



FROM THE HON PAUL de JERSEY

CHAMBERS OF THE CHIEF JUSTICE
SUPREME COURT
BRISBANE

September 1999

The Honourable Matt Foley, MLA,
Attorney-General and Minister for Justice
and Minister for the Arts.

Dear Attorney-General,

Under s.119B of the *Supreme Court of Queensland Act 1991*, I enclose my Report on the operation of the Supreme Court for the year ended 30 June 1999. As you will be aware, I am obliged to do this annually within four months of the end of the year, and the report must be tabled within 14 sitting days of the Parliament after receipt. I hope the report may this year be tabled comparatively early, with the opportunity for the people to give it reasonably timely consideration.

Yours sincerely

The Hon P de Jersey
Chief Justice

TABLE OF CONTENTS

THE CHIEF JUSTICE’S OVERVIEW.....	1
COMPOSITION OF THE COURT	12
COURT OF APPEAL DIVISION.....	15
Workload	15
Organisation of Work.....	19
Registry.....	20
Judgments and Catchwords	20
Information Technology	21
The Response to the AIJA.....	23
Headings of Appeals.....	24
Inaugural Court of Appeal Circuit.....	24
Conclusion	25
TRIAL DIVISION.....	27
Criminal Jurisdiction.....	27
Civil Jurisdiction.....	30
Chambers Jurisdiction.....	38
Registrar’s Chambers Jurisdiction	39
Rules of court and practice directions	43
Central District	44
Northern District	46
Far Northern District	48
Southern District circuits	49
Court of Disputed Returns.....	50
Tribunals	51
ADMINISTRATIVE SUPPORT	59
Office of the Court Administrator	59
Registries	60
Sheriff’s Office	64
USE OF TECHNOLOGY.....	69
RELATED ORGANISATIONS	71
State Reporting Bureau	71
The Supreme Court Library.....	71
APPENDIX 1	78
Taxing Officer	78
APPENDIX 2	79
Sheriff and Marshal	79

THE CHIEF JUSTICE'S OVERVIEW



*The Honourable Paul de Jersey
Chief Justice*

This is the first report I have been privileged to deliver covering a full year of my administration as Chief Justice. It is therefore longer than my first report, and I hope, as the opportunity has offered, more comprehensive in content and challenge. What immediately follows is, however, in the nature of a summary “overview” only, and I express my endorsement of the more detailed material which follows this overview.

That more detailed material is properly seen as a report of the whole court. The President reports to me, following consultation with the other Judges of Appeal, as to the operation of the Court of Appeal. Similarly, the Senior Judge Administrator reports on the operation of the Trial Division following consultation with the other Judges of the Court. Judges with particular additional responsibilities, for example those who head tribunals, and the Hon Justice Mackenzie who manages the criminal list, provide special contributions on their areas of responsibility. The ultimate result flows from a substantially consultative process.

The provision of this report is an important aspect of judicial accountability. Although provided in the first instance to the Attorney-General, it is cast very much as a report to the people of Queensland, whose interests the Court is intended, and strives, to uphold and advance. It is important to note that the Court exists not for the Judges or the legal profession, but for the people whose civil disputes need determination and to conduct trials and impose sentences in significant criminal matters.

Performance

The Supreme Court performed well this year.

At first instance, on the criminal side, 81% of cases were disposed of within six months of commencement. The Court dealt with 571 criminal matters. As at the end of the year, 204 awaited disposition, an increase on last year's 159 but still satisfactory. The critical figure is the speed of disposition - a good 81% within six months - which we continually strive to increase.

On the civil side, 81% of cases were disposed of within twelve months of entry for trial - an improvement on 65% last year. But the reassuring reality was that most cases ready for trial could be allotted hearing dates as early as no more than three to four months ahead. The Court ended this year with 143 cases awaiting hearing, compared with 147 last year (and 258 in 1996-97). There is comment later on our wish to 'track' cases more effectively from commencement to readiness for trial, currently impossible for lack of resources.

At the appellate level, the Court of Appeal disposed of 89% of criminal appeals within six months of commencement. This division of the Court dealt with 383 criminal appeals (up on 354 last year). As at the end of the year, 135 criminal matters awaited disposition (comparing reasonably with 115 last year). The Court of Appeal heard 237 civil appeals, and the number outstanding by the end of the year, 140, was an improvement on last year's 152. 88% of civil appeals were disposed of within twelve months.

Throughout the period under review, the Judges (with a few exceptions, in which cases special arrangements were or are being made) adhered to their protocol, voluntarily adopted in early 1998, requiring the delivery of reserved judgments, in all but exceptional cases, within three months of the conclusion of the hearing.

Significantly, the 1999 Report on Government Services, published as part of an annual review of Commonwealth/State service provision conducted by the Productivity Commission, showed strong performance by this Court, on a comparative national basis, for the year ended 30 June 1998 (the latest figures available through that report). On the criminal side, 83% of cases were disposed of by this Court over that year within six months of commencement, by contrast, as examples, with 44% in the Supreme Court of Victoria and 9% in the Supreme Court of New South Wales. Queensland's closest "competitor" was the Supreme Court of Tasmania, at 79% and then the Supreme Court of Western Australia at 74%.

On the civil side, however, Queensland's 35% disposal rate, within six months of commencement, while comparable with New South Wales's 34%, sat uncomfortably with

Western Australia's 63% and Victoria's 71%. While the Court could then, and can now, provide trial dates soon after a civil matter is ready for trial, the Court lacks the resources - in personnel and technology - properly to track the progress of all civil cases from lodgment to readiness for trial. The Court does so effectively with the more substantial cases, many of those cases being placed on the "supervised case list", but the Court should be equipped to track and thereby ensure the expeditious treatment of all civil cases, in the interests of all litigants. This will necessitate the allocation of further resources to ensure the Court can properly discharge the much more active managerial approach to litigation which the Judges have for some years been promoting, and which the litigating public now properly expects.

Chief Justice's Judicial Commitment

The active pursuit of the role of Chief Justice of Queensland involves application to a variety of streams, some strictly judicial and others of a more administrative or official character.

I have previously published my wish to sit substantially in court, both at trial and appeal level, in addition to discharging those other responsibilities. In this year, apart from administrative and official duties and periods of accrued leave, I sat in the Court of Appeal for sixteen weeks, and at trial level for two weeks in the criminal court and two weeks in civil, together with chamber work from time to time.

I have sought to administer the Court on an actively collegial basis. This was my commitment on being sworn-in, and I adhere to it. Most significant decisions affecting the operation of the Court are made after substantial judicial consultation. I acknowledge with unstinting gratitude the harmonious cooperation of my colleagues: the willing application of their wisdom and experience has ensured the Court operated (and operates) optimally in the public interest.

Consistently with my positive acknowledgement that this is a State-wide court, I did in this year visit the Supreme (or Circuit) Court, at Toowoomba, Maryborough, Bundaberg, Rockhampton, Mackay, Townsville and Cairns, over various periods aggregating a little more than a fortnight, sitting (at trial level) to hear cases in court, and also meeting with civic representatives and members of the local legal professions and the public. I was able, while chairing the Queensland Constitutional Convention in Gladstone in June, to visit the new courthouse complex there, and, also in June, I participated in the ceremony to mark the restoration of the Roma courthouse. I attended the North Queensland Law Association Conference in October 1998, and in the same month, a meeting of the Council of Chief Justices in Melbourne.

I have endeavoured to participate actively in, and where appropriate seek to lead, the public discussion of other issues significant to the delivery of legal services, covering such matters as legal aid funding, court resources generally and the relationship between the judiciary and the legal profession. The Chief Justice's Consultative Committee, which includes representatives of the Court and the profession, met twice during the year to canvass issues of current concern both to the Judges and the profession, focussing on the better delivery of legal services in the public interest. Through various public statements, I have endeavoured to enhance public perception of the role and significance of the Courts, as constituting the third arm of Government, emphasising also the Supreme Court's pivotal role in determining who should be held out to the public as competent to practise as barristers and solicitors, the wide significance of the demanding role judicial officers fulfil, and the need for adequate resources to maintain and improve upon the Court's current level of performance. As a matter of detail, and with relation to the first of those particular matters, I have, as I believe is important, presided as Chief Justice at all sittings of the Court of Appeal for the admission of barristers and solicitors. As part of my wider community role, I also chaired the Constitutional Convention held at Gladstone in June, a role appropriately discharged by the State Chief Justice for a forum intended to be conducted (and which was conducted) in a non-partisan, non-political and primarily exploratory and educative way.

Court Funding

Proper funding for the Courts of Queensland remains a matter for serious public concern.

The approach taken by other arms of Government to this issue over recent years is graphically illustrated by figures published by the Criminal Justice Commission in February this year, relating to the period 1996-99. While spending on Police increased over that period by 9%, and on Corrective Services by 78%, spending on the Law Courts and Legal Services in fact decreased by 10%. That over that period, the Supreme Court has nevertheless been able to improve performance, is testimony to the competence and dedication of the judiciary and the court support staff. But the circumstance reflects an unacceptably paltry financial approach by the Executive and the Parliament to the judicial arm of Government, and presumably an absence of adequate appreciation of the public significance of its critically important role. There are signs of change, to which I refer below.

The Supreme Court's technology, in particular, is plainly inadequate to the progressive discharge of its responsibilities in this day and age. Judges are anxious to streamline proceedings through the creative use of technology, and doing so is greatly in the public interest, through the reduction of expense and inconvenience to litigants and enhancement

of appreciation of where the justice of the case lies. And so the evidence of witnesses at remote locations should wherever possible, if in the interests of justice, be taken by telephone or videolink; there should be facilities for the reduction of voluminous documentation into CD format, with trials and appeals in such matters being conducted “electronically”; there should be a capacity for the Court at Brisbane to communicate electronically with the Supreme Court at its other ten centres in Queensland; there should be full capacity for the electronic tracking of the progress of civil cases within the court from commencement to conclusion; the electronic publication of judgments should be proceeding in conformity with standards met elsewhere in the nation, as endorsed by the Council of Chief Justices and the Judges of this Court; Judges should be able to access court registries and administration computer nets. Yet none of these things has been achieved, or adequately achieved. The Supreme Court of Queensland does, in this respect, stand in stark contrast to the higher courts of other States, not to mention courts overseas, and in particular those of Singapore and China with which I have had recent experience.

I also mentioned last year the state of the Supreme courthouse at Brisbane. There has been no substantial refurbishment of this courthouse in almost 20 years, and it shows. In the result, members of the public who use the Court cannot be provided the material facilities they may reasonably expect. I offer these examples. Juries must be confined in oppressive and unattractive deliberation rooms. Consistent with the age of the building, there are no adequate creches, the Court lacks wheelchair access for witnesses and jurors in courtrooms, and there are insufficient (although some) facilities for the giving of evidence by children (for example, facilitating the child’s entry to and departure from court, in an appropriate case, out of sight of an accused, in relation to videolinks between courts and rooms where the child gives evidence, screening etc.). These are just some of the deficiencies.

The Supreme Court Library remains financially insecure, despite the clearest, persistent warnings, now over many years. It is incomprehensible that successive governments might contemplate the possible dissipation of such a valuable, indeed invaluable, public resource. The Library is a resource powerhouse for the Courts, and beyond that, the repository for much historical material of significance to the State. It must be maintained.

I should at once record substantial gratitude to the Director General, Ms Jane Macdonnell, who is well aware of these problems and has done her very best to help alleviate them. That they persist simply confirms the need for a much broader approach on the part of Executive Government.

I acknowledge that over the years the Court may not have been sufficiently astute to foster a proper appreciation of what it does. Judicial reticence, while often justified, may have led to an erroneous conclusion that the Court’s financial needs are adequately met. The separation of powers obviously does not exclude communication between the arms of

government. My own approach in dealing with the executive and legislative arms, on behalf of the Court, is intended to foster a comprehensive appreciation of the significance and needs of the Courts and the judiciary, and I am grateful that - as I believe - my voice is being listened to.

The Judges will continue to do their utmost to deliver legal services at this high level in an efficient way. But their capacity to do so will be progressively hindered while ever the Executive Government does not fully acknowledge and meet the real needs of the Courts. The Courts of Queensland must be seen as worthy components of a “smart State”, as it has recently been put, not the anachronistic remnant of inadequate resourcing. It is imperative that the other arms of Government adopt a much more expansive approach to the funding of the Courts, if those arms of Government are truly to serve the public interest properly.

Having said these things, I am very pleased to acknowledge the allocation in the 1999-2000 budget of \$1.5 million for technology upgrades in the higher courts, with three years follow on funding totalling \$1.3 million. The Executive Government deserves commendation for these allocations, which will help the higher courts recover ground. I am hoping they signal a developing better perception of the needs of the Court.

Jurisdiction

There has, in this year, been some desirable refinement of the jurisdiction of the Supreme Court, in that some criminal charges, for example prison riot, have been moved from the Supreme Court to the District Court.

The problem to which I adverted in last year’s report - the Supreme Court’s retaining a broad jurisdiction in drug matters which should rationally be distributed among all three State courts - does however remain. I will continue to draw attention to that unjustifiable irregularity until the Government responsibly removes it.

As I have said, this Annual Report is made, in real terms, to the people of Queensland. They will rightly accept that, emanating from their Judges, it is weighty and objective. I expected the Parliament to act upon my suggestions in this area made last year. Nothing was said, publicly, contrary to my views then expressed. The people are entitled to a more responsive legislative reaction to the informed views of the judiciary.

