

DISTRICT COURT OF QUEENSLAND

ANNUAL REPORT

1998-1999

The District Court of Queensland

Law Courts Complex
304 George Street
BRISBANE Q 4000

PO Box 167
BRISBANE ALBERT STREET 4002

www.courts.qld.gov.au

Registry: Phone: (07) 324 79261

Fax: (07) 324 75387

30 September 1999

The Honourable Matt Foley, MLA
Attorney-General, Minister for Justice and Minister for
the Arts
State Law Building
50 Ann Street
BRISBANE Q 4000

Dear Attorney,

I am pleased to present the Annual Report of the District Court of Queensland for the year ended 30 June 1999. I do this pursuant to s.130A(1) of the *District Court Act 1967*.

Yours sincerely,

CHIEF JUDGE

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Judge JP Shanahan RFD ED
Chief Judge 1994-1999

CHIEF JUDGE=S OVERVIEW

This is the third annual report of the District Court of Queensland, and the first which I have the privilege to present.

Chief Judge Pat Shanahan was Chief Judge of the District Court for the whole of the year covered by this report. He retired on 9 August 1999 after five years as Chief Judge.

Chief Judge Shanahan had a long and distinguished career at the Bar and on the Bench. He made a significant contribution to judicial life in Queensland.

Chief Judge Shanahan was a District Court judge for 26 years having been appointed on 17 October 1972 as an Acting Judge. He was appointed as a judge of the District Court on 15 December 1972 as the first resident District Court judge in Rockhampton. He also served as an Acting Justice of the Supreme Court of Papua New Guinea in 1973.

Chief Judge Shanahan served as an Acting Justice of the Supreme Court of Queensland in 1991 and 1992. He was also a judge of the Planning and Environment Court. He served in the Australian Army Legal Reserve from 1949 to 1984. For that service he was awarded the Efficiency Decoration and the Reserve Force Decoration. He held the honorary position of Regimental Colonel of the Royal Queensland Regiment from July 1994 to present.

Chief Judge Shanahan had a strong commitment to ensuring that people in regional centres have access to the court. He visited all regional and circuit courts during the year, consulting with court staff, magistrates and the legal profession. He addressed the administrative and practical problems that solicitors in circuit towns experience.

In addition to the judicial responsibilities that Chief Judge Shanahan carried out with distinction, he maintained a devotion to his family. He is the father of six children.

I pay tribute to him for his long and faithful service as a judge of this court and for his work as Chief Judge.

I am indebted to the Deputy Court Administrator, Ms. Sue Cawcutt, who drafted this report under the direction of Chief Judge Shanahan and also immediately prior to her recent secondment to another Department.

For the following years, I intend to collate, review and analyse statistics of relevant aspects of the court=s activities so as to report in accordance with s.130A(1) of the *District Court Act*. In addition it is intended during the coming year to consider the impact of the extensive jurisdiction of the judges of this court, particularly jurisdiction more recently conferred or to be conferred, upon judicial and other resources of this court. In this way a proper assessment may be made of the actual amount of judicial resources required for the court=s work and of the administrative support that is needed. Present indications suggest it might reasonably be expected that judicial resources will be stretched to an unacceptable degree in the following year unless further appointments are made.

I am also indebted to the judges for the contribution their committees have made to this report and I am looking forward to the contribution of the judges to the next report.

Purpose and Goals

The mission of the District Court is to deliver justice according to law to the people of Queensland as expeditiously and as economically as it is reasonably practicable to do so.

Judges of the court are sworn to act in accordance with the highest standards of integrity, fairness and justice according to law, and in accordance with the Oath of Office:

I do sincerely promise and swear that as a Judge of the District Court of Queensland I will at all times and in all things do equal justice to the poor and rich and discharge the duties of my office according to the laws and statutes of the realm and of this State to the best of my knowledge and ability without fear, favour or affection.

The primary goals of the District Court of Queensland are:

- | | |
|------------------------------|---|
| Access | To ensure that the court is accessible to the public and those who need to use its services. |
| Case management | To discharge the court=s responsibilities in an orderly, cost effective and expeditious manner. |
| Equality and fairness | To provide to all equal protection of the law. |
| Independence | To promote and protect the independence of the judges of the court. |
| Accountability | To account for the performance of the court and its use of public funds. |
| Professionalism | To encourage excellence in the functioning of the court. |

Performance 1998-99

The District Court is the major trial court of Queensland. The court conducts jury trials of persons charged on indictment with serious criminal offences, other than those few referred to later in this report. The District Court has jurisdiction in respect of civil matters for personal actions and most other matters within the monetary limit of its jurisdiction (\$250,000 unless otherwise agreed). The court sits in approximately 30 locations and disposes of more than 8000 criminal matters and 1500 civil matters each year. It has an extensive appellate jurisdiction.

During the year, the business of the District Court continued to grow. It performed well,

particularly in maintaining its high rate of prompt disposition of criminal matters. In the criminal jurisdiction 80 % of cases were dealt with within six months of an indictment being presented. The number of criminal cases awaiting hearing at the end of the year in Brisbane was 862, compared to 1067 at the end of last year. The outstanding criminal cases in major centres totalled 1854, an 8% reduction on the 2005 outstanding at the end of last year.

In the civil jurisdiction approximately 80% of cases were disposed of within six months of being ready to proceed to trial. In Brisbane, where more than half of the civil matters are dealt with, a higher 91% were disposed of within six months of readiness for trial.

The increase in the court=s appellate jurisdiction is reflected in the substantial growth of the number of appeals heard since last year. The number of applications heard and determined in chambers also increased.

The court maintained its commitment to sit throughout all Queensland. This was achieved by increasing the circuit loads on the judges, to the circuit and regional centres, in many cases by more than 50%.

Re-allocation of Judicial Resources

The number of cases awaiting hearing throughout the State required re-allocation of judicial resources from Brisbane civil to the circuits and regional centres. This resulted in an increased civil backlog in Brisbane. In Brisbane the number of cases awaiting hearing increased 45% on the previous year. However major centres throughout the State generally maintain a disposal rate of 90% or more within the 12 month period.

