minister, Lord Salisbury.

In 1890 Parkes persuaded his fellow premiers to agree to a convention of delegates meeting in Sydney in March 1891. Not surprisingly, Barton, Deakin, Kingston, and Inglis Clark were all among the chosen delegates, but none of them possessed quite the prestige of the man who was to be the essential leader of the Convention: Samuel Walker Griffith. Like

none of the others, Griffith at forty-six already had five years' experience as a colonial premier. He had been out of office at the time of the Tenterfield oration, but in 1890 he negotiated a coalition with his old antagonist, Sir Thomas McIlwraith, and became premier a second time. Griffith was at the cusp of his career. The 'lean, impatient idealist' whom Governor Carrington had found 'frank and full of fun', the self-possessed character who, according to a persistent legend, at an all-night Burketown dinner had drunk every man but one under the table, was cooling to an unabashed pragmatist. During his second premiership he would harry the trade unions, restore the traffic in Pacific Island labour, and reward himself with appointment as chief justice at an increased salary. But he was the finest constitutional lawyer in the Australia of his day, and he was given to meticulous preparation. By the time he stepped aboard the *Lucinda* to travel south to Sydney he had with him the draft of a federal constitution. In many essentials this draft forms the nucleus of today's Australian constitution.

Griffith was not the only one to circulate a draft constitution before the Convention. Kingston also tried his hand, with a version which placed somewhat greater emphasis on States' rights, but also included for the first time the notion of a federal power in industrial arbitration. Inglis Clark prepared a constitution drawing more heavily on the United States model. Barton and Deakin brought no drafts with them, but both undertook intensive schedules of reading during the summer before the Convention.

These five men were the best briefed of the forty-five delegates, seven from each colony and three from New Zealand, who assembled in Sydney in March 1891. Parkes was naturally accorded the honour of presiding over the Convention, but as he candidly admitted, he had a dread of literary constitutions; understandable and realistic in a self-educated stonemason's labourer. Constitutional leadership would be provided by making Griffith vice-president.

For the whole of March 1891 they debated. It soon became apparent that the main bone of contention would lie in the powers of the Senate. The smaller colonies feared they would be swamped by New South Wales and Victoria unless the Senate's powers were absolutely equal with those of the House of Representatives. New South Wales and Victoria, with two-thirds of the population and wealth of Australia, were unhappy at a system under which a voter in Western Australia or Tasmania would have twelve times the weight of a Sydney or Melbourne voter. It was feared that the smaller states would be more conservative, and this was to turn many working-class votes against federation. Early in the debates Griffith pointed out with lapidary clarity that this was the central issue on which all else hinged. Certainly it seemed to raise the greatest passions. Only John Murtagh Macrossan, with the prophetic foresight of a dying man, argued that in the Senate party loyalties would overshadow loyalties to state of origin; but although Deakin was later to come around to this way of thinking, Macrossan's perceptive insight went largely ignored.

Resolution of the various issues raised in debate was referred to a constitutional sub-committee. Griffith was the obvious choice as chairman. The other two members were to be Inglis Clark and Kingston as authors of the two alternative draft constitutions. It was apparently at this point that Griffith decided that, if the committee was to find the essential period of concentrated thought needed to produce a final draft, the opportunity should be taken during the Easter weekend. To avoid interruptions the drafting party, together with a few carefully chosen advisers from among the other delegates, would be taken on the *Lucinda* to a convenient anchorage up the coast. There, with the necessary staff to provide meals and refreshments, they would hammer out a constitution to be presented to the full Convention.

On the Thursday before Easter a complication arose. Inglis Clark went down with a severe attack of influenza. To replace him Edmund Barton was drafted at the last moment. This was a lucky break for Barton, but it probably had momentous consequences for the Australian constitution, as Inglis Clark would undoubtedly have pressed for a stronger American influence on its provisions. As it was, he was wont in later life to complain that the other members of the committee had taken themselves off for a prolonged picnic and made a mess of the constitution. This was understandable but unfair. Griffith drove his colleagues for twelve hours each day, and they responded willingly.

Griffith, Barton and Kingston were assisted by four colleagues. Of these, Sir John Downer, an ex-premier of South Australia, was a federalist who defended states' rights; he and Barton were to strike up a lasting friendship at the Convention, fortified by their mutual appreciation of good food and wine. Andrew Thynne, a Brisbane lawyer, provided sound and well considered advice. He was unlucky in that Queensland stayed aloof from subsequent debates on federation until a late stage in proceedings, so that he was denied the opportunity of contributing on the national scene at the 1897-98 Convention or later. Sir Henry Wrixon, a Victorian, also provided sound judgment from the viewpoint of an independent conservative. Undeniably he pulled his weight, but it is puzzling that Griffith invited him rather than Alfred Deakin. Perhaps Deakin struck Griffith as insufficiently concerned for the rights of the smaller States. As it was, Wrixon missed out on election to the 1897-98 Convention because he had fallen foul of David Syme, the powerful proprietor of the Melbourne Age, so that like Thynne he became somewhat marginalised in the federal story.