There has been discussion within the community about the appropriateness of the Court’s traditional approach to the punishment of drug offenders, and in particular, whether there might beneficially be a greater focus in these matters on the objective of rehabilitation. The concept of “drug courts”, pioneered in Australia in New South Wales, was the subject of

a presentation in the Supreme Court on 30 April 1999 by former United States Judge Jeffrey Tauber, who was involved in establishing such courts in that country. The occasion was also notable for the presence as an observer, at the invitation of the Supreme Court, of the Honourable the Premier (together with the Honourable the Attorney General), probably the first visit to the Supreme Court of a State Premier on such a basis. This was itself illustrative and symbolic of the Judges' wish to consider, co-operatively with other arms of Government, our traditional approach to issues where there may be a perception that the traditional approach is not necessarily working as well as it might.

Perceptions of the Court

The Judges have given close attention to criticisms of the courts generally, raised through the report commissioned by the Australian Institution of Judicial Administration entitled "Courts and the Public", published last September, and subsequent public discussion. A committee of Judges spent a considerable period considering the report and developing ways in which the Judges might constructively meet the challenges it offers. The Judges gave collegiate consideration to the issues at their pre-Easter seminar this year, and the matter is being further progressed in consultation with officers with appropriate experience and expertise on secondment from the Department of Justice and Attorney-General. The current study is comprehensive, focusing on the "demographics, perceived psycho-graphics and information needs" of those involved and interested in the process: both represented and unrepresented litigants, in both civil and criminal cases and on appeal, and their families, witnesses, victims of crime, the legal profession, jurors and visitors to the courthouse.

The Judges are of course committed to effective communication between the Court and the public it serves, and will take all reasonable steps both to enhance that communication, and to demystify the judicial process where desirable - but being careful not to impair the perception of authority on which that process ultimately depends.

An admittedly small, but nevertheless symbolically significant, matter relating to this, is the morning teas which now follow major court ceremonies: they are held in the public corridor outside the Banco Court, and provide a valuable opportunity for the Judges to mingle and converse with members of the public. Such an approach would have been considered inconceivable but a few years ago. That is not said critically of former times. The fact is, however, that expectations are changing, and the Judges are responding. The establishment this year of the Court's web-site, administered by the Library, was a significant event with relation to the prime need for effective communication.

The Supreme and District Courts of Queensland are the only higher courts in the nation which do not have their own media liaison officer. The Judges of both courts have

determined that a person with the necessary qualifications should be appointed to such a position which funding limitations have to date prevented. There is no doubt that a media liaison officer could much more actively develop and present the proper positive image of the Courts than the Judges - with the limitations necessarily imposed by their primary obligation to sit in court - can effectively do.

Education

What has become known as “continuing legal education” is important to the judiciary, just as it is to the other branches of the legal profession. Judges secure this through various means, attending and addressing seminars and conferences, of course reading about and debating current legal issues, carrying out jurisprudential inquiry and research in other jurisdictions, and through their annual pre-Easter seminar. Newly appointed Judges attend a week-long judicial orientation course under the auspices of the Australian Institute of Judicial Administration and the Judicial Commission of New South Wales.

The result is progressive further development of our processes. A good example is the Judges’ current preparation of a “bench book” containing guidance and draft directions to be used in summings-up to juries in the criminal court, a book which will undoubtedly prove useful in reducing the possibility of error and increasing the comprehensibility of summings-up to juries. The book will be made available in due course to the Director of Public Prosecutions and the Public Defender, with access also being provided to unrepresented accused persons at trial.

Another progressive development this year was the Court’s joining a national network of court representatives focussing on the relationship between Aboriginal and Torres Strait Islander people and the Court system. That network will facilitate the exchange of information, and foster a closer appreciation of ways of improving the administration of justice in this area. The Hon Justice White has undertaken this important additional responsibility. Her Honour is presently involved in the development of an interpreter programme covering major Aboriginal languages and the two most extensively used Torres Strait Islander languages, as well as training communication facilitators to assist counsel with Aboriginal and Torres Strait Islander clients. In the course of the year, the President of the Court of Appeal participated in a conference concerning community justice groups operating in some of the Aboriginal and Torres Strait Islander communities, groups established to streamline indigenous community participation in the court process.

Sharing experiences with Judges from other jurisdictions can be extremely worthwhile, mutually. Judges of the Supreme Court had the opportunity this year to share views on important matters with a delegation of Judges from the Courts of Shanghai who visited the

Supreme Court in July 1998, and Judges of the Supreme Court of Japan and the High Court of Tokyo who visited in May 1999. I attended the Third Asia Pacific Courts Conference in Shanghai in October 1998. I have received visits from Judges of the Courts of Singapore, whose advices have been especially useful in identifying our current deficiencies with respect to technology, and numerous diplomatic and consular representatives. Other Judges have had substantial contact with Judges and administrators of other jurisdictions.

Nearer to home, Judges of the Supreme Court continue to provide valuable judicial support to the Solomon Islands, through their membership of the Court of Appeal of the Solomon Islands: the Hon Mr Justice McPherson and the Hon Justice Williams. Interestingly, the Far Northern Judge, the Hon Justice Jones, in May 1999, sat for the first time as the Supreme Court in its criminal jurisdiction on Thursday Island, an initiative enthusiastically welcomed by the people of that region, and an admirable illustration of the Court's "going to the people" wherever practicable in this appropriately decentralised State.

Rules Committee

The innovative prospect of developing uniform civil procedure rules applicable to all three State courts has been developed and implemented by the judiciary through the Rules Committee. This State's judiciary and magistracy have thereby led the nation. The Rules Committee was established by the *Civil Justice Reform Act 1998*. The long title of that Act says that it is intended "to enable the making of uniform civil procedure rules for the Supreme Court, District Court and Magistrates Court". The Attorney General published a consultation draft of uniform rules in October 1997. Extensive consultation followed. With the change in government, the new Attorney General confirmed support for the project, which has been progressed substantially since that time by the Rules Committee. The members of the committee have been, from the Supreme Court, the Chief Justice, the Hon Justice Williams, the Hon Mr Justice Muir and the Hon Justice Wilson; from the District Court, the then Chief Judge, Judge Robin and Judge McGill; and from the Magistracy, Mr Basil Gribbin and Mr Keith Krosch. The Rules Committee has received valuable departmental support. Its commitment has been very extensive and time-consuming, largely undertaken out of ordinary court hours, and its members deserve special thanks and commendation.

The Committee consulted widely with all relevant stakeholders. Drafts of the rules and forms were published from time to time on the Internet, and records of "hits" on the relevant part of the web page confirmed considerable interest in the content of the rules.

The objective is simplification and greater convenience, with reduction in time and expense, all directed - in the public interest - towards enhancing access to justice. The Committee

was discreet in its approach to the quest for uniformity, believing that what has been produced should prove entirely worthwhile. The new *Uniform Civil Procedure Rules* commenced on 1 July 1999.

The judiciary's commitment to the development of these rules reflects its strong commitment to the enhancement of equality of access to justice. Procedural rules of court should be kept as simple as possible, and it is most undesirable that there be unnecessary discrepancies between the manner of approaching different courts within the same State stream. The Committee sought to promote both those objectives in its design and refinement of the rules and forms.

The Rules Committee continues to exist as a standing statutory committee, and is keen to be informed of any areas in which it may be suggested the uniform rules might be further streamlined.

Personal Matters

The Hon Mr Justice Lee retired from the Court on 1 May 1999 after a distinguished judicial career. His contribution was acknowledged at a valedictory ceremony on 30 April 1999.

The Hon Mr Justice Dowsett resigned his commission as a Judge of the Court on 13 September 1998 after 13 years' valuable service. Three former members of the Court died, the Hon RH Matthews QC, the Hon Sir Edward Williams QC KCMG KBE, and the Hon J L Kelly CBE RFD, and the Court held valedictories to mark their passing appropriately.

The Court also met ceremonially for the swearing-in of the Hon Justice McMurdo as President of the Court of Appeal, the Hon Mr Justice Thomas AM as a Judge of Appeal, and as Judges of the Court, the Hon Justice Wilson in August 1998, the Hon Justice Atkinson in September 1998 and the Hon Mr Justice Douglas in June 1999.

The Court was grateful to receive, in December 1998, on permanent loan from the State Library of Queensland Foundation, a restored portrait of the State's first Chief Justice, Sir James Cockle FRS, which was acknowledged on 16 December 1998 at a ceremony in the Banco Court where the portrait is hung.

Conclusion

I again thank the Judges, whose substantial support has obviously been essential to the efficient and progressive administration of the Court, and I especially note the major contributions of the President and the Senior Judge Administrator. All Judges have substantially contributed in countless ways in addition to their sitting in court. All other

court staff have played a most valuable role, which is also greatly appreciated. As the Supreme Court moves forward into the new century, while its charter remains the same, it must be vigilant to do its best to secure the resources necessary to allow the Court to fulfil that charter: I see that as the Court's greatest current challenge, and it is a substantial one.

I have earlier in this report emphasised its real character as a report to the people. The other arms of Government should no longer expect the judiciary to sit by silently while important public initiatives in this area are ignored, frustrated or apparently under-valued. The rule of law, with its adjunct, the delivery of justice according to law, forms the cement of society. It depends on nourishment by the Executive Government. In the face of patent under-nourishment, the Courts may be expected to respond vocally.

The Courts are now suffering the disadvantageous consequences of years of undernourishment. Recent budgetary allocations suggest a developing better appreciation, by the Executive Government, of the real needs of the Courts. I earnestly hope that development proceeds apace.

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

Court of Appeal Division

President The Honourable Margaret Anne McMurdo (appointed 30 July 1998)

Judges of Appeal

The Honourable Geoffrey Lance Davies) of the same
The Honourable Bruce Harvey McPherson, CBE) seniority
The Honourable Cecil William Pincus)
The Honourable James Burrows Thomas, AM
(appointed 30 July 1998)

Trial Division

The Honourable Martin Patrick Moynihan
(Senior Judge Administrator)
The Honourable Alan George Demack
(Central Judge, Rockhampton)
The Honourable Tom Farquhar Shepherdson
The Honourable Glen Norman Williams
The Honourable Desmond Keith Derrington
The Honourable Brian William Ambrose
The Honourable John Alfred Dowsett (resigned 13 September 1998)
The Honourable William Charles Lee (retired 30 April 1999)
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

Trial Division (cont)

The Honourable Margaret Anne Wilson (appointed 20 August 1998)
The Honourable Roslyn Gay Atkinson (appointed 3 September 1998)
The Honourable Robert Ramsay Douglas (appointed 17 June 1999)

Tribunal appointments

President, Industrial Court	The Honourable Glen Norman Williams
Mental Health Tribunal	The Honourable John Alfred Dowsett, then The Honourable Richard Noel Chesterman (appointed 1 October 1998)
Medical Assessment Tribunal	The Honourable Henry George Fryberg
Chair, Law Reform Commission	The Honourable John Daniel Murray Muir
Land Appeal Court	The Honourable John Daniel Murray Muir (Southern District) The Honourable Alan George Demack (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

Eight hundred and thirty nine (839) matters were commenced this year in the Court of Appeal compared with 744 the previous year. Of the increase of 95 matters, 38 were civil and 57 criminal.

Six hundred and twenty (620) matters were heard and a further 210 withdrawn, disposing of a total of 830. This compares satisfactorily with 1997-98, when 563 were heard and 178 withdrawn, a total of 741.

Table 1 Annual caseload, criminal matters

Number of cases	1996-97	1997-98	1998-99
At start of year	164	109	115
Commenced during year	582	457	514
Disposed of during year	511	354	383
Undisposed of at end of year*	109	115	135

* Adjustment made to 1997-98 figure due to finalisation of data

Table 2 Annual caseload, civil matters**

Number of cases	1996-97	1997-98	1998-99
At start of year	156	150	151
Filed during year	248	287	325
Cases heard	214	209	237
Cases unheard at end of year*	150	151	140

* Adjustment made to 1997-98 figure due to finalisation of data.

** In this and other tables on civil caseloads, matters dealt with in chambers are not included.

Table 3 Annual caseload, summary

Number of cases	1996-97	1997-98	1998-99
At start of year	320	259	266
Filed	730	744	839
Heard	725	563	620
Judgments delivered	507	563	607
Cases unheard at end of year	259	266	275
Judgments outstanding at end of year	58	26	39

Forty-two (42%) of criminal matters were disposed of in less than three months and 99% within twelve months.

It is not particularly useful to compare the Court’s statistics with the 1996-97 year, because the Court was then hearing a substantial number of appeals from the Magistrates Court. Since 1 August 1997, those appeals have been dealt with by the District Court¹ although applications for leave to appeal from the District Court decision may be made under s.118 of the *District Court Act 1967*.

Table 4 Age of cases disposed of*

Time for disposition	Percentage disposed of	
	Criminal	Civil
<3 months	42%	39%
3-6 months	47%	17%
6-12 months	10%	32%
>12 months	1%	12%

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

There has been a slight increase in the time taken to dispose of criminal matters, from 70 days in 1997-98 to 85 days this year. Although this time frame is still commendable, it reflects a decision to accord more priority than in the past to the disposition of civil matters. These have been disposed of with a median time of 128 days, a very considerable improvement on the median time of 211 days in 1997-98.

Table 5 Judgments, criminal matters

Judgments	1996-97	1997-98	1998-99
Outstanding at start of year	22	26	13
Reserved	208	159	153
<i>Ex tempore</i> judgments delivered	303	208	230
Reserved judgments delivered	204	146	147
Outstanding at end of year	26	13	19

¹ *Courts Reform Amendment Act 1997*.