JUDGES OF THE DISTRICT COURT

Chief Judge	His Honour Judge John Patrick Shanahan, R.F.D., E.D.
Judges	His Honour Judge Frederick McGuire (retired 5.1.99) His Honour Senior Judge John Mostyn Hanger (Southport) His Honour Judge Eric Charles Ernest Pratt, Q.C. His Honour Senior Judge Nelson Anthony Skoien His Honour Judge Robert David Hall (Southport) His Honour Senior Judge Gilbert Trafford-Walker His Honour Judge Thomas Joseph Quirk His Honour Judge Warren Howell His Honour Judge Ian MacGregor Wylie, Q.C. His Honour Judge Keith Stuart Dodds (Maroochydore) His Honour Judge Anthony Joseph Healy, Q.C. His Honour Judge Manus Boyce, Q.C. His Honour Judge Garry Spencer Forno, Q.C. His Honour Judge Brian James Boulton His Honour Judge Maxwell George Morley, Q.C. (retired 4.10.98) His Honour Judge Francis Lenton Daly (Cairns) (retired 3.5.99) His Honour Judge Hugh Wilfrid Harry Botting His Honour Judge Michael John Noud His Honour Judge Kerry John O'Brien His Honour Judge Neil Ferguson McLauchlan, Q.C. His Honour Judge Philip David Robin, Q.C. Her Honour Judge Margaret Anne McMurdo (until 30 July 1998) His Honour Judge Brian Charles Hoath His Honour Judge John Elwell Newton (Southport) Her Honour Judge Helen O'Sullivan His Honour Judge Peter James White (Cairns) His Honour Judge Philip Grahame Nase (Beenleigh) His Honour Judge John Mervyn Robertson His Honour Judge Michael William Forde Her Honour Judge Patricia Mary Wolfe His Honour Judge Charles James Lennox Brabazon, Q.C. His Honour Judge Douglas John McGill, S.C. His Honour Judge Clive Frederick Wall, R.F.D., Q.C. (Townsville) His Honour Judge Robert Douglas Pack (Townsville) His Honour Judge Nicholas Samios His Honour Judge Grant Thomas Britton S.C. (Rockhampton) Her Honour Judge Deborah Richards (Ipswich) Her Honour Judge Sarah Bradley (Cairns)

As at 30 June 1999 there were, in addition to the Chief Judge, 34 judges of the District Court in Queensland.

Appointments and Retirements

On 30 July 1998 Judge McMurdo was elevated to the position of President of the Court of Appeal. She is the first woman and the first judge of a District Court to be appointed to lead an Australian superior appellate court. This reflects great credit on our court and a great honour to Judge McMurdo personally.

During the year four judges were appointed:

	<i>Date of appointment</i>
Judge Samios	21 August 1998

Judge Samios was admitted to the Bar in 1976. He practised at the Brisbane Bar and was a mediator and case appraiser for the Supreme and District Courts. He was also a member of the Medical Board of Queensland.

	<i>Date of appointment</i>
Judge Britton S.C.	26 November 1998

Judge Britton was admitted to the Bar in February, 1977. He practised at the Rockhampton Bar from 1979. He was appointed Senior Counsel on 17 November 1998.

	<i>Date of appointment</i>
Judge Richards	26 November 1998

Judge Richards was admitted to the Bar in December 1985, practising at the Brisbane Bar in local government, criminal law, anti-discrimination law, personal injuries, contract and administrative law. She also practised as a Crown Prosecutor and as Deputy Public Defender at the Legal Aid Office. She was a member of the criminal law division of the Litigation Reform Commission.

	<i>Date of appointment</i>
Judge Bradley	25 March 1999

Judge Bradley's appointment marked the first appointment of a Stipendiary Magistrate as a judge of the District Court in Queensland. Judge Bradley practised as a solicitor for 20 years and as a Magistrate for 6 years in Rockhampton and Townsville.

Two judges retired during the year:

	<i>Date of retirement</i>
Judge McGuire	5 January 1999

Judge McGuire was appointed as a judge of the District Court on 3 February 1975 and retired after completing almost 24 years as a judge. He was appointed the last Chairman of the Police Complaints Tribunal for one year from 20 April 1989 and he acted as a Justice of the Supreme Court in 1992. Judge McGuire was appointed President of the Children=s Court on 3 June 1993. The Children=s Court was held high in public esteem and I acknowledge Judge McGuire=s devotion to the work of the District Court and the Children=s Court over many years.

	<i>Date of retirement</i>
Judge Daly	3 May 1999

Judge Daly retired after ten years on the Cairns Bench. He was appointed as Cairns= first permanent District Court judge on 2 May 1989. Judge Daly obtained a law degree in London and was at the English Bar from 1961 to 1966. He was the Principal Magistrate of Malaita in the Solomon Islands in 1978, Attorney-General of the Solomon Islands in 1979 and Chief Justice of the Solomon Islands from 1980 to 1984. He was also appointed in 1983 to Chief Justice of Nauru. Judge Daly moved to Cairns in 1984 and practised as a barrister. The court recognises Judge Daly as a prodigious worker and a fair judge. Judge Daly fulfilled the office of judge of the District Court with quality and dignity.

Seven acting judges were commissioned during the year under review. There was a significant lack of judicial resources during 1998. This mostly came about through some judges attaining long leave, from increasing circuit demands and the growing complexity of litigation before the court.

The need for more judicial resources in the period ending 31 December 1998 was met, to an extent, by the appointment of six acting judges. This was not a satisfactory alternative to the more appropriate solution - that of appointing another judge - when the court=s judicial resources were overtaxed and seem likely to remain so.

In early 1999 a seventh acting judge was appointed to fill in≡ for Judge Richards, who was then on maternity leave.

However it must be stressed that the acting judges carried out their duties expeditiously, fairly and at no little personal cost to themselves especially those four who returned to

private practice.