Bernhard Ringrose Wise from New South Wales, at thirty-three the youngest of them all, had an impressive Oxford record and credentials as an advanced liberal. In later life he somehow never lived up to his promise, but in 1891 he must have seemed the embodiment of young Australia except for an incongruous posh-Pommy accent. There was nobody present from Western Australia or New Zealand, but neither delegation included a member with appropriate legal qualifications, and Griffith had no room for passengers.

The *Lucinda* anchored at Broken Bay on the Hawkesbury estuary. It was a beautiful spot, but they had no time for exploration. Griffith noted in his diary that there was a waterfall which provided a natural shower, but added 'I did not take it'. By Sunday night the main work of drafting was over. They returned on Monday to Sydney where a convalescent Inglis Clark could critically eye their handiwork and the obliging staff of the Government Printer, showing a readiness rarely encountered in either the public or the private sector, sacrificed their Easter Monday holiday in order to have the draft constitution ready when the Convention resumed next day.

All the major suggestions of the drafting party were adopted, including the compromise that the Senate might have the power to defer or suggest amendments to financial bills but could not reject them; a formula which was to be tested in the constitutional crisis of 1975, by which time it had long come to pass that Macrossan's prophecy was vindicated, and party allegiance replaced State of origin as the guiding light for senators.

The Constitution of 1891, as drafted by Griffith, Barton, Kingston and their colleagues in that hectic weekend on the *Lucinda,* is in nearly all essentials the Australian constitution as we have it today.

Of course that was not the end of the story. The delegates went home expecting a lead from Parkes and New South Wales. But at seventy-six years old he was starting to lose his political mastery. Before the year was over he was out of office, unable to keep the

allegiance of the new Labor party which in that year made its debut in politics as a third party throwing its support to either of the others in return for concessions; somewhat like the Greens or Democrats of today. Parkes was replaced as leader of his party by George Reid and as leader of the federal movement by Edmund Barton. Until his death in 1896 he remained in politics grumbling at the younger men who had taken his place, though not too old for the joys of fatherhood or, at eighty, re-marriage with his 23-year-old housekeeper. But he deserves his place on the five-dollar note, because he spoke the word when it was timely.

Barton and Reid both saw, as Parkes did not, that in order for Federation to succeed it was essential to convince the Australian public that they possessed some share or agency in its creation. Sometimes rivals, sometimes co-operating, they took the message to the people.

Barton founded the Federation Leagues and campaigned for years to audiences which were for a long time small and apathetic. Reid persuaded his fellow-premiers that there must be a second Convention in 1897, but that this time the delegates must be elected by the voters at large.

This notion was too radical for Sir John Forrest in Western Australia, who saw to it that his docile parliament chose the delegates, and even more so for Sir Hugh Nelson in Queensland, who frittered away the year of the second Convention leading inconclusive arguments in parliament about the ways in which a Queensland delegation might be chosen. So it was that neither Griffith nor Thynne had an opportunity to participate in the debates, although Barton and Deakin consulted Griffith from time to time during the progress of discussions.

Pursuing the democratic theme the second Convention broke up in March 1898 with a commitment that the draft constitution should be submitted to the voters in each colony. Within eighteen months - a remarkably short time by political standards, though it was marked by intensive campaigning - all the colonies except Western Australia registered a 'Yes' vote. Western Australia followed a year later. Considering that the subsequent hundred years have seen a whole litany of referenda failing to secure the support of a majority of Australian voters or a majority of the six States, it is remarkable that such a momentous step as Federation was achieved so smoothly. More than anything else it reinforces John Hirst's view that there was a genuine upsurge of popular support behind the decision to go in for Federation.

It is instructive to compare this success with the failure of the republican referendum in 1999. The main opponents of federation came from two sources: conservatives of the 'if-it-ain't-broke-don't-fix-it' school of thought and radicals and Labor supporters in Victoria and New South Wales who complained that by giving too much power to the smaller States the federal constitution was not democratic enough. (They were mistaken). The opponents of republicanism in 1999 were a similar coalition: some who believed that the existing arrangements worked well enough without unnecessary change, and others for whom the proposed republic was not democratic enough. The great and essential difference is that the advocates of federation did not rush their proposal on an underprepared public. The referenda were put only after several years of discussion, propaganda, and argument. Care was taken to ensure that Federation was truly a popular movement with grass-roots support.