Table 6 Judgments, civil matters

Judgments	1996-97	1997-98	1998-99
Outstanding at start of year	45	32	13
Reserved	136	161	140
<i>Ex tempore</i> judgments delivered	78	67	97
Reserved judgments delivered	149	142	133
Outstanding at end of year	32	13	20

Table 7 Time between hearing and delivery of reserved judgments

Type of case	Median number of days		
	1996-97	1997-98	1998-99
Criminal cases	26	38	23
Civil cases	51	39	25
All cases	32	39	24

This table shows the median time between hearings and the delivery of reserved judgments. It demonstrates substantial improvement since 1997-98, from 38 days to 23 days in criminal matters, from 39 days to 25 days in civil matters, and from 39 days to 24 days generally.

These statistics compare interestingly with New South Wales, as an example, where in 1998 the time between filing and hearing of civil appeals was about 23 months² and the time between filing and final disposition in criminal matters ranged from six to eight months.³

Table 8 below shows the Court in which matters filed were commenced.

Table 8 Court in which matters were commenced

Court	Number of matters filed	
	1997-98	1998-99
Trial Division - civil	138	155
Trial Division - criminal	83	125
District Court - civil	110	150
District Court - criminal	357	386
Planning and Environment Court	18	10
Other – civil (case stated, tribunals etc.)	21	5
Magistrates Court - criminal	8	1
Other – criminal	9	2

² The Supreme Court of New South Wales Annual Review Year ended 31 December 1998, p.41. Cf 128 days or 18.3 weeks in Queensland.

³ Ibid, p.43. Cf. 76 days or 10 weeks + 6 days for *ex tempore* and 96 days or 13 weeks +4 days for reserved criminal matters.

The incidence of appeal from the civil jurisdiction of the Trial Division and the District Court has increased, by 13 percent and 36 percent respectively.

The types of appeals filed during the year are shown in Table 9 below.

Table 9 Types of appeals filed

Appeal type	1996-97	1997-98	1998-99
Civil			
· general	119	143	193
· personal injury	38	47	8
· applications	30	38	73
· leave applications	18	27	38
· planning and environment	18	20	7
· other	23	11	5
· interlocutory	2	1	1
Criminal			
· sentence applications	318	238	276
· conviction appeals	88	59	65
· conviction and sentence appeals	79	66	62
· extensions (sentence applications)	31	18	30
· extensions (convictions appeals)	12	17	11
· extensions (conviction and sentence)	10	9	11
· sentence appeals (A-G/C'wth DPP)	40	36	40
· other	10	14	14

The number of unrepresented litigants shown in Table 10 below has remained proportionally significant, and has substantially increased since 1997-98, probably, at least in part, because of continued low level legal aid funding, and perhaps also because of a growing public awareness of legal rights, access to justice and the use of audio link.

Table 10 Matters heard where one or both parties unrepresented

	1996-97	1997-98	1998-99
Civil	11	20	47
Criminal	123	74	102
TOTAL	134	94	149

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 cooperation in making Trial Division Judges available, the Trial Division Judges who have assisted in the Court of Appeal, and the Senior Deputy Registrar (Appeals) Ms Robyn Hill and her staff.

Organisation of Work

The resignation of the former President on 30 June 1998, the exercise of leave entitlements, and sickness, reduced the number of available Judges of Appeal for significant periods during the year. Similar patterns of leave can be expected and must be planned for in future years. The current President Justice McMurdo, and Mr Justice Thomas, commenced duties on 3 August 1998. Justice Thomas' appointment increased the number of Judges of Appeal to five. The Court of Appeal has continued to rely on augmentation by judges from the Trial Division on a regular basis, although to a less extent than in previous years. 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 a three week period each year. The increase in the number of appeals, the exercise of leave entitlements by judges and the moderate delay in replacing the former President ensured that Trial Division Judges continued to play a substantial role in the Court of Appeal this year, and that will continue in future years.

The Court of Appeal sat for 41 weeks. For the first time, the Court sat during one week of the Court's traditional Winter vacation, the Judges of Appeal taking compensatory leave at other times. The Court normally sits five days during each sitting week. Usually, but not always, two Trial Division judges are assigned to the Court of Appeal on a roster prepared by the Senior Judge Administrator. In weeks where only one Trial Division Judge is available, and a Court of Appeal Judge or Judges are away, it is necessary for Judges to sit extra days in order to meet the Court's workload. This cannot be maintained in the long term. If fewer than six judges are available each week, less work must be listed in order to ensure the timely delivery of judgments; it must be appreciated that the preparation of judgments in long and complex cases may require many days of careful work.

When there are six judges available to sit in the Court of Appeal each will ordinarily sit eight days in each three week period.

The Court usually hears about fifteen criminal convictions appeals, ten to twelve civil appeals and up to 35 criminal or civil applications in each three week period. If 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 and will immediately begin the next three-week routine. The Judges of Appeal were however allocated four and a half weeks for judgment writing, during periods when the Court was not sitting; in addition, the Judges often write judgments or attend conferences and deliver papers during leave periods.

The established practice of the President delegating responsibility for case management including preparation of the daily court list to the Senior Deputy Registrar (Appeals) has

been continued this year. Ms Robyn Hill was appointed Senior Deputy Registrar (Appeals) on 10 March 1999, after acting in the position for a lengthy period. Ms Hill effectively performs that task and makes most necessary decisions in consultation where appropriate with the President or other Judges of Appeal. The President has undertaken judicial case management of those appeals 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 continued to provide excellent service to the Court despite long term short-staffing. This has caused difficulties amongst Registry staff who have been placed under substantial stress because of the re-development of the Court of Appeal Management System (CAMS) and the necessity to make CAMS Year 2000 compliant. The organisation of the inaugural circuit to North Queensland (which circuit took place outside the reporting period), otherwise tremendously worthwhile in the public interest, has also added to their ordinarily onerous workload. In addition, Court of Appeal Registry staff have been used, often without replacement, to implement changes to CIMS.

Judgments and Catchwords

Since November 1998, the Court of Appeal judgments have been available free of charge on the Internet through AUSTLII. This has resulted in a loss of an important source of funding to the Supreme Court Library; it must be compensated accordingly. There is as yet regrettably no assurance this will occur.

At the commencement of the 1999 Court year, the Judges' Associates took responsibility for preparing headnote-style catchwords of Court of Appeal judgments.

The Court of Appeal has adopted the AIJA recommendations as to electronic reporting of judgments. Ms Maree Liessmann, who was appointed as the Court of Appeal Research Officer on 25 January 1999, co-ordinates the cover sheets of Court of Appeal judgments and under the guidance of the President is implementing those recommendations as far as possible; lack of sufficient governmental resourcing has meant that the necessary templates have not at this stage been developed.

Mr Justice Pincus' Associate has prepared, under the Judge's supervision, helpful, brief outlines of judgments delivered in the Court of Appeal which are published on the Court of Appeal home page and circulated in hard copy to interested Queensland Judges and Magistrates, as well as to the Law Society, the Bar Association and other interested organisations.

Information Technology

CAMS

The Court of Appeal is grateful for the interest and financial support provided by the Director-General of the Department of Justice and Attorney-General in the re-development of the Court of Appeal Case Management System (CAMS). CAMS is currently being re-developed to meet the needs of the Court of Appeal as it enters the 21st century. As a precaution, the current system is also being made year 2000 compliant. It is hoped that the new system will be in operation in October 1999.

The demands on Registry staff in re-developing CAMS, especially those of the Senior Deputy Registrar (Appeals), have been onerous, but the re-development is progressing most satisfactorily. She has been assisted by the part-time appointment of Ms Elizabeth Knight as Senior Deputy Registrar (Appeals) from 31 May to 3 September 1999.

Adequate funding for the maintenance of the re-developed CAMS in the next financial year is essential.

Electronic filing and appeal books

Although for lack of resources, no particular progress has been made in respect of electronic filing and electronic appeal books, and that is to be regretted, the re-developed CAMS system will be able to be expanded 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. The Court hopes in appropriate cases, with proper funding, to pilot a prototype electronic appeal book in the future. The Court will require adequate resources to carry out these exciting future challenges. For the moment, Queensland in this respect lags behind other States.

Audio link

During this year, the Court of Appeal for the first time heard applications for leave to appeal against sentence from unrepresented prisoners serving sentences in correctional centres outside the Brisbane metropolitan area by way of audio link. The cooperation of the Department of Community Corrections in this initiative has been appreciated. The hearing of applications by audio conferencing should provide substantial cost savings to that Department; better access to justice, especially for those prisoners who are involved in programs within their correctional centres, and better security for the people of Queensland.

Whilst not as effective as video link, it is cheaper and more widely available for many litigants.

The Court of Appeal also heard an application for leave to appeal under s.118 of the *District Court Act 1967* by audio conferencing in order to meet the convenience of an impecunious self-represented litigant from Townsville.⁴

Although these hearings have been adequate, the portable equipment available is less than state of the art; the quality of the hearings could be vastly improved by the installation of audio conferencing facilities in the Court.

Financial provision needs to be made for the installation of such facilities in the Court of Appeal.

Video link

The Judges of the Court of Appeal have indicated a willingness in appropriate cases to hear appeals or applications in either civil or criminal matters by way of video link. Some correctional centres already have video link facilities and the facilities are being added to others. Video link facilities are widely available throughout our decentralised State. The hearing of matters by video link will greatly improve access to justice and decrease the costs for litigants outside Brisbane.

Financial provision needs to be made in the near future for the installation of such facilities in the Court of Appeal.

Computers

From within their Chambers and elsewhere, the Judges of Appeal have access to the Supreme Court Library's electronic catalogue and CD Rom network. The Associates to the Judges of Appeal, the Court of Appeal Research Officer and Senior Deputy Registrar (Appeals) have access to the same material from rooms in the Court of Appeal precinct. Access to the Internet (via the University of Queensland), legal resources materials and external e-mail are also available through a stand alone computer in the Court of Appeal precincts, on each Judge's laptop computer and on the desktop of the Senior Deputy Registrar (Appeals).

The Queensland Law Foundation continues to make its extranet (Themis) available to all members of the judiciary free of charge. It provides useful legal research material, especially access to legislative reprints with historical tracking, enabling the user to find quickly the legislation applying on a particular date. It also provides secure e-mail. The computers

⁴ *R v Tait* (CA 210 of 1993, 6 October 1998).

provided to the Judges of Appeal continue however to have insufficient hard disk space to utilise this facility fully and, as was the position at the time of writing this report last year, this has still not been remedied. This continuing deficiency is simply unacceptable.

When the Trial Division computer network merged with the Court of Appeal Division network late in 1997, valuable information and systems were lost, some not yet restored. One judge has been waiting over twelve months, and another over four months, for their computers to be serviced. The Court of Appeal Division suffers from the grossly inadequate staffing in the Court's Information Technology section. This is severely affecting the Court's work.

The Court of Appeal has its judgments on a searchable data base, an essential research tool in any court, especially an appellate court. It is, for example, of great assistance in avoiding inadvertently inconsistent judgments. In November 1998, the data base became corrupted and insufficient funds were available to correct it. The Court of Appeal now lacks an efficient judgments data base. A new data base has not been incorporated into the CAMS redevelopment. The Court is investigating innovative funding options which include the possibility of Themis providing an efficient Court data base for the Court's use in order for Themis to use the data base for commercial purposes. Why, one asks, should a supposedly public-funded institution of such significance be cast into this situation? In the meantime, the Court lacks a vital research tool. The Court of Appeal judgments data base must urgently be repaired or replaced.

The Response to the AIJA "Courts and the Public" Report

The Court of Appeal's home page on the Internet includes information on how to commence, prepare and finalise a criminal and civil appeal, guidelines for the preparation and filing of appeal record books, the full text of relevant rules and practice directions, information and contact details for the Judges of Appeal, the Court and Registry staff, and all Court of Appeal forms which can be downloaded from the web site.

Similar information is provided on the Queensland Law Foundation's Themis data base where the Court of Appeal civil list is also available for viewing.

During the year, the Senior Deputy Registrar (Appeals) ensured that the Internet website for the Court of Appeal and the Court of Appeal information site on Themis were appropriately updated.

The Appeals Registry has an interactive voice response telephone system which provides detailed information, including the location of the Appeals Registry, hours of business, postal and e-mail address and web page, information regarding the filing of documents

including outlines of argument and lists of authorities, the Court's timetable, the number of copies of material required to be lodged, information regarding the commencement of civil and criminal appeals and applications including filing times and costs. The Appeals Registry provides written guidelines for the assistance of civil litigants. Staff are helpful to unrepresented litigants and issue written timetables advising parties of filing and lodgment requirements.

Posters on display in the Registry inform litigants of the availability of Interpreter facilities and of the Courts Charter which sets out the public expectations and role of Court staff and the procedure for lodging complaints about Court staff.

The Registry, with the assistance of the Research Officer and the Judges, is developing Information Sheets to assist litigants further, especially those who are unrepresented.

Headings of Appeals

As of 1 July 1999, the headings in Court of Appeal matters will retain the headings used in the Court in which the matter was commenced. This will provide consistency with the system used by the Incorporated Council of Law Reporting and should provide modest cost savings to litigants by eliminating the need to change document headings at appellate level.

Inaugural Court of Appeal Circuit

During this year, the Judges of Appeal collectively resolved that, subject to adequate resources and sufficient listed work, the Court of Appeal would travel to Townsville in the week commencing 26 July 1999, a date outside this reporting period.

The Court is grateful to the Attorney-General and the Department of Justice and Attorney-General for the encouragement and financial support given to this initiative.

Considerable efforts in planning and preparing the circuit have been made by the President, Justice Cullinane and especially the Senior Deputy Registrar (Appeals) Ms Robyn Hill, and her staff, and the Townsville Registrar Mr Keane, and his staff.

A full report on the circuit will be included in the next annual report, but it should now be noted that this historic inaugural circuit was enthusiastically received in Townsville where the Court sat on five days, disposing of five civil and twelve criminal matters.