The acting judges came from practice at the private Bar, the Director of Public Prosecutions= office or from Legal Aid. They are:

	<i>Period of appointment</i>
Robert Neilson Wensley Q.C. (Barrister)	11 May to 7 August 1998
Peter Vivian Ambrose (Barrister)	11 May to 7 August 1998
Michael John Byrne Q.C. (Deputy Director of Public Prosecutions)	6 July to 18 December 1998
Alan Muir Wilson (Barrister)	6 July to 3 October 1998
Mark David Hinson S.C. (Barrister)	10 August to 6 November 1998
Michael John Shanahan (Public Defender)	10 August to 18 December 1998
Leanne Joy Clare (DPP - appeals)	25 March to 30 June 1999

Specialist Courts

The judges who sat in the Children=s Court and Planning and Environment Court during 1998-1999 are listed below:

Children=s Court

On 5 January 1999 Judge McGuire retired from the Bench and as President of the Children=s Court. Judge Robertson was appointed President on 5 January 1999.

Judge McGuire (until 5 January 1999)
Senior Judge Hanger
Senior Judge Trafford-Walker
Judge O=Brien
Judge White
Judge Nase
Judge Robertson (President from 5 January 1999)
Judge Wall, Q.C.
Judge Pack
Judge Britton S.C.
Judge Richards
Judge Bradley

Planning and Environment Court

Chief Judge Shanahan
Senior Judge Hanger
Senior Judge Skoien
Senior Judge Trafford-Walker
Judge Dodds
Judge Quirk
Judge Daly
Judge McLauchlan Q.C.
Judge Robin Q.C.
Judge Newton
Judge White
Judge Nase
Judge Wolfe
Judge Brabazon Q.C.
Judge Wall Q.C.
Judge Pack
Judge Britton S.C.

Judges of the District Court

JURISDICTION AND WORK OF THE DISTRICT COURT

The District Court of Queensland is constituted under the *District Courts Act 1967*. It is the principal court in Queensland for the trial of persons charged with serious criminal offences. The court's monetary jurisdiction in civil matters is generally limited to \$250,000. It also hears appeals from the Magistrates Courts and from decisions of a number of tribunals and other statutory bodies.

Judges of the District Court sit in its criminal and civil jurisdiction and in chambers. Some sit in the Planning and Environment Court and in the Children's Court.

The court sits in a number of locations. Judges are based in Brisbane, Cairns, Townsville, Rockhampton, Maroochydore, Beenleigh, Southport and Ipswich. Judges also travel on circuit to other centres throughout the State.

Judges were allocated to the various jurisdictions, centres and circuits based on the volume of work which was anticipated. At the start of the 1998-1999 year it was calculated that demands would be met by allocating 200 judge weeks to circuits in places where there was no resident judge, 365 judge weeks to Brisbane criminal sittings, 127 judge weeks to Brisbane civil sittings, 74 weeks to the Planning and Environment Court, 51 weeks to Chambers and Appeals, and 10 weeks to the Children's Court. Judges also travelled to regional centres where there are resident judges, performing significant work for extensive periods away from their home centres. This work is not reflected in those figures.

Regional Courts and Circuit Sittings

The Southport Court and the Maroochydore Court continued to manage extremely heavy workloads in centres of increasing population. The details of these loads are set out below. Both required considerable assistance from the judges based in Brisbane.

During any one week of the court year, between two and eight judges were on circuit in rural centres and in regional centres which also have a resident judge. Judges were allocated to circuit centres according to the estimated need for criminal and civil sittings in each location. Circuit arrangements were reviewed and adjusted during the year in response to increases and decreases in the caseload.

During the year Judge White, who is based in Cairns, continued his circuits to Thursday Island. In April 1999 Judge Robertson conducted the court's first circuit to the remote indigenous communities of Mornington Island, Normanton and Doomadgee. The circuit was the result of an initiative of Chief Judge Shanahan at the request of elders of the relevant communities. Owing to the distances involved many persons accused of serious crime were unable to undertake their own travel to court sittings in Mt Isa, which was the closest circuit town. A practice had developed of issuing warrants early in the sittings to enable accused persons to be arrested and flown to Mt Isa by Police Air Wing. Commonly, where those persons received a non-custodial order, they would be stranded in Mt Isa with no means of returning to their communities.

The court's first circuit to Kowanyama was conducted in May 1999 by Judge Bradley. The 43 matters which were dealt with would otherwise have been heard in Cairns.

This initiative has contributed to improving access to the court for people in remote communities who would otherwise be required to travel considerable distances to attend court, and may have been unable to return to their communities after court hearings. The circuits were strongly supported by the communities they served, by the Attorney-General and the Department. These circuits are part of the work of the District Court.

A list of the centres (excluding those with a resident judge) to which the court travelled on circuit during 1998-1999 appears below:-

Bowen	Kingaroy
Bundaberg	Kowanyama
Charleville	Longreach
Charters Towers	Mackay
Clermont	Maryborough
Cloncurry	Mornington Island
Cunnamulla	Mount Isa
Dalby	Normanton
Doomadgee	Pormpuraaw
Emerald	Roma
Gladstone	Stanthorpe
Goondiwindi	Toowoomba
Gympie	Thursday Island
Hughenden	Warwick
Innisfail	

CRIMINAL JURISDICTION

The District Court is the principal trial court for persons charged with serious criminal offences under the Criminal Code. The maximum penalty for some of these offences is life imprisonment. The District Court also exercises extensive federal jurisdiction to try persons for Commonwealth offences including corporate and taxation offences punishable by up to 14 years imprisonment.

Most trials before a judge and jury (except murder, attempted murder, manslaughter and serious drug offences) are conducted in the District Court (s.61 District Court Act).

The *District Court Act 1967* (s.63) provides that trials in the District Court must be tried by a judge and jury. Jury duty is the price of citizenship in a democracy such as ours, and the judges are constantly impressed by the conscientious manner in which jurors discharge their onerous obligations.

During the year the court conducted a number of criminal trials exceeding three weeks in length. These complex and lengthy trials required great commitment by the court and the jurors.

Some District Court judges are commissioned to sit as Children=s Court judges. In that capacity judges have jurisdiction to sit without a jury to try a child for any offence for which the child has been committed for trial if the child so elects (ss.49 and 72. *Juvenile Justice Act 1992*).

Criminal case management

The management of the criminal caseload was undertaken by Chief Judge Shanahan, occasionally assisted by other judges, and with the able support of the Criminal List Manager, Kerrie Attrill.