Critics today sometimes complain that the federation movement was not truly democratic because except in South and Western Australia women were excluded from the vote, and only a very few Aborigines were on the electoral rolls. By the standards of the world at the end of the 19th century however Australia and New Zealand were almost unique in the

quality of their participatory democracy and it is by these standards that the federal achievement should be judged.

The point may be put simply. Other nations have been created amid warfare and revolution. Even a nation so proud of its democracy as the United States originated in violence, with death or exile the fate of some. Australians on the contrary created a nation through the civilised mechanism of the ballot-box. This is an achievement for which no apology is required. We should instead take pride in the process which in some ways can be said to have originated 110 years ago in the smoking-room of the *Lucinda.*

Appendix 4

Registry Survey re probate

A comparison of the results, of the two surveys is as follows:

1. Are you or your staff satisfied with the counter waiting times for lodging applications?

	Brisbane % for 1998	Brisbane % for 2000	Statewide % for 2000
Yes	42%	48.8%	64.8%
Mostly	37%	48.8%	33.8%
No	1%	2.4%	1.4%
Other	20%	N/A	N/A
TOTAL	**100%**	**100%**	**100%**

2. How would you rate the overall probate service?

	Brisbane % for 1998	Brisbane % for 2000	Statewide % for 2000
Excellent	53%	37.9%	45.1%
Good	N/A	46.6%	45.1%
Satisfactory	45%	15.5%	9.8%
Unsatisfactory	1%	0%	0%
Other	1%	N/A	N/A
TOTAL	**100%**	**100%**	**100%**

3. How would you rate the turnaround times for grants?

	Brisbane % for 1998	Brisbane % for 2000	Statewide % for 2000
Excellent	52%	33.9%	42.5%
Good	N/A	40.7%	40.0%
Satisfactory	47%	20.3%	15.3%
Unsatisfactory	1%	5.1%	2.2%
Other	0%	N/A	N/A
TOTAL	**100%**	**100%**	**100%**

4. Do you consider requisitions are understandable/comprehensive?

	Brisbane % for 1998	Brisbane % for 2000	Statewide % for 2000
Always	38%	47.45%	50.0%
Mostly	60%	47.45%	46.9%
Rarely	1%	5.1%	3.1%
Other	1%	N/A	N/A
TOTAL	**100%**	**100%**	**100%**

5. How would you rate the assistance/advice given by the registry in response to probate requisitions?

	Brisbane % for 1998	Brisbane % for 2000	Statewide % for 2000
Excellent	58%	50.9%	51.5%
Good	N/A	35.1%	38.0%
Satisfactory	34%	10.5%	8.4%
Unsatisfactory	3%	3.5%	2.1%
Other	5%	N/A	N/A
TOTAL	**100%**	**100%**	**100%**

Appendix 5

Supreme (& District) Court Staff as at 30 June 2001

Location	Type	AO1/2 ($18,573-$33,279)		OO3 ($30,084-$32,458)		AO3 ($35,594-$39,695)		AO4 ($42,090-$46,282)		AO5 ($48,774-$53,011)		AO6 ($55,962-$59,875)		AO7 ($62,622-$67,146)		AO8 ($69,382-$73,376)		SO1 ($83,813-$87,724)		TOTAL
		F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	
Brisbane	Full Time	40	11	1	13	26	18	6	4	1	6		1	1	5		1	1		135
	Part Time		1	2		5														8
	Total	**40**	**12**	**3**	**13**	**31**	**18**	**6**	**4**	**1**	**6**		**1**	**1**	**5**		**1**	**1**		**143**
Townsville	Full Time	4	1		2	3	1		1				1							13
	Part Time	2																		2
	Total	**6**	**1**		**2**	**3**	**1**		**1**				**1**							**15**
Cairns	Full Time	1			1	1							1							4
	Part Time																			
	Total	**1**			**1**	**1**							**1**							**4**
Rockhampton	Full Time	1	1			1	1				1									5
	Part Time																			
	Total	**1**	**1**			**1**	**1**				**1**									**5**
Southport	Full Time				1															1
	Part Time																			
	Total				**1**															**1**
Mount Isa	Full Time				1															1
	Part Time																			
	Total				**1**															**1**
Beenleigh	Full Time				1															1
	Part Time																			
	Total				1															1
Grand Total		**48**	**14**	**3**	**19**	**36**	**20**	**6**	**5**	**1**	**7**		**3**	**1**	**5**		**1**	**1**		**170**

* Salary figures indicate new salary range effective from 1 July 2001.