Conclusion

The Court of Appeal Division continued to dispose of its caseload efficiently this year, making important improvements in the number of cases disposed of and the median time for the delivery of reserved judgments. Notwithstanding the appointment of another Judge of Appeal, the Court of Appeal will however continue to rely on the regular provision of Judges from the Trial Division. The Court thanks the Director-General for her support in the re-development of CAMS. The Court cannot perform efficiently without the assistance of a properly resourced Registry. The Court will also need adequate resources to provide for an electronic judgments data base; the electronic filing of appeals; the piloting of electronic appeal books; the maintenance of the re-developed CAMS, the installation of audio and video links and adequate information technology support.

TRIAL DIVISION

Criminal Jurisdiction

Criminal proceedings in the Trial Division commence with the presentation of an indictment: the document stating the charges brought against a named person or persons.

Mr Justice Mackenzie continued this year as the judge responsible for the management of the criminal list in Brisbane. Indictments presented in Brisbane are presented before the Criminal List Judge in Brisbane 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 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 (currently Mrs Anna Lang) plays a vital role in the effective disposition of criminal cases in Brisbane. The Manager is responsible to the Criminal List Judge and to the criminal sittings and circuit judges for the management of the work in the criminal jurisdiction. The Manager liaises with the Officer of the Director of Public Prosecutions, the Legal Aid Office, the legal representatives of parties, unrepresented parties and various other agencies involved in criminal matters, with a view to the efficient disposition of the criminal work of the Trial Division.

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. The work of a particular circuit is the responsibility of the judge assigned to the circuit. Justice Wilson assists in the coordination of circuits.

The 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. Practice Direction No. 12 of 1999 issued 11 May 1999, is designed to minimise late pleas of guilty, which are regrettably not uncommon despite active case management, and which create practical difficulties in scheduling other matters at short notice.

The practice direction also deals with the need to identify, in a timely way, cases in which pre-trial rulings are required. The profession generally has accepted that efficient disposition of criminal cases depends on cooperation between the parties and the Court, minimising the need to make formal orders under s.592A of the Code. The representation issue referred to in the preceding paragraph does however remain.

There have been some instances of cases being delayed because forensic evidence is not available. It is essential that requests for analysis or forensic examination of things taken as evidence be made promptly and that resources for the John Tonge Centre be maintained at a level sufficient to meet necessary demands. Otherwise alleged offenders will be denied timely justice.

Some instances of failure to observe the statutory procedure for transferring Magistrates Court matters to be dealt with in conjunction with pleas of guilty in the Supreme Court have continued to raise administrative difficulty.

As will be seen from the following tables, 95% of criminal cases were disposed of within twelve months, and 81% within six months. Cases which take longer may be awaiting the outcome of an appeal in another case, or the trial of a co-accused, or a retrial after a jury has been discharged; there may have been a successful appeal, or a person may have absconded or been in custody in another State.

A large proportion of cases is disposed of by pleas of guilty (this year 74%). Any reduction in the plea rate will increase demand on the Trial Division's resources. To facilitate the effective disposition of cases when there are pleas of guilty the Court seeks to designate plea days in advance, but the late notification of the collapse of trials and competing calls for judge time restrict the Court's capacity to deal with all pleas as expeditiously as the Judges would wish.

Table 11 Annual caseload - criminal jurisdiction, Brisbane

Number of cases*	1996-97	1997-98	1998-99
At start of year	155	171	188
Commenced during year	535	579	591
Disposed of during year+	527	523	571
Undisposed of at end of year**	171	188	205

* In this and other tables the term 'case' means the charges against each person subject to an indictment.

+ 'Disposed of' includes trial, sentence, *nolle prosequi* and no true bill.

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

Table 12 Method of disposal

Type	Number		
	1996-97	1997-98	1998-99
Trial	51	59	66
Plea of guilty	411	385	424
Other*	65	78	81
TOTAL	527	522	571

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

** 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, or awaiting the trial of co-offenders etc.

Table 13 Age of cases disposed of - criminal jurisdiction, Brisbane 1998-99

Time from presentation of indictment to disposal	Cases disposed of 1 July 1998 to 30 June 1999			
	Trial (%)	Sentence (%)	Other* (%)	Total (%)
<3 months	27%	66%	55%	60%
3-6 months	33%	19%	19%	21%
6-9 months	11%	9%	15%	10%
9-12 months	10%	3%	6%	4%
>12 months	19%	3%	5%	5%
TOTAL	100%	100%	100%	100%

Table 14 Criminal jurisdiction applications, Brisbane, dealt with by chamber judges

Type of application	Number of applications		
	1996-97	1997-98	1998-99
Proceeds of crime	100	95	91
Compensation to victims of crime	20	20	33
Pre-trial bail	452	438	491
TOTAL	572	553	615

Compensation and bail issues are also dealt with by trial judges but the statistics for those are not available, under the Court's technology regime.

Civil Jurisdiction

This section of the report concerns cases begun on the civil side of the Court, but not in its "chambers" jurisdiction. It covers matters which, absent early management or settlement, would ordinarily proceed to a substantial trial or hearing. As emerges from the following tables, and in summary:

- This side of the Court's operations remained very busy, with 295 new matters entered for trial, and 299 disposed of.
- While only 90 matters proceeded to actual judgment (compared with 70 the previous year), many cases settle short of judgment, including in the course of trial, and many are helped to resolution short of judgment by active judicial management.
- The Court remained actively committed to exploring fully with parties the use of the methods of "alternative dispute resolution" (mediation, case appraisal especially) with a view to minimising expense, delay and emotional angst, reserving for full trial only those cases not otherwise susceptible of resolution. This aspect is the subject of more detailed analysis below.
- When ready for trial, litigants could expect trial dates as early as three to four months ahead. In this respect, the performance of the Court is increasingly attractive to litigants.
- The Court's goal is more active management of all cases, from filing to readiness for trial, but additional resources, in personnel and technology, are required for this.
- That said, the Supervised Case List, ably managed by the Senior Judge Administrator, continues to operate very effectively, ensuring optimal treatment for those cases by nature especially warranting it, or where the parties particularly wish it.

Table 15 Initiating documents in contested matters, Brisbane

Types of document	1996-97	1997-98	1998-99
Writs	2866	2870	3297
Applications	1223	1331	1533
Originating summons	884	809	895
Motions	130	204	224
Order to show cause	15	4	1
Petition	2	1	5
TOTAL	5120	5219	5955

Table 16 Annual caseload* - civil jurisdiction, Brisbane

Number of cases entered for trial	1996-97	1997-98	1998-99
At start of year	300	258	147
Entered during year	265	237	295
Disposed of during year	307	348	299
At end of year	258	147	143

* Matters dealt with in chambers are not included in this and other tables on civil caseloads.

Table 17 Cases awaiting hearing - civil jurisdiction, Brisbane

Number of cases and days sought	At end 1996-97	At end 1997-98	At end 1998-99
Number of cases	258	147	143
Number of cases seeking more than five days	52	22	30
Total days sought	915	478	480
Average days sought per case	3.54	3.25	3.34

Table 18 Method of disposal of cases* - civil jurisdiction, Brisbane

Method of disposal	1995-97	1997-98	1998-99
Judgment	67	70	90
Settled	182	200	180
Adjourned	22	50	35
Discontinued	31	25	29
Other	5	3	4
TOTAL	307	348	338

* Includes matters placed on the civil list but not required to be formally entered for trial.

Table 19 Percentage of cases disposed of within 12 months of entry for trial - civil jurisdiction, Brisbane

1996-97	1997-98	1998-99
59%	65%	81%

Mediation and case appraisal

Alternative dispute resolution (“ADR” as it is commonly known) is having a continuing positive effect on the resolution of issues and disputes in the Supreme Court.

ADR under the rules of court (and the new *Uniform Civil Procedure Rules* which come into effect just after this “reporting period”, on 1 July 1999) contemplates two ADR mechanisms, 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.

Lists of court approved mediators and case appraisers are available in the Registry. The approving is the responsibility of the Senior Judge Administrator in consultation with the Chief Justice. The lists give details of fees and experience for approved mediators and case appraisers. Currently there are 185 approved mediators and 131 approved case appraisers.

Table 20 Approval of case appraisers and venue providers

Type	1996-97	1997-98	1998-99
Case appraisers	23	20	14
Mediators	30	34	21
Venue providers	3	0	0

The Court continued to play a proactive role in encouraging parties to litigation to recognise the advantage of a negotiated resolution, reserving for trial only those cases which cannot otherwise be resolved. The number of notices sent by the Court advising of an intention (compulsorily) to refer to mediation or case appraisal has reduced this year, suggesting parties are themselves embracing ADR more willingly, without the need for court direction.

Notices of intention to refer were sent in:

- all cases going on to the Supervised Case List (Practice Direction 16 of 1996);
- all cases transferred to the Supreme Court from the District Court;
- all claims for damages for personal injury when entered for trial (and where the trial is expected to take three days or more).

Claims for provision out of an estate (Family Provision Applications) are regulated by Practice Direction 2 of 1997 which obliges parties to such a proceeding to consider the use of ADR at an early stage.

An objection to referral to an ADR process may be filed by practitioners, but such objections must be supported by reasons.

Practitioners and their clients are becoming more aware of the benefits of ADR and consenting to orders to participate in the process much more readily.

During the year regular reviews were undertaken by a nominated judge of matters in which:

- a notice of intention to refer to ADR had been given and no response received;
- an objection to participate in an ADR process had been filed;
- orders were made and filed and the ADR process not completed.

Justice Byrne was again the judge responsible for the management of notices of intention to refer, review of objections and monitoring progress during the year under review.

Table 21 Referral notices sent and no response received

Action taken	1996-97	1997-98	1998-99
Advised of review	126	100	53
Listed for review	47	36	16

Table 22 Notice of intention to refer to appraisal or mediation (excluding supervised cases)

Notices and outcome	1996-97	1997-98	1998-99
Notice	263	217	79
Objections	33	15	12
Matters reviewed after objection	12	8	2

Table 23 Case appraisal orders

Appraisal orders made	1996-97	1997-98	1998-99
Orders referring to case appraisal:			
· consent	48	36	23
· not consent	51	36	21
TOTAL	99	72	44

Table 24 Case appraisal outcomes

Outcome	1996-97	1997-98	1998-99
Case appraisal certificates	59	72	46
Case appraisal election to proceed to trial	24	19	9
Outcome of election to proceed to trial:			
· worse	1	0	0
· better	0	0	0
Settled after election but before judgment	5	3	0
Remitted to District Court	1	0	0

Table 25 Mediation orders

Type of order	1996-97	1997-98	1998-99
Orders referring to mediation:			
· consent	166	195	198
· not consent	120	122	106
TOTAL	286	317	304

Table 26 Mediation outcomes

Outcome	1996-97	1997-98	1998-99
Certified as settled*	74	154	142
Certified as not settled	110	168	137

* In the three years covered by this table, 110 matters were certified as not settled at mediation and certified as settled at a later date.

In too many cases referral orders are made, even by consent, but there is unacceptable delay between the making of the order and the finalisation of the process. During the period under consideration, these cases were initially dealt with by listing the matter for review before a judge to explore the reasons for delay and to bring about finalisation. Those matters were also removed from the callover list. The following table shows the outcome of the exercise. Later in the period, the orders made by the Court required a report to the Registrar if the process were not completed in three months. Cases subject to outstanding ADR orders are now placed on the callover list and set down even if the process is not completed, absent some compelling reason for further adjourning the matter.

Table 27 Follow-up of outstanding mediation and appraisals

Review notices and outcomes	1997-98	1998-99
Notice of intention to review outstanding mediation or appraisal	161	138
Resolved before review	123	116
Listed for review	39	22
Directions given to finalise outcome	39	22

Supervised Case List

Cases placed on the list are managed in accordance with Practice Direction 15 of 1996 to effect just and timely resolution with the minimum necessary commitment of resources by the Court and litigants. Longer or more demanding cases should expect a higher degree of supervision than others.

The number of cases on the Supervised Case List increased 9% compared with 1996-97, and 30% compared with 1997-98. The number of reviews of individual cases on the List decreased 27% compared with 1997-98. An improved disposal rate was achieved, with an increase of 87% in cases disposed of compared to 1997-98.

Cases are placed on the list on the application of a party, made through the Supervised Case List Manager, or by a judge who proactively 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 helps practitioners develop dispute resolution plans, provides a channel of communication with the Senior Judge Administrator or the judge responsible for the management of the particular case, and to other court officers who can help manage the cases on the list.

As has been said, cases are managed via “dispute resolution plans” and timetables. This provides for a timely exchange of structured information and the application of selected

dispute resolution techniques. These may include:

- settlement conference between practitioners and clients
- a directed conference between practitioners to agree on procedures and identify areas of agreement and difference
- interlocutory applications, for example, for an injunction
- an application for summary judgment
- a summons to construe a document or statute
- mediation
- case appraisal
- offer to settle
- reference to an expert
- trial of separate issues
- appointment of an arbitrator
- trial to judgment

Cases or groups of cases may be assigned to a particular judge or judges for management, or for management and trial. In longer and more complex cases endeavours are made to identify the trial judge in advance, to have that judge deal with interlocutory matters, reviews and directions in progress to the resolution of the case. Directions are given for the provision of indexed bundles of documents, chronologies, experts' reports, witness lists, schedules, outlines and the like, to be prepared in advance, with copies to be lodged with the list manager to be made available to the trial judge.

The Court actively encourages the increased use of technology in the conduct of supervised cases. There is a brochure in the Registry series to inform practitioners about this. A discussion paper inviting responses in respect of issues of electronic disclosure was placed on the Court website (www.courts.qld.gov.au) and a number of practitioners have made useful contributions. When there has been a degree of experience of the *Uniform Civil Procedure Rules* 1999, which came into force on 1 July, a new practice direction to replace Number 15 of 1996 will be developed, reflecting these and other considerations.