In Brisbane monthly callovers of all outstanding matters on the criminal list were held throughout the year, providing a framework for management of the criminal list. New indictments were presented and approximately 200 matters were called over each month and allocated a date for trial, sentence or further mention.

As well as daily mentions there were reviews of matters set down for trial six working days prior to their listed date, and at various mentions and reviews, dates for the determination of pre-trial applications were allocated.

Disposition of criminal matters

Table 1 shows the time taken between presentation of an indictment and disposal of cases in major centres. As noted earlier in this report, the court achieved a satisfactory disposition rate, with over 80% of matters disposed of within 6 months of presentation of an indictment.

Table 1: Age of cases disposed of - criminal jurisdiction - majorcentres 1998-99

Percentage disposed of					
Time for disposition	Brisbane	Townsville	Cairns	Rockhampton	Southport
<3 months	61%	50%	38%	49%	55%
3-6 months	20%	19%	34%	24%	28%
6-9 months	7%	18%	18%	13%	7%
9-12 months	4%	8%	6%	8%	4 %
>12 months	8%	5%	4%	6%	6%
TOTAL	100%	100%	100%	100%	100%

Percentage disposed of				
Time for disposition	Ipswich	Maroochydore	Beenleigh	Toowoomba
<3 months	63%	49%	76%	97%
3-6 months	25%	25%	16%	2%
6-9 months	7%	16%	6%	0%
9-12 months	2%	8%	2%	1%
>12 months	3%	2%	0%	0%
TOTAL	100%	100%	100%	100%

The court had a significant case load during the year. In Brisbane there were 1035 criminal cases at the start of the year. The number of cases awaiting trial or sentence at the end of the year was 862, the lowest in the last three years (see Table 2 below).

Table 2: Annual case load - criminal jurisdiction, Brisbane

Number of cases ¹	1996-97	1997-98	1998-99
At start of year	803	1061	1035
Presented during year	3844	3768	3562
Disposed of during year ²	3558	3806	3737
Undisposed ³	1056	1067	862

1 In this table and others in this report referring to a criminal case, the term <case= means a person on an indictment.

2 <Disposed of= includes trial, sentence, nolle prosequi and no true bill.

3 Figures may not add up because of breaches and bench warrants issued and executed.

The number of cases disposed of during the year increased in all regional centres compared with the previous year. This is shown in Tables 3 to 10 below.

Table 3: Annual case load - criminal jurisdiction, Townsville

Number of cases	1996-97	1997-98	1998-99
At start of year	24	59	153
Presented during year	366	415	556
Disposed of during year	321	307	524
Undisposed	59	153	62

Table 4: Annual case load - criminal jurisdiction, Cairns

Number of cases	1996-97	1997-98	1998-99
At start of year	235	116	293
Presented during year	655	792	1005
Disposed of during year	750	590	875
Undisposed	116	293	312

Table 5: Annual case load - criminal jurisdiction, Rockhampton

Number of cases	1996-97	1997-98	1998-99
At start of year	10	34	90
Presented during year	252	340	309
Disposed of during year	227	277	308
Undisposed	34	90	84

Table 6: Annual case load - criminal jurisdiction, Southport

Number of cases	1996-97	1997-98	1998-99
At start of year	113	228	158
Presented during year	605	588	812
Disposed of during year	506	633	732
Undisposed	228	158	210

Table 7: Annual case load - criminal jurisdiction, Maroochydore

Number of cases	1996-97	1997-98	1998-99
At start of year	85	109	63
Presented during year	337	321	369
Disposed of during year	311	330	370
Undisposed	109	63	45

Table 8: Annual case load - criminal jurisdiction, Ipswich

Number of cases	1996-97	1997-98	1998-99
At start of year	56	82	86
Presented during year	551	369	532

Number of cases	1996-97	1997-98	1998-99
Disposed of during year	508	351	486
Undisposed	82	86	121

Table 9: Annual case load - criminal jurisdiction, Beenleigh

NB: Figures for 1997-98 are for the period February - June only

Number of cases	1997-98	1998-99
At February 1998	37	86
Presented during year	236	576
Disposed of during year	165	505
Undisposed	86	150

Table 10: Annual case load - criminal jurisdiction, Toowoomba

Number of cases	1996-97	1997-98	1998-99
At start of year	19	1	9
Presented during year	307	239	244
Disposed of during year	318	223	252
Undisposed	2	9	8

The court has continued to dispose of a high proportion of matters within six months of commencement. Table 11 below shows a comparison of the age at which matters are disposed with other jurisdictions for 1997-98, drawn from the most recent AReport on Government Services²³ by the Productivity Commission.

**Table 11: Non-appeal criminal matters finalised, 1997-98 (per cent)
District/County Court**

	NSW	Vic	Qld	WA	SA	Aver.
<6 months	40%	70%	83%	67%	67%	68%
6-12 months	33%	20%	11%	17%	23%	19%
12-18	13%	7%	4%	13%	5%	8%

	NSW	Vic	Qld	WA	SA	Aver.
months						
>18 months	14%	3%	2%	4%	4%	5%

CIVIL JURISDICTION

The District Court's civil jurisdiction is set out in s.68 of the *District Court Act*. The court has jurisdiction in civil actions and matters for up to \$250,000. Where parties to an action consent in writing, the District Court's monetary jurisdiction may be unlimited as with the relevant consent the District Court has jurisdiction in any matter which might be brought in the Supreme Court (s.72 of the *District Court Act*).

The court is also vested with civil jurisdiction by other Queensland and federal legislation.

Civil proceedings were instituted by the filing of a plaint or other initiating document. Unless earlier resolved, actions proceeded to trial. There was a significant rate of settlement of actions after the allocation of trial dates, although a considerable number of actions were resolved prior to trial by reference to mediation or case appraisal.

Some matters were disposed of by the chamber judges who also dealt with interlocutory applications in actions commenced by plaints.

Case management

The callover system is used to manage civil cases from the time of entry of a matter for trial. Chief Judge Shanahan was responsible for management of the civil list in Brisbane, with the able assistance of the Civil List Manager, Kate Bannerman (until December 1998) and then Brett Kerr. There were regular callovers to ensure that matters were given early trial dates. Lengthy cases (those estimated to require five days or more) were given specific dates for hearing. Following a decision made by the judges at their Easter Conference, specific judges were assigned to manage and hear the long cases.