It must be said there is room for considerable improvement in compliance by parties (more accurately their legal representatives) with timetables set for steps to be taken under directions orders. Practitioners should expect more rigorous enforcement of such orders, with more frequent recourse to costs orders against defaulters, and with the List Manager directly reporting more regularly to litigants if obligations have not been met.

Table 28 Supervised Case List activity

Number of cases	1996-97	1997-98	1998-99
At start of year:	86	127	165
· Single supervised cases	n/a	78	78
· Group supervised cases	n/a	89	87
Listed during year:	91	120	212
· pursuant to paragraph 10 of Practice Direction 13 of 1995	17	17	124
· pursuant to direction of a chamber judge	30	8	17
· pursuant to practitioner request	44	95	71
Reviewed:	266	272	213
Disposed of during year:	50	82	154
Tried to judgment:	7	18	1
· after an unsuccessful case appraisal		1	1
· after an unsuccessful mediation		10	11
Disposed of without trial:		64	
· settled at mediation, mediator's certificate filed	12	15	5
· mediation ordered but settled before mediation conducted	8	2	5
· case appraised and case appraiser's certificate filed	2	0	1
· case appraisal ordered, no case appraiser's certificate filed	4	3	3
otherwise/discontinued:	17	44	55
· taken off the supervised case list because of e.g. inactivity, insolvency, bankruptcy	n/a	6	5
· actions remitted to the District Court	n/a	1	1
· set down for trial but settled before trial started	n/a	9	43
· settled after an unsuccessful mediation but before trial dates allocated	n/a	6	11
· settled at trial	n/a	4	3
· settled where no ADR process ordered	n/a	11	2
· unsuccessful case appraisal, allocated trial dates but settled before trial commenced	n/a	4	1
· unsuccessful mediation, allocated trial dates but settled before trial commenced	n/a	3	2
Cases on Supervised Case List at 30 June:	127	165	78
· single supervised cases	77	78	72
· group supervised cases	50	87	6

Cases other than Supervised Cases

Table 29 Callover outcomes

At callover	1997-98	1998-99
Cases taking up available dates at first callover after entry	54%	58%
Cases where no appearances for plaintiff at callover	11%	3%
Cases where no appearances for defendant	4%	2%
Cases adjourned to next callover	1%	15%

Post-callover	1997-98	1998-99
Cases set down at initial callover then settled	64%	65%
Cases set down then adjourned because parties not ready	10%	9%
Cases adjourned because no judge available	5%	6%
Cases taking available dates at first callover which proceed to trial	21%	20%

Chambers Jurisdiction

This part of the Court's work, daily discharged by two, and sometimes three or even four or more Judges, continued to be extremely busy and productive, leading to the early resolution of matters or parts of matters.

Table 30 Process returnable before a chamber judge or registrar

Matter	1996-97	1997-98	1998-99
Originating process other than writs	2254	2332	2645
Interlocutory applications	2595	2606	2661
TOTAL	4849	4938	5306

Cross-vesting Scheme

The number of cases cross-vested under the *Jurisdiction of Courts (Cross-Vesting) Act* 1987 is shown in Table 31. No particular comment need be made on the following data.

Table 31 Number of cases cross-vested

Originating and receiving courts	To Supreme Court of Queensland			From Supreme Court of Queensland		
	1996-97	1997-98	1998-99	1996-97	1997-98	1998-99
Federal	8	9	6	5	4	4
Supreme - NSW	7	4	2	0	1	2
Supreme - Vic.	1	3	0	3	0	1
Supreme - SA	0	0	2	0	0	0
Supreme - WA	2	0	1	1	0	0
Supreme - ACT	0	0	0	0	0	1
Supreme - Tas.	1	0	0	0	0	0
Family Court	2	5	0	1	0	2
TOTAL	21	21	11	10	5	10

The Court is monitoring the effect on its workload of the High Court's decision given on 17 June 1999 in *Wakim*, striking down parts of the scheme for the cross vesting of jurisdiction between State and Federal courts.

Judicial Review Act

The *Judicial Review Act* 1991 provides, broadly speaking, for review by the Court of the lawfulness of certain administrative decisions. This part of the Court's workload expanded this year.

Table 32 Judicial Review Act

Type of matter and result	1996-97	1997-98	1998-99
Applications	61	72	102
Orders made	121	111	135
Referred to Civil List	38	26	11

Registrar's Chambers Jurisdiction

Corporations Law

In 1993 the Registrar in Brisbane (to include deputy registrars) was given power to hear certain contested and uncontested applications under the Corporations Law. Examples of the Registrar's powers include making orders for the winding up of companies, orders in respect of the alteration of a company's memorandum, the power to declare the dissolution of a company void, orders that books be made available for inspection and orders relating

to a company's refusal to register a share transfer.

The Registrar's power extends to numerous matters, but the bulk in practice relates to the winding up of companies (generally on insolvency). Other hearings conducted by the Registrars on a regular basis include applications for the reinstatement of companies, the remuneration of liquidators, and the issuing of summonses to persons for their examination in relation to the company affairs. The Registrar has power to refer any matter to a Judge.

The advantages of registrars dealing with company matters are varied and include:

- leaving judges available to hear other matters of greater complexity at an earlier time; and
- cost savings to litigants as appearances before the Registrar are generally by solicitors rather than counsel.

Table 33 Applications heard by registrars and results

Result of application	1996-97	1997-98	1998-99
Order	811	853	764
Adjourned	549	590	785
Dismissed	190	181	342
Referred to judge	95	80	61
TOTAL	1645	1704	1952

Table 34 Judgment by default

	1996-97	1997-98	1998-99
Applications	379	448	467
Judgment entered	259	312	328

Mutual Recognition (Qld) Act 1992

The *Mutual Recognition (Qld) Act* 1992 assented to on 8 December 1992 provides for the recognition of uniform standards in occupations and callings in all Australian states and territories. The Act has particular application to legal practitioners. In the case of barristers and solicitors registered in other jurisdictions, there is now provision for according eligibility to practise in Queensland through a simplified process for registration in this State.

On 18 March 1999, the *Trans-Tasman Mutual Recognition (Qld) Act* 1999 was assented to. The legislation mirrors that introduced in a number of other Australian jurisdictions and allows for the mutual recognition principle to apply to legal practitioners in New Zealand seeking to become eligible to practise in Queensland. Since the introduction of the new Act

one application for registration as a solicitor has been granted.

Table 35 Types of admissions 1998-99

Admission as barristers	1996-97	1997-98	1998-99
· under the Queensland Admission Rules	68	83	69
· under the <i>Mutual Recognition Act</i>	42	58	77
· under the <i>Trans-Tasman Mutual Recognition Act</i>	-	-	0

Admission as solicitors	1996-97	1997-98	1998-99
· under the Queensland Admission Rules	352	350	371
· under the <i>Mutual Recognition Act</i>	127	138	179
· under the <i>Trans-Tasman Mutual Recognition Act</i>	-	-	1

Taxation of costs

This year was the first since 1867 in which an officer of the Supreme Court has not determined, by the proceeding known as “taxation”, the extent of the liability in costs of a client to the solicitor engaged to perform legal work on the client’s behalf. The *Civil Justice Reform Act 1998* (effective from 1 July 1998) removed from the Court the jurisdiction to consider the reasonableness of the accounts which solicitors give to their respective clients. The taxation process was replaced by a procedure whereby the Queensland Law Society appoints assessors (including persons without legal qualifications) to assess the accounts of practitioners.

The Taxing Officer

The Taxing Officer continues to determine, by taxation, the extent of the liability in costs under court orders, generally liability of an unsuccessful to a successful party.

Despite the restriction of the Taxing Officer jurisdiction to taxations between parties to proceedings in the Court, there has been little reduction in the workload of the office. (The statistics for the period ending 30 June 1998 include bills which were delivered by solicitors to their clients.)

The date 30 June 1999 carried particular significance in this area of Registry operations. The *Supreme Court Rules 1900* expired on that date and the *Uniform Civil Procedure Rules* commenced on 1 July. “Taxation of costs” will in future be referred to as “assessment”. The position of Taxing Officer disappears. Since the creation of the position of Taxing Officer in 1889 there have been only ten taxing officers of the Court. It is fitting, with this historical development, that their substantial contribution be gratefully acknowledged. They are listed

in Appendix 1.

Table 36 Taxation directions hearings (O.91 r.42)

Type of case	1996-97	1997-98	1998-99
Settled	116	115	81
Adjourned	184	225	131
Default allowance	88	89	95
Taxation date given	331	337	320
TOTAL	719	766	624

Table 37 Result of cases set for taxation

Result of case	1996-97	1997-98	1998-99
Adjourned	34	55	41
Settled	150	121	170
Taxed	174	136	173
TOTAL	358	312	384

Non-contentious estate matters

The number of probate and administration applications has remained high. Orders to Administer in favour of the Public Trustee have been fewer. Difficulties have sometimes been experienced maintaining the time frame for examination of applications and delivery of engrossments because of secondments, illnesses, staff shortages and irregular patterns of filing of applications. The Registry is inadequately resourced to be able to guarantee adherence to desirable time-lines.

Table 38 Probate workload

New processes lodged	1996-97	1997-98	1998-99
Letters of administration and letters of administration with the will	234	341	310
Probate	2313	2517	2547
Reseals	75	84	92
Elections	167	167	168
Orders to administer	467	441	402
TOTAL	3256	3550	3519

Rules of court and practice directions

Practice Directions and Rules of Court are used to prescribe the legal arrangements and sittings of the Court, regulate matters of practice and procedure in the Court and Registry, and where necessary, to prescribe forms to be used for some proceedings in the Court. A list of rules and practice directions made during the year follows:

Rules of Court

Gazetted

Supreme Court Amendment Rule

18 December 1998

Amendment to scale of fees and costs

Supreme Court Arrangements

20 November 1998

Legal Arrangements - first half 1999 law year

Supreme Court Arrangements

4 June 1999

Legal Arrangements - second half 1999 law year

Practice directions

Number	Description	Date Issued
20/98-30/98 1/99-4/99 6/99-9/99 13/99 15/99-16/99 21/99	Various notices of change of solicitor's address	Various dates
5/99	Section 13A of the Penalties and Sentences Act 1992	9 March 1999
10/99	Uniform Civil Procedure Rules Excusal of strict compliance for period 1-7-99 to 1-10-99	4 May 1999
11/99	Continuing status of practice directions extant as at 1-7-99	11 May 1999
12/99	Criminal Jurisdiction - Brisbane A. Timely pleas of guilty B. Factual basis for sentencing: Morrison's case C. Timely notice of any need for a voir dire and as to the resolution of other issues prior to trial	11 May 1999
14/99	Applications - outline of argument (Uniform Civil Procedure Rules)	10 June 1999
17/99	Approval of Registrar to assess costs (Uniform Civil Procedure Rules)	21 June 1999
18/99	Approval of Document Exchange (Uniform Civil Procedure Rules)	21 June 1999
19/99	Approval of Publication (Uniform Civil Procedure Rules)	21 June 1999
20/99	Miscellaneous matters concerning court documents (Uniform Civil Procedure Rules)	24 June 1999

Remittal of actions

Following the introduction of Practice Direction 22 of 1997, there was a steady remittal of cases to the lower courts, mainly by consent orders entered up by registrars. During the year, 225 matters were remitted to the District Court and eight to the Magistrates Courts.

Central District

The Central District came into being when the *Supreme Court Act* of 1895 received assent on 19 December 1895. The boundaries of the Central District are described in Schedule 1 to the *Supreme Court Act* 1995. Although only Rockhampton and Longreach are within those boundaries, the arrangements for the dispatch of business have included the Circuit Court at Mackay and Bundaberg within the responsibility of the Central Judge (ss.286 and 287 of the *Supreme Court Act* 1995).

In Rockhampton, criminal matters have generally been disposed of at the sittings to which the accused person was committed. There was a 40% increase in the number of criminal matters commenced, but most of these were minor drug matters, disposed of by way of a plea of guilty and non-custodial sentence. Such matters were usually disposed of on the first day of each gazetted sittings. There was a fall in the number of civil actions entered for trial in Rockhampton, due to a combination of face to face conferences and mediation. The number of cases awaiting trial at the end of the year fell from 61 to 22. Judgments in cases going to trial were delivered promptly. Justice Demack has presided at all the Rockhampton sittings.

In Mackay, criminal matters have been disposed of at the sittings to which the accused person was committed. For civil matters, it has generally been possible to offer a date for trial at the first callover following the entry for trial. However, there has been a significant increase in the number of matters commenced during the year, and an additional sittings will be needed next year. The Mackay sittings have been presided over by Justice Demack, except for two sittings presided over by the Northern Judge, Justice Cullinane.

Justice Demack presided at one sittings of the Bundaberg Circuit Court. There has been no sittings at Longreach during the year, none being necessary.

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

Table 39 Rockhampton criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	0	8	3
Commenced during year	53	49	72
Disposed of during year	45	54	70
Undisposed of at end of year	8	3	3

Table 40 Rockhampton civil

Number of cases	1996-97	1997-98	1998-99
At start of year	24	46	61
Entered during year	70	82	47
Disposed of during year	48	67	86
At end of year	46	61	22

Table 41 Mackay criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	1	2	1
Commenced during year	9	10	12
Disposed of during year	8	11	11
Undisposed of at end of year	2	1	2

Table 42 Mackay civil

Number of cases	1996-97	1997-98	1998-99
At start of year	29	23	28
Entered during year	67	66	91
Disposed of during year	73	61	88
At end of year	23	28	31

Table 43 Bundaberg criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	16	5	12
Commenced during year	25	26	12
Disposed of during year	36	19	24
Undisposed of at end of year	5	12	0

Table 44 Bundaberg civil

Number of cases	1996-97	1997-98	1998-99
At start of year	1	2	3
Entered during year	7	5	5
Disposed of during year	6	4	4
At end of year	2	3	4

Table 45 Longreach criminal*

Number of cases	1996-97	1997-98	1998-99
At start of year	0	1	2
Commenced during year	1	2	0
Disposed of during year	1	1	1
Undisposed of at end of year	0	2	1

* Longreach had no civil caseload for any of these periods.