Uniform Civil Procedure Rules

During the year the Uniform Civil Procedure Rules were finalised. The Rules came into effect on 1 July 1999. Judge Robin Q.C. was a member of the Rules Committee established under s.118C of the *Supreme Court Act 1991* which advised on the proposed Rules. For part of the year, Chief Judge Shanahan and then Judge McGill S.C., were members of that

Committee.

Practice Directions

The court issued a practice direction relating to the Uniform Civil Procedure Rules. This practice direction acknowledges that there may be a degree of administrative difficulty and uncertainty during the implementation of the new Rules and allows some latitude for litigants in the use of the Uniform Civil Procedure Rules until 1 October 1999.

Disposition of civil cases

The number of active cases at the start of the year in Brisbane and major centres was 553. Over 1500 new matters were entered for trial during the year, and 1486 matters were disposed of. A total of 608 cases had not been determined by the end of the year under review.

In Brisbane there were 369 civil cases which had not been determined by the end of the year, somewhat higher than at the end of the previous two years.

Table 12: Annual case load - civil jurisdiction, Brisbane

Number of cases	1996-97	1997-98	1998-99
At start of year	470	262	254
Entered for trial during year	1151	1050	931
Disposed of during year	1359	1058	816
Undisposed at end of year	262	254	369

The annual caseload for each of the major centres outside Brisbane is shown in Table 13 below.

Table 13: Annual case load - civil jurisdiction, major centres ¹

Number of cases	Townsville			Cairns			Rockhampton			Southport		
	96-97	97-98	98-99	96-97	97-98	98-99	96-97	97-98	98-99	96-97	97-98	98-99
At start of year	26	17	20	29	20	21	27	14	15	62	139	106
Entered for trial during year	73	66	38	103	75	80	70	58	53	236	245	221

Number of cases	Townsville			Cairns			Rockhampton			Southport		
	96-97	97-98	98-99	96-97	97-98	98-99	96-97	97-98	98-99	96-97	97-98	98-99
Disposed of during year	81	63	42	112	74	67	83	57	40	159	278	246
Undisposed at end of year	17	20	16	20	21	34	14	15	28	139	106	81

Table 13 (cont.): Annual case load - civil jurisdiction, major centres ¹

Number of cases	Ipswich			Maroochydore			Toowoomba			Beenleigh
	96-97	97-98	98-99	96-97	97-98	98-99	96-97	97-98	98-99	98-99
At start of year	16	16	31	39	30	72	33	29	34	0
Entered for trial during year	47	55	31	134	148	103	92	98	75	9
Disposed of during year	45	40	54	143	106	142	96	93	70	9
Undisposed at end of year	16	31	8	30	72	33	29	34	39	0

1. There were no civil matters during the 5 months a resident judge was located in Beenleigh in 1997-98

In Brisbane and all major centres over 70% of civil matters were finalised within nine months of entry for trial. In Brisbane, where the greater number of civil matters are dealt with, 91% of civil matters were finalised within six months. Table 14 shows the age of cases finalised in Brisbane and major centres. Across all major centres over 90% of civil matters were finalised within twelve months of entry for trial (Table 15).

Table 14: Percentage disposition of civil cases within 12 months of entry for trial major centres 1998-99

Percentage disposed of				
Time for disposition	Brisbane	Townsville	Cairns	Rockhampton

Percentage disposed of				
Time for disposition	Brisbane	Townsville	Cairns	Rockhampton
<3 months	41%	50%	51%	18%
3-6 months	50%	23%	36%	42%
6-9 months	6%	16%	12%	13%
9-12 months	1%	4%	1%	22%
>12 months	2%	7%	0%	5%
TOTAL	100%	100%	100%	100%

Percentage disposed of					
Time for disposition	Southport	Ipswich	Maroochydore	Toowoomba	Beenleigh
<3 months	26%	29%	14%	13%	41%
3-6 months	41%	40%	27%	39%	51%
6-9 months	18%	13%	30%	30%	6%
9-12 months	10%	9%	26%	8%	0%
>12 months	5%	9%	3%	10%	2%
TOTAL	100%	100%	100%	100%	100%

Table 15: Proportion of cases disposed of within 12 months of entry for trial - civil jurisdiction, major centres

Centre	1997-98	1998-99
Brisbane	99%	98%
Townsville	90%	93%
Cairns	97%	100%
Rockhampton	96%	95%
Southport	97%	95%
Ipswich	100%	91%
Maroochydore	100%	97%
Toowoomba	100%	90%
Beenleigh	N/A	98%

APPELLATE JURISDICTION

Appellate jurisdiction is conferred on the court by a broad range of legislation.

The court hears criminal and civil appeals from Magistrates Courts. It also determines appeals from decisions of various tribunals and other statutory bodies.

The number of appeals in major centres is shown in Table 16. Many of the appeals involved complex issues of law and were determined by the Chamber Judge.

Table 16: Appeals heard 1998-99

Centre	1997-98	1998-99
Brisbane	150	149
Cairns	81	59
Townsville	20	29
Southport	14	62
Maryborough	12	6
Rockhampton	10	12
Maroochydore	7	6
Toowoomba	5	20
Other	12	29
TOTAL	311	403

Appeals to the Planning and Environment Court which is constituted by some judges of the District Court are not included in this Table.

CHAMBER APPLICATIONS

The court has a judge available to hear chamber matters during every week of the court year. There is always a judge available for urgent applications in Brisbane. The judge is on call after hours for urgent applications. A judge is also on call during the court vacation.

Table 17: Chamber applications dealt with in major centres, and some other centres where judges attend on circuit.