Northern District

The Northern Judge, Justice Cullinane, sat during 44 weeks of the year. Criminal sittings occupied eighteen weeks, civil sittings fourteen weeks, Mackay circuit four weeks, Court of Appeal three weeks, judgment writing four weeks, and one week in which the Land Appeal Court sat in Townsville. In addition, the Chief Justice, during the course of a visit, dealt with some chamber matters and passed sentence in some criminal cases. The Far Northern Judge, Justice Jones, also visited Townsville to sit on the Land Appeal Court in a matter the Northern Judge was unable to hear.

The Court of Appeal proposes a circuit sittings to North Queensland sitting in Townsville in the week commencing 28 July 1999. The sittings recognises the decentralised nature of Queensland, the significant amount of work which comes to the Court of Appeal from North Queensland, and the growing number of legal practitioners, including Counsel, in North Queensland.

This year followed the trend commenced last year of a decline in the number of cases entered for trial during the year. On 43 cases, conferenced by the Registrar in pre-trial review, disposals were as shown in the following table:

Table 46 Cases disposed of and cases settled after set down for trial

Results of cases	1996-97	1997-98	1998-99
Weeks of civil sittings	18	17	14
Cases tried	23	24	7
Settled on day or eve of trial	29	43	31

Table 47 Results of cases entered for trial during the year

Results of cases	1996-97	1997-98	1998-99
Settled after conference appointed but prior to conference	4	1	5
Settled at conference	5	2	5
Settled within 14 days after conference	1	0	0
Settled more than 14 days after conference	7	5	6
Settled on day or eve of trial	11	12	13
Tried	4	0	4
Remitted to District Court	3	0	0
Removed from trial list	1	1	0
Awaiting trial	44	18	10
TOTAL	80	39	43

Table 48 Townsville criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	5	24	15
Presented for trial during year	69	72	59
Disposed of during year	49	82	65
At end of year	24	15	9

Table 49 Townsville civil

Number of cases	1996-97	1997-98	1998-99
At start of year	45	55	33
Entered for trial during year	95	67	61
Disposed of during year	85	89	72
At end of year	55	33	22

Far Northern District

The Supreme Court's Far Northern District was established pursuant to Part 12 of the *Courts Reform Amendment Act 1997*, which amended the *Supreme Court Act 1995*, and became law on 1 September 1997. This report therefore marks the completion of the first full year of the Court's operations at Cairns.

The legislation provides for a Far Northern Judge and court, equipped with its own registry and staff, including a sheriff and registrar. On 19 May 1999 the Central Registry of the Far Northern District was officially opened by the Honourable Matt Foley, Attorney-General and Minister for Justice and Minister for the Arts. The library facilities were enhanced by the addition of 1,245 volumes and by the provision by James Cook University of two on-line computers, a printer and a photocopier.

The sitting time for the Far Northern Judge, Justice Jones, has been spent in Cairns (34 weeks), Brisbane (four weeks), and Mount Isa (two weeks) with four weeks allowed for judgment writing. As mentioned in the Chief Justice's Overview, the Far Northern Judge also convened the Court on Thursday Island on 14 May 1999 to deal with a variety of criminal offences, including the importation of dangerous drugs from Papua New Guinea, an initiative greeted with enthusiasm by the people of the Torres Straits.

Table 50 Cairns criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	29	30	55
Presented for trial during year	110	143	165
Disposed of during year	108	119	159
At end of year	30	55	61

Table 51 Cairns civil

Number of cases	1996-97	1997-98	1998-99
At start of year	14	32	10
Entered for trial during year	54	42	49
Disposed of during year	36	64	43
At end of year	32	10	16

Table 52 Mount Isa criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	4	10	8
Presented for trial during year	11	14	7
Disposed of during year	5	16	14
At end of year	10	8	1

Table 53 Mount Isa civil

Number of cases	1996-97	1997-98	1998-99
At start of year	1	6	12
Entered for trial during year	10	21	6
Disposed of during year	5	15	15
At end of year	6	12	3

* Brisbane-based judges sat in Townsville and Cairns, as did the Northern Judge. Brisbane judges conducted Mount Isa circuits.

Southern District circuits**Table 54 Toowoomba criminal**

Number of cases	1996-97	1997-98	1998-99
At start of year	3	7	0
Presented for trial during year	22	22	16
Disposed of during year	18	23	11
At end of year	7	0	5

Table 55 Toowoomba civil

Number of cases	1996-97	1997-98	1998-99
At start of year	11	3	3
Presented for trial during year	13	22	20
Disposed of during year	21	22	23
At end of year	3	3	0

Table 56 Roma criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	3	0	0
Presented for trial during year	4	0	2
Disposed of during year	7	0	1

At end of year	0	0	1
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Table 57 Roma civil

Number of cases	1996-97	1997-98	1998-99
At start of year	0	0	0
Entered for trial during year	2	0	0
Disposed of during year	2	0	0
At end of year	0	0	0

Table 58 Maryborough criminal

Number of cases	1996-97	1997-98	1998-99
At start of year	10	3	0
Presented for trial during year	19	13	18
Disposed of during year	26	16	18
At end of year	3	0	0

Table 59 Maryborough civil

Number of cases	1996-97	1997-98	1998-99
At start of year	7	7	3
Entered for trial during year	13	11	11
Disposed of during year	13	15	11
At end of year	7	3	3

Court of Disputed Returns

The Supreme Court is, under the *Electoral Act* 1992, the Court of Disputed Returns. One of the more publicly significant cases determined in the Court this year proceeded in that jurisdiction. The case of Carroll v. Electoral Commission of Queensland and Reeves concerned Mr Frank Carroll's challenge to the election result for the Electorate of Mansfield in the State Election held on 13 June 1998. Mr Carroll filed his petition on 2 July 1998. Mr Justice Mackenzie, the Judge assigned to this jurisdiction, set a timetable for procedural steps which led expeditiously to a four day hearing commencing 1 September 1998. Mr Justice Mackenzie delivered his judgment, dismissing the petition, on 21 September 1998. His Honour's judgment, as well as determining the issues in the case, highlighted aspects of the *Electoral Act* warranting review, subsequently taken up by the Legal Constitutional and Administrative Review Committee of the Legislative Assembly.

Tribunals

Mental Health Tribunal

The Mental Health Tribunal is constituted under the *Mental Health Act* 1974. It has two important functions:

- It removes from the criminal justice system at an early stage persons accused of criminal offences who were of unsound mind (as defined by s.27 of the *Criminal Code*) at the time of the offence. Considerable court time and resources are saved. As well there is a saving in time and cost to the prosecuting authorities and those who fund criminal defence.
- The second function is to return patients in need of specialist psychiatric treatment to the mental health system where they can obtain that care, with consequent additional community benefit.

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 Mental Health Tribunal consists of a judge of the Supreme Court (Mr Justice Chesterman was appointed to constitute to 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 Ch.B (Glasgow),

FRACP, DPM, FRANZCP and Dr JF Woods, MB ChB (Aberdeen), DMP (Lond), MRCP, FRANZCP.

The Tribunal is invested with the powers conferred by the *Commissions of Enquiries 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 the question 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 1998-99 the Tribunal dealt with 236 matters. The following table shows the breakdown:

Table 60 Matters dealt with by the Mental Health Tribunal

Findings of the Mental Health Tribunal	1996-97	1997-98	1998-99
References:			
· Director of Mental Health	120	120	147
· Director of Public Prosecutions	2	1	1
· Patient or legal adviser	37	56	67
· courts of law	1	2	1
Appeals against the Patient Review Tribunals	7	6	10
Section 45 application for removal of patient from Queensland to:			
· Australian Capital Territory	-	1	7
· Victoria	1	1	2
· New Zealand	2	2	1
Section 70 application for order to visit and examine patient	2	-	-
TOTAL	172	189	236

In 1996-97 the Tribunal heard 172 matters. In 1997-98 the number was 189. The caseload for the year in review increased by about 25% over the preceding year. It is likely that the increase in the Tribunal's workload will continue. A large number of references are consuming considerable time. During the year ten matters each took at least half a day to hear and three matters required a day or more.

There are presently fifty-two matters awaiting hearing. The results of matters dealt with are shown in the following table:

Table 61 Results of matters dealt with by the Mental Health Tribunal

Findings of the Mental Health Tribunal	1996-97	1997-98	1998-99
References:			
· unsoundness of mind	96	112	127
· not of unsound mind and fit for trial	29	31	40
· not of unsound mind but of diminished responsibility and fit for trial	1	-	8
· not of unsound mind and unfit for trial	2	8	7
· facts in dispute and fit for trial	17	13	9
· facts in dispute and unfit for trial	4	2	3
· references struck out			22
Appeals:			
· dismissed	7	6	8
· upheld	-	-	2
Section 45 applications for removal granted	1	4	10
TOTAL	166	189	236

At present two weeks per half year are allotted to the Tribunal. Present indications are that if the Tribunal is to dispose of the matters referred to it within a reasonable period more time will have to be allotted.

The Tribunal's work is conducted very efficiently. The changes to procedure outlined in last year's report 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.

Medical Assessment Tribunal

The Medical Assessment Tribunal is a superior Court of Record created under section 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 . . .". The Tribunal is constituted by a judge of the Supreme Court sitting with two medical practitioners as assessors. Justice Fryberg constituted the Tribunal this year. The assessors were Dr JM Lawrence AM MB BS, FRANZCP, FRC Psych, FAMA, Corr.Fell. APA and Dr B Biggs OAM MB BS FRACGP.

At the beginning of the year, fourteen matters were pending in the Tribunal. Of these, twelve were awaiting hearing, and two were part heard. During the year a further fourteen matters were instituted in the Tribunal. In addition, two applications were made for a judge to state a case pursuant to s.43 of the Act, but both were subsequently withdrawn. Two appeals were decided by the Court of Appeal. The type of matters commenced during the

year is shown in Table 62 below.

Table 62 New matters instituted in the Medical Assessment Tribunal

Nature of proceedings	Section of Act	1997-98	1998-99
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
Investigate the conduct or qualifications of any medical practitioner on reference from the Medical Board of Queensland	s.36	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	1	4
Hear applications for review of orders of the Board suspending a practitioner or imposing conditions upon a practitioner's registration	s.32	4	2
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	9	8
Hear cases of suspension for protection of life or health on reference from the Board	s.20	2	nil
Hear motions for a person to be dealt with for contempt of the Tribunal	s.33	1	nil
TOTAL		17	14

Hearings during the year consumed 33 sitting days, including two non-scheduled sitting days, as compared with nineteen sitting days last year. In addition, the judge continued to sit without assessors to give directions from time to time. The number of cases coming before the Tribunal now requires regular callovers to be held and directions given; the time taken for this increased during the year. Considerable time - weeks rather than days - was also required for the preparation of reserved judgments.

In last year's report, attention was drawn to the substantial delays in obtaining dates for hearing and to the excessive number of pending cases at the end of the reporting period. The increased number of sitting days during the year enabled both problems to be addressed. Although no precise statistics are available, it is estimated that the average time between filing and hearing was reduced to about four or five months. The number of matters pending at the end of the year was four, compared to fourteen in the previous year.

Cases disposed of during the year increased from ten to twenty-four.

Table 63 Annual caseload - Medical Assessment Tribunal

	1996-97	1997-98	1998-99
At start of year	6	7*	14
Commenced during year	12	17	14
Disposed of during year	11	10†	24
At end of year	7	14†	4

* Includes a case which has been heard and judgment was reserved.

† Corrected figures.

On 11 June 1999, the *Health Practitioners (Professional Standards) Bill* was presented to the Legislative Assembly and read a first time. That Bill makes provision (among other things) for the abolition of the Tribunal and for the creation of a new Tribunal, constituted by a District Court judge, to deal with most professional persons working in the health area. At the time of writing, it is expected that it will be passed into law and the relevant part come into operation in about January 2000. The Bill overcomes the deficiencies in the present legislation to which attention was drawn in the 1998 Annual Report. The antiquated and clumsy case stated procedure there referred to caused further problems for the Court of Appeal during 1998-99⁵.

It is expected the Tribunal will continue to sit for a substantial portion of the year 1999-00, as the Bill requires it to hear and dispose of all matters filed before the legislation comes into force.

Industrial Court

In accordance with the provisions of s.253 of the *Workplace Relations Act 1997*, the office of the President of the Industrial Court of Queensland is occupied by a Judge of the Supreme Court of Queensland. During the year in question the position was filled by Justice Williams, and while he was on leave, by Justice Moynihan (a former President).

The Industrial Court has appellate jurisdiction, on the grounds of error of law, or excess or want of jurisdiction, over decisions of the Queensland Industrial Relations Commission. It can also give leave to appeal from such decisions to a Full Bench of the Industrial Relations Commission on other grounds if the matter is of such importance that an appeal should be brought in the public interest. It also has appellate jurisdiction in respect of

⁵

Medical Board of Queensland v Bayliss, unreported, CA 5888 of 1999, 5 March 1999.

decisions of Industrial Magistrates principally with respect to orders for payment of wages and other entitlements of employees under awards or industrial agreements and with respect to decisions granting or refusing compensation pursuant to *WorkCover Queensland Act 1996*. The Court also deals with appeals from conviction or sentence for offences under the *WorkCover Queensland Act 1996*. The President, together with two Industrial Commissioners, exercises the jurisdiction of the Full Industrial Court.

1998-99 was a particularly demanding year for the Judge constituting the Industrial Court. A number of industrial disputes arose which called for the Court to convene at short notice. In particular a protracted industrial dispute in Townsville involved separate appeals from decisions of the Commission and the Industrial Registrar and the Full Industrial Court sitting in both Brisbane and Townsville. Further, the appeal in the Trading Hours case was more demanding than the sittings days may indicate, because of the extensive use of written submissions and the large volume of material to be considered.

The table below, which shows only a slight increase in the number of cases dealt with, does, as has been mentioned, understate the real workload.

Table 64 Applications filed

Category	1996-97	1997-98	1998-99
Applications for directions	-	1	-
Appeals against decisions of Industrial Magistrates	31	43	46
Appeals against decisions of the Industrial Relations Commission	33	32	32
Stay of order	4	1	4
Applications for leave to appeal to a Full Bench of the Industrial Relations Commission	7	5	1
Order for performance of industrial organisation rules	1	1	1
Appeals against decisions of the Industrial Registrar	-	3	2
Case stated by Industrial Relations Commission	1	1	1
Application for orders of reinstatement	-	2	-
Application for orders - other	4	1	8
TOTAL	81	90	95

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 purposes under the *Valuations 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*, from determinations of the Minister made under s.29(7) of the *Foreign Ownership of Land Register Act 1988*, from decisions of the Land Tribunal established for the purposes of the *Aboriginal Land Act 1991* and from decisions of the Land Tribunal established for the purposes of the *Torres Strait Island Land Act 1991*.

In addition, the Land Appeal Court has jurisdiction to hear matters referred to under Part V of the *Foreign Ownership of Land Register Act 1988*. Questions of law arising in proceedings before the Land Tribunals mentioned above may also be referred to the Land Appeal Court for decision.

There are Southern, Central, Northern and Far Northern Appeal Courts. The Judges holding the appointments were respectively, Mr Justice Muir, Justice Demack, Justice Cullinane and Justice Jones.

Table 65 Appeals to the Land Appeal Court

Appeals to the Land Appeal Court	1996-97	1997-98	1998-99
Number of appeals lodged:			
· Northern	2	6	-
· Central	-	-	-
· Southern	10	14	8
Nature of appeals:			
· Compensation (<i>Acquisition of Land Act</i>)	5	8	2
· Valuation (<i>Valuation of Land Act</i>)	-	4	1
· Costs (<i>Acquisition of Land Act</i>)	6	5	5
· Categorisation (<i>City of Brisbane Act</i>)	-	1	-
· Categorisation (<i>Land Act</i>)	1	-	-
· Jurisdiction (<i>Land Act</i>)	-	1	-
· Land Tax (<i>Land Tax Act</i>)	-	1	-
· From decision of Land Tribunal (<i>Aboriginal Land Act</i>)	-	-	-
Number of sitting days allocated:			
· Northern	1	5	5
· Central	nil	nil	nil
· Southern	4	10	10

* Two appeals (appeal and cross-appeal) transferred to Southern District

+ Includes five days for appeals transferred from Northern District

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.

In this year, Barry Read occupied the role of Court Administrator until mid-December 1998. Bronwyn Jolly has since undertaken that role. The Court Administrator is responsible for overall budget management and administrative operations. The administrative staff undertake diverse duties designed to ensure the smooth and efficient operation of the Supreme Court and to facilitate particular projects suggested by the judiciary. Activities conducted include assistance with the Trial Division calendar, personnel matters, financial processing and circuit travel arrangements. There are important activities involved in meeting the needs of the public. Unresolved complaints about the Registry can be directed to the Court Administrator.



*Back: Ken Toogood, Neil Hansen, John McNamara, Les Paine
Front: Bronwyn Jolly, Eric Kempin, Robyn Hill, Sue Cawcutt*

The Supreme Court in Brisbane is widely and regularly used by the public. Many school students attend the courthouse as part of their legal education studies. Various institutions, such as the Bar Practice Centre, Australian Advocacy Institute or the Law Schools, are permitted to use the Court facilities for the purposes of legal education or moots (mock trials). These activities are facilitated by the administrative staff.

Several staff have undertaken residential management training courses, either through the Office of the Public Service or the Department of Justice and Attorney-General. It has been considered to be very important to provide this training to staff assuming managerial responsibilities.

Registries

The largest registry of the Supreme Court of Queensland is located in Brisbane in the Law Courts Complex, George Street. The Brisbane registry consists of 14 registrars and 49 administrative officers. By far this is the largest complement of higher court staff in the State. The Brisbane registry, although not designated as such, has the characteristics of a “principal registry” because it provides registry support to the Court of Appeal Division and the majority of Trial Division Judges in Queensland. The Registrar of the Supreme Court of Queensland at Brisbane (Ken Toogood) is the officer responsible to the Chief Justice and the Court Administrator for the efficient running and management of registry services at Brisbane and the Registry offices. He is also appointed as the Registrar of the Court of Appeal, of the District Court at Brisbane and of the Planning and Environment Court at Brisbane.

There is necessary continuing regular liaison by the Registrar with the Chief Justice, President of the Court of Appeal, the Senior Judge Administrator, the Chief Judge of the District Court and the Court Administrator on a variety of matters related to the administration of the Courts and its Registries.

Regular monthly meetings of all Deputy Registrars are held in Brisbane to discuss such issues as new legislation, registry practices, new rules, forms, judicial support, policy and rules interpretation and the like, and monthly meetings are also held with administrative staff to discuss staffing issues and operational matters relating to the Registry. A substantial number of Deputy Registrars attended seminar courses this year focusing on client services training, conflict resolution, negotiation skills, time and stress management, cross cultural awareness and management development

Training by the Registry of its staff is carried out when and where required, but subject to the availability of resources both financial and physical. The number of experienced administration officers available in the Registry has been substantially affected in recent times by budget constraints and work required on various particular projects, such as the Uniform Civil Procedure Rules, Courts Modernisation Project, and Year 2000 work. The average experience in the Registry of base grade administration officers is eleven months. The Registry has this year participated in the Trainee Incentive scheme, engaging one trainee aged seventeen years.

There are also Registrars of the Central, Northern and Far Northern Districts of the Supreme Court, in Rockhampton, Townsville and Cairns. The Brisbane Registrar and those registrars take every opportunity to liaise on matters regarding court rules, practices and procedures. The Registrars did not meet in conference during the period of this report as it was thought best first to await the introduction of the Uniform Civil Procedure Rules. A conference will be held in the near future. There are Registries at the Circuit centres of Roma, Toowoomba, Maryborough, Bundaberg, Mackay, Longreach and Mt Isa, and staff of the local Magistrates Court service those offices. Staff of the principal and central registries of the Supreme Court also supply services to the District Court at those centres.

Information Services

Since 1996 the Registry has continued to provide brochures, to help clients address concerns and answer frequently asked questions. Brochures issued in previous years are updated regularly, and since 1997 have been placed on the Court's web-site to enhance public access.

Only one new brochure was issued during this last year, as it was thought best to await the introduction of the new Uniform Civil Procedure Rules before further developing other brochures. There is no doubt that the availability of these brochures to the profession and the public has "struck a chord", the most popular being "Changing Your Name by Deed Poll". Most brochures are distributed to clients by mail after an initial telephone enquiry to the Registry. The Registry finds that there is little follow up activity, from which it may be concluded the information provided adequately addresses clients' concerns.

The following is a list of brochures available at 30 June 1998, with an indication of demand:

Brochure	Number issued 1998/99
Changing Your Name by Deed Poll	787
Guidelines for Registration for Barristers or Solicitors - <i>Mutual Recognition (Qld) Act 1992</i>	266
An Explanation of Supreme Court ADR processes	226
Supervised Case List (an overview)	issued 1.7.98
Applying for a Grant in an Estate - Probate and Letters of Administration	492
Jury Handbook	8 000 (one supplied to each member of the community called for jury service)
Brisbane Supreme Court Registry Procedures (for those who need to attend the Registry)	372
Technology in Trials in the Supreme Court	281

Filing by Post

Many practitioners now file documents by post rather than by personal attendance at the Registry. Any document provided for under the rules may be filed by post upon the payment of an additional postal dealing fee, currently the modest fee of \$16.00. This includes applying for default judgment and for a grant in estate matters. The initiative taken by the Brisbane registry since 28 June 1999 not to require the filing of an affidavit of search in those instances and to rely on the data base of the Civil Information Management System (CIMS) should lead to an increase in the number of matters filed by post next year. Approximately 762 sets of documents have been lodged by post through the Brisbane registry and 640 through the Townsville registry.

Funds in Court

As at the end of the year there were 105 accounts credited to the Court Suitors Fund Account Brisbane, totalling \$7,572,486.49. Regulation 33 of the *Court Funds Regulation 1988* 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. Seven accounts in that category were recorded and in consequence the Registrar was granted an order for the transfer of \$65,678.00 to the Consolidated Revenue Fund.

Client Services

The most visible part of the Civil Registry is the Client Services Area, equipped with computer terminals offering Client Relations Officers direct access and input to the Registry database (CIMS). A ticketing system and visual display unit ensures clients are served in turn, and a fast service lane operates in peak times. About two hundred clients a day attend at the Registry and at peak times (most afternoons) up to four Client Relations Officers will be on duty. As in most courts in Australia, there is noticeable upsurge in persons representing themselves. This is an issue for the registries and a protocol to address the service needed for these clients in particular will be advanced in this forthcoming year.

There is a diverse range of documents lodged in the general registry - originating actions and associated documents, applications to wind up companies, for grants of Probate or Letters of Administration, for Judicial Review, for admission as a Solicitor or Barrister, documents relating to Deed Polls, and Articles of Clerkship are examples. There are no electronic lodgment facilities and some 2,500 documents are filed each week. These are processed in the main registry office area where details are entered onto the database, and the physical files are maintained. It is also from this area that the various law lists are generated and distributed. Electronic filing and access facilities are well overdue.

Uniform Civil Procedure Rules

During the year the Registrar and staff participated substantially in the preparation of submissions to be forwarded to the Rules Committee chaired by the Chief Justice and headed by Justice Williams and later Mr Justice Muir, and constituted pursuant to the *Civil Justice Reform Act 1998*. The Uniform Civil Procedure Rules for the Supreme Court, the District Court and Magistrates Courts and the Criminal Practice Rules are to commence from 1 July 1999. In February this year, the Registrar was invited to assist the Rules Committee in its final deliberations in relation to rules and forms and scales of fees and costs. During June and prior to the introduction of the new rules set for 1 July, 1999, the Registry participated in a training program for court staff across the state. The Registrar and some staff members participated in seminars and contributed to publications relating to the introduction of the new rules. In the last week of this year, the Registrar established Help Lines, staffed by Deputy Registrars, to answer telephone enquiries from members of the profession and the public regarding the conduct of matters under the new rules for the Supreme and District Courts in Brisbane. A substantial amount of work was filed in the Brisbane registry in the last week of June by many practitioners wishing to clear existing actions before they needed to comply with the new forms. The involvement and commitment of the Registry staff at this historical time is acknowledged and greatly appreciated by the judges of the Court.

Sheriff's Office

The office of Sheriff is the oldest continuous institution under English Law. The appointments of Sheriff, Deputy Sheriff and Sheriff's Officers and their authorities and liabilities are provided for by the *Supreme Court Act 1995*, previously the *Supreme Court Act of 1867* and the *Sheriff's Act 1875*. Since statehood in 1859, there have been only sixteen Sheriffs of Queensland, with the latest appointment being in 1998 - see Appendix 2. The Registrars at Rockhampton, Townsville and Cairns exercise the powers and duties of the Sheriff for the Central, Northern and Far Northern Districts of the Supreme Court.

The present day sheriff's role and duties include:

- management of the jury system, ensuring adequate jurors are available for the criminal and civil jurisdictions of the Court, determination of applications for excusal, ensuring secure transport and accommodation of jurors, and timely payment of jurors' fees;
- management of the criminal registry functions of the Courts to ensure a high standard of service delivery;
- management of the bailiffs, to ensure a high standard of service delivery to the judiciary and courts;
- ensuring timely and efficient performance of the sheriff's and the marshal's responsibilities for execution of writs and warrants, including the seizure of vessels;
- co-ordinating security for trials when requested by judges, and ensuring the safe custody and welfare of prisoners to the extent required by the *Corrective Services Act*.

Jury Management

During the year the Sheriff's office issued 53,000 notices to prospective jurors for the Brisbane courts and 100,380 for the remaining thirty Supreme, Circuit and District Courts in Queensland. The office also issued 8,018 summonses for members of the community to attend for jury service.

The *Jury Act 1995* has provided a more flexible and responsive method for the Sheriff and deputies when assessing the needs of the public, in relation to granting excusal from jury service before and during a jury service period. The ability for sheriffs to grant excusal and the new empanelment procedure has reduced the time span necessary for jurors to attend

on a daily basis, and has led to a more flexible approach for the assignment of panels of jurors to court rooms.

The innovative video of the jury selection and trial procedure and related matters has now been shown to jurors throughout the state for a full year and has attracted substantial commendation from jurors, whether first time or not, for its helpful introduction to the system. 115 copies of the video have been distributed to courts and government offices, five to libraries, six to universities and nine to other interested persons.