Centre	1997-98	1998-99
Brisbane	2152	1952
Cairns	411	293
Southport	345	469
Maroochydore	213	262
Townsville	175	213
Mackay	98	101
Rockhampton	74	108
Ipswich	56	61
Toowoomba	73	46
Maryborough	85	37
Bundaberg	35	29
Gladstone	18	14
Gympie	19	2
Mt Isa	17	16
Dalby	17	40
Other	27	36
TOTAL	3854	4315

THE PLANNING AND ENVIRONMENT COURT

The Planning and Environment Court was constituted in 1990 by the *Local Government (Planning and Environment) Act*, replacing the Local Government Court. In March 1998 the *Integrated Planning Act* came into effect. This court has unlimited monetary jurisdiction. It has no budget, nor any administrative staff apart from that of the District Court. However hearings of some matters commonly take many weeks. Matters are often complex, with evidence of a highly technical nature.

This court is constituted by a District Court judge appointed to sit in the Planning and Environment Court. Most of the Planning and Environment Court judges are based in Brisbane. There are also resident judges in Cairns, Townsville, Rockhampton, Maroochydore and Southport who deal with matters within their areas as they arise. Planning and Environment matters in other locations are dealt with according to need. The court usually sits at a location as close as possible to the site of the dispute, either in a courthouse or a community facility.

During the year there were 74 scheduled judge weeks for the Planning and Environment Court in Brisbane. Those judges who sat as judges of the Planning and Environment Court during the year are listed earlier in this report.

The court's procedures have been under constant review. A set of rules to meet the demands of the *Integrated Planning Act* has been implemented, although these are under review.

Planning and Environment Court matters are managed to ensure that appeals are heard promptly. Matters are managed through processes which ensure that the issues in dispute are quickly identified. Written reports of expert witnesses are exchanged and the issues in dispute are narrowed. Listing of matters is managed in a way which reduces court time and enables matters to be heard as promptly as possible. The satisfactory level of expeditious disposal of matters achieved by the court in past years has been maintained in the year under review.

Table 18 below shows the number of cases in Brisbane for the last three years. In Brisbane there were 115 matters at the start of the year, and 365 new matters were commenced. Matters disposed of during the year totalled 364. The number of cases which had not been finalised at the end of the year in Brisbane is comparable to the previous year.

In Southport there were 43 new matters commenced during the year and 47 matters finalised. Thirteen of those matters were determined by way of judgment, 26 were consent orders and 6 matters were withdrawn.

The Planning and Environment Court in Townsville disposed of 30 matters, seven by way of judgment and 23 consent orders.

The Planning and Environment Court in Rockhampton disposed of 13 matters, six by way of hearing and seven consent orders.

Table 18: Annual case load, Planning and Environment Court, Brisbane

Number of cases	1996-97	1997-98	1998-99
At start of year	107	96	115
New cases - Directions	198	236	229
New cases - Consent orders	205	181	136
New cases - Total	403	417	365
Disposed - Judgments	80	73	52
Disposed- Withdrawals	125	144	113
Disposed - Consent orders	209	181	199
Disposed - Total	414	398	364
Undisposed	96	115	116

CHILDREN=S COURT

Judge McGuire retired from the bench and as President of the Children=s Court on 5 January 1999. Judge Robertson was appointed President from 5 January 1999. The President is required to report annually to the Parliament on the operation of the court.

In May 1999, the court sittings commenced in the Children=s Court Complex at 30-40 Quay Street, Brisbane. Hitherto, the sittings of the court had taken place in the District Court Complex in George Street, Brisbane. Judge Robertson determined that the purpose built court building was much more suitable for proceedings involving children, and that the move would facilitate much closer co-operation between members of the Children=s Court of Queensland, and the Children=s Court Magistrate, Mr. Tony Pascoe who sits permanently in the complex. The move has been very well received by the profession.

In the 1998-1999 financial year, the number of children using the court as the court of final disposal declined by a further 11.1%. In the previous year, the decline was an alarming 32%. In the 1999 calendar year, the work of the court has steadily increased, and for, the first time in some years, a number of defendants have elected trial by judge alone.

In the opinion of the Court President, the present workload of the court barely justifies its continued existence as an entity separate from the District Court. His reasons will be explained in the Annual Report in November.

The judges of the District Court holding commissions, in addition to the President, are Senior Judge Trafford-Walker and Judge O=Brien (Brisbane), Senior Judge Hanger (Southport), Judge Dodds (Maroochydore), Judge White (Cairns), Judge Richards (Ipswich), Judge Britton (Rockhampton), Judge Wall and Judge Pack (Townsville), Judge Nase (Beenleigh) and Judge Bradley (Cairns).

The court expresses its gratitude for the strong and continuing support of the present Chief Judge and her predecessor Chief Judge Pat Shanahan.

COMMITTEES

The membership of Committees at 30 June 1999 was as follows:-

Aboriginal and Torres Strait Islanders Committee

Convenor: Judge Wolfe

Members: Judge Botting
Judge O'Brien
Judge White
Judge Nase
Judge Robertson
Judge Richards
Judge Bradley

Civil Procedure Committee

Convenor: Judge Robin Q.C.

Members: Judge Wylie Q.C.
Judge McGill S.C.

Conferences and Judicial Education Committee

Convenor: Judge Brabazon Q.C.

Members: Judge Newton
Judge McGill S.C.
Judge Wall Q.C.

Criminal Law Committee

Convenor: Judge O'Brien

Members: Judge Forno
Judge Botting
Judge Nase

Publications and Community Awareness Committee

Convenor: Judge O'Sullivan

Members: Judge Robertson

Judge Bradley

Salaries and Entitlements Committee

Convenor: Judge Boulton

Members: Senior Judge Hanger
Judge Boyce Q.C.
Judge Botting
Judge Robin Q.C.

Strategic Planning and Budget

Convenor: Judge Pratt Q.C.

Members: Judge Botting
Judge Robertson
Judge Wolfe
Judge Brabazon Q.C.
Judge Samios

REPORTS OF COMMITTEES

Strategic Planning and Budget Committee

The committee continued to meet regularly and concerned itself with many matters which included the budget allocations to the courts; the preparation of a uniform bench book; refurbishment of courts and chambers; new courts and court modernisation; arrangements for the implementation of the forthcoming Health Professionals Tribunal; and meetings with representatives of the Department and the Director-General in respect to all of these matters.

A submission was made on the budget process to the Honourable the Chief Justice of Queensland designed to assist in negotiations on behalf of all courts. That was after we became aware of the Executive Government's adoption of a new approach to budget allocation.

A conference was held on 5 May 1999 with the Chief Justice in order that -

- X a process might be developed for making early input by the judiciary into the budget process. This process would perhaps ensure that Cabinet and Treasury appreciate that -
 - X the current philosophy and practice in evaluating courts budgets and allocating funds has seriously eroded the justice system.
 - X inadequate and dilapidated court buildings are hampering the administration of justice e.g.

- X none of the courtrooms throughout Queensland have been set up for the taking of children=s evidence. Half the courts require set-up for closed circuit television.
- X jury accommodation is poor - e.g. jury rooms are sub-standard; the jurors= dining room in the Law Courts Complex is even less salubrious than the prisoners= eating facilities.
- X there is no permanent voice amplification in any of the State=s courtrooms, causing real difficulties as many witnesses, practitioners and judges are softly spoken.
- X people in wheelchairs cannot access the jury box, the dock, the bench, or the associate=s table.
- X there are no child-minding facilities or rooms set apart for children and babies (apart from the very basic changing room in the Law Courts Complex).
- X judicial administrative support is meagre - e.g.
 - X Eighteen of the Brisbane District Court judges located in the Law Courts Complex share two secretaries. The secretariat is floors away from most of these judges. A third secretary works for the Chief Judge and another judge, and two judges share a fourth secretary at Tank Street. Some regional centres, e.g. Ipswich and Maroochydore have no secretarial support at all. There is no secretarial support at the circuit centres. Nonetheless many judges have recently had their circuit load increased from an average of seven weeks to twelve weeks.
 - X Internet access is not provided to the judges. They must pay for their own. District Court judges rely heavily on the support of the Supreme Court Library and their \$1,000.00 yearly library allowance, to pay for some of the essentials, e.g. annual subscriptions to the Queensland Reports currently costing each judge \$363 p.a., Commonwealth Law Reports approx. \$1,350.00, the Australian Law Journal approx \$770.00, the New South Wales Law Reports approx. \$238.00, the Australian Law Reports, in excess of

\$1,000.00 etc.

X Many of the judges= chambers are decrepit.

X As to the proposed bench books we had discussions with the Chief Justice and eventually the decision was made to prepare such a book with the help of judges from both courts. Judge Robertson is to co-ordinate the District Court judges= contribution in that regard.

As to Audio Visual and Audio Links questions our members continued their interest and were pleased to consider and discuss the provisions of the 1999 Amendment Bill.

X As to courts planning modernisation and refurbishment our members attended meetings and made suggestions in relation to court house facilities at Brisbane, Gladstone, Mackay and Gympie.

X As to the forthcoming *Health Practitioners (Professional Standards) Bill 1999*, Judge Pratt QC, at the request of the Chief Judge, devoted much time in considering several drafts with officers of the Health Department. It is expected that the District Court will be vested with this entire jurisdiction before the end of 1999.

X The final exercise engaged in for the year was to enter into discussions with the Chief Justice with a view to the establishment of a joint Court Governance Committee. It is hoped that the advent of such a committee will take place before the end of 1999.

Criminal Law Committee

The members of the Criminal Law committee exchanged views regularly throughout the year both informally and at formal meetings on a wide range of topics of concern and interest. It was noted that in early January 1999 Justice Muir, chairman of the Queensland Law Reform Commission invited comments on the vexed question of evidence of children. The committee was not aware of any complaint or concern about the conduct of any trial before the District Court in this context. It notes of course the recent lively public discussion of the matter and resolves to discuss any developments in a calm and measured way, keeping in mind the interests of victims as well as persons accused of crimes whose right it is of course to have a fair trial under our system of justice. The committee recognises that any new measure designed to discover the truth of any allegation with the least distress to child witnesses would be likely to be within the charter and mission of the Court and can be expected to be welcomed by all judges.

Most recently the committee in the interest of proven victims of crime invited submissions from the judges of the District Court about the shortcomings of the criminal compensation process with a view to making applications by those victims less expensive and less cumbersome and of course consequently less distressing.

The committee had input into the new criminal practice rules which were being formulated

last year.

Publications and Community Awareness Committee

During the year the committee continued to liaise with media representatives. This included discussing the publication of informative and thoughtful articles about the courts, their work and the justice system. It also involved, on occasion, assisting the Chief Judge to respond suitably to particular instances of inaccurate, misleading or unfair reports.

The committee remains of the view that the appointment of a Courts Media Liaison Officer is still needed, and has now become urgent.

At the Annual Judges' Conference, the committee was requested to make recommendations for implementation of the AIJA Courts and the Public (Parker) Report in the District Court. This Report is to be written as soon as possible.

The AIJA is currently considering complaints procedures by the public and the committee is liaising with the Chief Justice, Chief Judge and Court Administrator on an outline of the Queensland position.

The committee is currently considering a range of options to improve communication between the court and the public. Judges have been encouraged to participate in the biographical section of the courts homepage and in pre-court talks for legal studies students visiting the courts. The booklet 'Introduction to the Supreme Court and District Courts' is being revised.

In consultation with the Court Administrator and the Supreme Court Librarian, the committee is preparing further information sheets for members of the public who visit the courts, and developing a kit for students.

The committee is considering the possibility of expanding current community liaison initiatives to enhance court-community discussion and collaboration.

Salaries and Entitlements Committee

A major task of the committee was preparation of a written submission to the Salaries and Allowances Tribunal in November 1998. Judge Boulton and Judge Robin met with the members of the Tribunal to discuss the submission in February.

In September 1998 the Chief Judge and Judge Boulton met with the new Director-General of the Department of Justice and Attorney General to discuss a proposal that the Salaries and Allowances Tribunal might review annually the daily travelling allowance, annual private

telephone allowance and annual library allowance. The level of travelling allowance and telephone allowance have remained unchanged since 1994. The annual library allowance of \$1,000 has remained unchanged since 1991.

Concern was expressed over the impact of the Commonwealth superannuation surcharge on newly appointed judges and the effect which it may have on recruitment of highly qualified candidates to the bench.

Aboriginal and Torres Strait Islander Committee

Last year the committee believed the following areas should be pursued:

- X access for judges to a list of Aboriginal and Torres Strait Islander elders, accepted by their communities as such, in every place where the District Court sits, with whom judges could, where appropriate, and if they wished, consult during the sentencing process in open court;
- X the feasibility of judges sentencing in Aboriginal communities, thereby providing a learning experience for the sentencing judge and involving the community in the sentencing process; and
- X encouragement of older Aboriginal high school children interested in the study of law to do work experience with judges in the court.

This year the committee has been able to develop some of these objectives.

Conferences and Judicial Education Committee

The committee's main task was to arrange the Annual Judges' Conference, held in the week before Easter. All except two of the judges were able to attend the conference, held over two days at the Mercure Hotel, Brisbane. There are no facilities for such a meeting in the Brisbane Courthouse.

The Annual Conference is the only occasion on which the Brisbane and regional judges can be together. Discussions and papers dealt with practical legal problems, the administration of the court, the court's response to the Parker report on the relationship between courts and members of the public, and the bar's response to a questionnaire about several aspects of the work

On the day before the Annual Conference, the judges of the Planning and Environment

Court, for the first time, held a conference. It followed the introduction of the wide-ranging *Integrated Planning Act 1997* on which attention was focused.

Unfortunately, the funds allocated for conferences in the court=s budget were insufficient, particularly for a financial year which saw the District and County Courts Biennial Conference held in Sydney. Those judges who attended that valuable conference did so at their own expense.

Civil Procedure Committee

This project was brought to fruition with the commencement of these rules on 1 July 1999, following considerable work by the Rules Committee established under s.118C of the *Supreme Court Act 1991*. The convenor of the Civil Procedure Committee has been a member of the Rules Committee since its establishment. The Chief Judge was also a member during 1998, but from February 1999 he nominated another member of the Civil Procedure Committee to take his place on the Rules Committee. Because of the work required for the Rules Committee, and because the whole issue of civil procedure was to be extensively changed by the new rules, there was relatively little for the Civil Procedure Committee as such to do during the year, although it did operate in the usual way when required.

A paper detailing the major changes in the Uniform Civil Procedure Rules, as they would impact particularly on the District Court, was delivered at the Annual Conference of District Court Judges in Brisbane on 31 March 1999. This provided a useful practical introduction to the new rules for the members of the court. In addition, a mechanism has been put in place for circulating rapidly information about decisions on the interpretation and application of the new rules within the Supreme and District Courts, which should assist the implementation of the new rules in a consistent fashion.

In the coming year the committee will be concerned to monitor the court=s experience with the new rules, and to act as a channel of communication between the court and the Rules Committee where it appears that some amendment to the new Rules ought to be considered by that committee.

Other matters

Early in the year some consideration was given to the amendment of the Practice Direction relating to appeals. Following the commencement of the Uniform Civil Procedure Rules, which contain specific provisions dealing with appeals to the District Court which largely supersede that Practice Direction, some particular difficulties which had been encountered with one aspect of it will no longer be a problem, and indeed that Practice Direction has now been largely superseded. The committee also considered and gave advice to the Chief Judge in relation to a proposed data base for the assistance of Magistrates to facilitate access to decisions of the District Court on appeal from Magistrates. To some extent this is already available in the form of the District Court Judgment Index maintained and published by the

Supreme Court Library. The members of the committee assisted in formulating a submission on behalf of the court to the Department of Justice concerning a draft convention on international jurisdiction recognition and enforcement of judgment in civil matters, which had been forwarded by the Department to the Chief Judge for comment. It is hoped that the comments were found to be of assistance.

In general, the committee continued to function in much the same fashion as described in last year=s annual report.

ESSENTIAL SERVICES

The Supreme Court Library

The Supreme Court Library acts as a legal resource and information centre. It provides legal resource material expeditiously and accurately to the courts. Library services are also provided to members of the legal profession engaged in matters before the courts and, in some cases, to the Queensland public.

The library is administered under the *Supreme Court Act 1968*. The principal collection is located in the Law Courts building in Brisbane, with a subsidiary collection in the Judges=Common Room in Brisbane. Collections are also housed at regional courthouses in Toowoomba, Maroochydore, Southport, Rockhampton, Townsville, Mackay, Cairns, Mount Isa, Beenleigh and Ipswich.

The Supreme Court Librarian has ensured that the judges are provided with a wide range of services and essential resources.

State Reporting Bureau

The State Reporting Bureau provides a recording and transcription service. It uses computer-assisted transcription and audio recording, for proceedings of the court. Reporting services are provided wherever the court sits.

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

The ability of the 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 court=s capacity to carry out its work efficiently. Any reduction in the service provided by the Bureau would probably reduce the court=s capacity to do so.

Appendix 1

ADMINISTRATIVE STAFF OF THE DISTRICT COURT

The administrative and Registry staff of the District Court are essential to its operation in the performance of its functions. Those exercising supervisory roles or who work more closely with the judges in Brisbane are set out below.

Court Administrator	Barry Read (until December 1998) Bronwyn Jolly (from December 1998)
Deputy Court Administrator	Sue Cawcutt
Registrar, Brisbane	Ken Toogood
Sheriff	Rod Goody (Acting, March - October 1998) Neil Hansen (from October 1998)
Registrar, Cairns	John Bingham
Registrar, Townsville	Ray Keane
Registrar, Rockhampton	Gordon Roberts
Information Technology Administrator	Les Paine
Deputy Registrars, Brisbane	Ian Mitchell Peter Irvine Peter McNelley
Deputy Registrar (Criminal Registry)	Peter Irvine
Chief Bailiff	Phil Lennon
Deputy Chief Bailiff	Ken Welch
Criminal List Manager	Kerrie Attrill
Civil List Manager	Kate Bannerman (until December 1998) Brett Kerr (from December 1998)
Planning & Environment & Circuits List Clerk	Joanne Willett
Chief Judge=s Secretaries	Leanne Fox (part-time) Jan Daniels (part-time)
Judges= Secretariat	Noela Fulcher Laura Murase Liz Russell (until August 1998) Vicki O=Keefe (August to March 1999) Judy Bailey (from April 1999)

The staff listed above are assisted by other registry, Court Administration staff and bailiffs.