Criminal Registry

The Criminal Registry is responsible for the registration and processing of the criminal records of the Courts in Brisbane. These records are currently held electronically on a relational database (Criminal Register System [CRS]). During the year 4,552 indictments against 4,146 defendants were registered on the CRS, of these 606 indictments against 590 defendants were for the Supreme Court. 4,305 defendants had their charges finalised, 571 of these in the Supreme Court, and the Registry prepared, signed and distributed all necessary orders and warrants in respect of the outcomes and recorded the results on the CRS. Five hundred and thirty Certificates of Conviction were prepared and signed in the Registry for use in other proceedings.

There are two other main functions of this registry:

- the collection and disbursement of all monies paid under orders made by the Court. These include orders for fines, restitution and compensation. There were 682 such monetary orders made during the year.
- the safe keeping and disposal of exhibits tendered at criminal proceedings. This requires the cataloguing of exhibits when proceedings have been completed and then liaising with parties for the eventual return, if ordered, after the time for appeal has lapsed. 71 bundles of exhibits were catalogued and retained detached from the file until their return or disposal. Difficulties have been experienced in liaising with legal practitioners and police to ensure exhibits are retrieved and returned to rightful owners. Considerable work has been done on this matter to set up a procedure to ensure exhibits are expeditiously returned.

Bailiffs' Office

The bailiffs play a key role in the day to day running of the courtrooms. Under the provisions of the *Jury Act* 1995, bailiffs are in charge of the jury and responsible for their safe keeping. In Brisbane the office is run by the Chief Bailiff (Phil Lennon) assisted by a Deputy (Ken Welsh), and there are twenty-two bailiffs and ten casual bailiffs currently appointed.

The main duties carried out by bailiffs include:

- setting up courtrooms for daily use and managing the day to day running of the courtroom. This includes the supply and setting up of equipment such as polycoms, amplifiers and visualisers;
- instructing jurors on what is required of them, supervising the jury dining area, supervising empanelled jurors, as directed by the Court, whilst the jury is considering a verdict, including any necessary overnight accommodation. There were thirty-five juries which this year required overnight accommodation for the Brisbane courts;
- performing registry duties and assisting other areas of the Court's operation as directed.

During the year bailiffs and casual bailiffs were assigned to the following:

2,301 days of criminal court sittings, 562 of which were for the Supreme Court;
863 days of civil court sittings, 413 of which were for the Supreme Court;
658 days of chamber court sittings, 426 of which were for the Supreme Court;
62 days of Medical Assessment Board sittings;
151 days of Planning and Environment Court sittings;
51 days as court orderlies;
231 days of administrative duties for the Registry.

Bailiffs assist the Sheriff by executing the process issued by the Court.



Back: Tom Lehane, Owen Mills, Anna Reilly, Michael Hinge, Barry Richardson, Mal Sykes, Allen Siffleet, Michael Tatton, George Trinder, Frank Hurley.

Front: Glynn Hagstrom, Marcus Bessell, Darryl Burns, Cecile Bell, Phillip Lennon (Chief Bailiff), Ken Welsh (Deputy Chief Bailiff), Lysbeth Russell-Bosworth, Dennis Dowd, Jack Miles.

Absent: Bryan Noonan, Allan Kinsey, John Anderson, Don Godley, Vic Supranowicz.

Execution

During the year the Sheriff's office received 233 writs of execution. 40 writs were against property (*writs of fieri-facias*), and 193 were for recovery of possession of land (*writ of possession*).

The Sheriff is also Marshal and performs duties in Admiralty jurisdiction under the *Admiralty Act (Commonwealth) 1998*. Four vessels were arrested by the Marshal during the year.

Secondments

A number of court staff were seconded from normal duties to assist in continuing projects. While that involvement no doubt helped those projects, it has drained the Court's resources. The organisation may benefit in coming years when the projects are completed.

The newly appointed Sheriff (Neil Hansen) was committed to the Courts Modernisation Project and unable to take up the Sheriff's duties until November 1998. The newly appointed Senior Deputy Registrar (Robyn Hill) has been seconded on a part-time basis to the redevelopment of the Court of Appeal Case Management System (CAMS).

Another five staff members were also seconded to the Courts Modernisation Project, Department of Justice and Attorney-General and other Government departments. They were Anna Lang, Andrew Alcock, Katrina West, Bernard Harvey and Sharon Toohey.

It is unsatisfactory that the Registry should be subjected to unnecessary dislocation.

USE OF TECHNOLOGY

The year involved various challenges.

The Information Technology section in the Supreme Court (and the District Court) is small, with only three positions. This section provides helpdesk support on general computer applications for the judges and the administrative staff. It advises upon and makes arrangements for the use of information technology in court rooms and responds to queries about computer hardware.

Like most organisations, the Supreme Court has been occupied in rectifying and testing major computer systems with a view to their suitability for Year 2000.

The Civil Information Management System (CIMS) has been changed because of the Uniform Civil Procedure Rules.

The Supreme Court has undertaken planning processes in relation to its information technology needs. Three principles underpin that planning process. First, the use of information technology must be directed to improving the operation of the Courts. Automation of processes or offering currently available information via different means will not suffice. Opportunities exist and should be taken for more effective disposition of the Court's business through case management and electronic filing. Second, the use of information technology must be directed to the interfaces with those who use the Courts, the litigants, the legal profession, witnesses, jurors and so on. Third, the security of the Court's information and the independence of the Court must be maintained.

The present position is that the judiciary are not attached to a network. The associates generally do not have computers. It is planned that the Law Courts Complex will be cabled in the next financial year. This will allow the judiciary to be connected to the network. It is also planned that the associates will be provided with computers.

It is planned that obsolete computers in the Supreme Court at Brisbane will be replaced with equipment which has been redeployed from the Magistrates Courts as part of the Courts Modernisation Project.

It is fair to say that the use of technology (including the use of the video court, polycoms and document viewers) is limited by the quantity of equipment available. It is planned to increase the amount of equipment. What should be appreciated, more generally, is that business litigation in particular will by-pass the Queensland higher courts if they cannot keep up with the technology used in day-to-day business transactions.

There is a project underway known as the Courts Modernisation Project. It is intended to provide a computerised criminal management system. It is essential that any new system should at least provide the same functionality as the existing criminal computer support system.

Table 66 Caseflow recorded by CIMS

1996-96	1997-98	1998-99
127 732	134 015	141596

RELATED ORGANISATIONS

State Reporting Bureau

The State Report Bureau provides a recording and transcription service, using computer-assisted transcription and audio recording, for proceedings of the Supreme and District Courts, Magistrates Courts and the Queensland Industrial Relations Commission. In respect of the Supreme Court Trial Division, reporting services are provided in Brisbane, Townsville and Rockhampton and the circuit centres of Cairns, Mount Isa, Bundaberg, Longreach, Maryborough, Toowoomba and Roma. The Bureau also provides reporting services for the Mental Health Tribunal, Medical Assessment Tribunal, Industrial Court and Land Appeal Court.

The Bureau is trialling a Remote Recording and Transcription System (RRATS) in selected remote areas throughout Queensland. This system enables the Bureau to audio court proceedings at a regional courthouse and transfer that recording via the Integrated Service Digital Network (ISDN) for transcription at a Bureau operational centre. The transcript produced at the remote transcription centre is returned via electronic modem connection to the regional courthouse for printing, photocopying and distribution to the judge, counsel and other interested parties within two hours of the adjournment of the Court that day.

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 judges 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.

The Supreme Court Library

The Supreme Court Library is the primary information service for the Queensland Courts, including the District and Magistrates Courts. It supports the judiciary through the provision of electronic and print source material, research assistance, information retrieval training, indexes and judgments publications and current awareness services. These resources are also available to members of the legal profession and, with certain necessary

but limited restrictions, to the Queensland public. The Library provides an invaluable service indispensable to high performance by the Court.

The Library is administered by the Supreme Court Library Committee under the *Supreme Court Library Act 1968*. The Committee is chaired by a Supreme Court Judge appointed by the Chief Justice (Justice White), and includes representatives of the District Court, Magistrates Courts, Bar Association of Queensland, the Queensland Law Society, and the Department of Justice. The principal service centre is located in the Law Courts building in Brisbane with subsidiary collections adjacent to the Judges' Chambers in the Supreme and District Courts and in the Magistrates Courts. Collections are also housed at regional courthouses in Beenleigh, Cairns, Ipswich, Mackay, Maroochydore, Mount Isa, Rockhampton, Southport, Toowoomba and Townsville.

Distinguished Visitors

The Library was privileged to receive three distinguished visitors from Japan on 14 May 1999. Mr Justice Motohara of the Supreme Court of Japan, Judge Miyoaka of the Tokyo High Court, and the Consul General, Ms M Bando, were accompanied by the Chief Justice and Justice Wilson. To mark the occasion an exhibition on the life of the Hon John Woolcock, an eminent Judge of the Supreme Court of Queensland (1927-29), was mounted. The visitors were apparently fascinated by the nationally significant rare books and memorabilia, and impressed by the size and extent of the collection.

Cairns Courthouse Library

The enhancement of regional centre resources has been given high priority, with facilities at all Courthouse Libraries kept under continual review. This year 1,245 items valued at \$136,654, which became available when the Brisbane Supreme Court Judges' Library and the Court of Appeal Judges' Library were amalgamated (as a justifiable rationalisation of resources), were forwarded to Cairns Courthouse Library. The total value of the Cairns collection now stands at \$336,830.

A cooperative agreement has recently been negotiated with James Cook University under which photocopying and Internet facilities will be installed in the Cairns Courthouse Library in exchange for law student access to the collection. With the financial assistance of the local Cairns Law Society and Bar, an extra staff member has been appointed for 16 hours per week to supervise the students. This is mentioned in the Far Northern District report.

Internet Development

The installation of a permanent Internet connection in January has enabled staff more efficiently to access electronic legal information and utilise E-mail to receive and respond to research requests. In addition, the Library has been able to develop the Queensland Courts and Library web-site, which it administers. A complete design and function review was conducted which culminated in the launch of the revamped home pages in May. Since March, the Queensland Courts (<http://www.courts.qld.gov.au>) and Supreme Court Library (<http://www.sclqld.org.au>) sites have recorded approximately 88,000 and 32,000 hits respectively. The site was extensively visited during the consultation period on the new uniform rules, displayed in draft on the home page.

Rare Books Room

Plans have been completed for the construction of a free-standing “treasure casket”, located adjacent to the Banco Court, which will display the Library’s nationally significant rare book and legal memorabilia collection. The room should be completed by late November. A number of exciting activities have been proposed including:

- launch of a Court Historical Society
- regular orations and seminars
- publication of scholarly papers and a Court Historical Journal
- exhibitions and tours for school students as a part of a community education program conducted in collaboration with the School Liaison Officer of the Queensland Law Society
- archival program for the continued acquisition and preservation of historical material
- oral history project documenting the history of the Queensland legal profession through interviews with retired members of the profession.

This raises exciting possibilities for enhanced presentation of the Courts to their public, better communication generally, informing the public about their institution and increasing confidence in its operation.

New Library Information Management System

Following analysis of several products, the Library Committee selected Innovative Interface’s INNOPAC to replace the current Library Information Management System, BookPlus, now five years old. INNOPAC offers a number of interesting future opportunities including the development of interactive web-based user services and the integration of digital resources into the collection. When implementation is completed in January 2000, users will be able to search our catalogue, place requests, browse through

other Australian and international databases and retrieve online materials through one simple interface.

Publications

The *Supreme Court Library Newsletter* made its debut this year. The three issues published to date have drawn favourable comment. The newsletter keeps readers informed of Library services, resources and ongoing activities. Regular features have included special projects, information technology, rare books and special collections, recent acquisitions, reviews, abstracts of articles, humorous stories and quotations.

The revised *Queensland Legal Indexes* software on CD-ROM was tested by a focus group of judges, members of the profession and representatives of the knowledge management industry. Their valuable comments were referred to the database designer, who made necessary amendments. The launch of the new software, currently in beta testing, is planned for the 1999-2000 subscription year.

Electronic Resources Training

The assignment of a reference staff member as part-time training officer in February has enabled the Library to meet its commitment to provide electronic resource training. Members of the judiciary, their associates and senior court staff have been invited to attend individual sessions on Internet and CD-ROM usage offered two days per week. Several guides and manuals have also been published, available in the Library and online.

Research and Development

As a part of an ongoing commitment to research and development, two projects were initiated this year to enhance the Library's strategic planning capabilities:

- a citation survey of materials cited by the Queensland Supreme Court during 1997-98 was conducted to identify the range of publications considered by the Judges of the Court when providing reasons for judgment. In addition to relevance for legal practitioners, the final report should provide a useful analytical tool to determine resource allocation and formulate collection development policies.

- a subscription database containing details from 1995-96 onwards, of 930 subscription items, has been created to monitor increases in subscription prices. This database will assist with the ongoing valuation project, budget preparation and negotiations with legal publishers. It will also be useful future archival material.

Reader Services Division

A total of 60,123 users accessed the Brisbane Library this year. 47,208 items were re-shelved. Staff completed 25,693 CD-ROM searches, 4,203 fax and photocopy orders and 258 research projects on behalf of the Courts and profession. In addition, 4,585 loans were made to the Courts. The Judicial Current Awareness Service circulated 1,008 articles, news clippings and speeches and the three Library newsletters.

Technical Services Division

The Division added 325 monographs and 22,372 individual serial issues (reports, legislation looseleaves, journals, papers, microfiche and CD-ROMs) to the collection. Three new rows of shelving (126m), which will accommodate approximately 4,200 books, were installed in the superseded editions section to alleviate the problem of overcrowding. The Library also completed a comprehensive stocktake of the collection (deferred last year due to lack of funding).

The legislation rebinding project commenced this year with the binding of Queensland Bills and Explanatory Notes from 1982 to 1998. The superseded Queensland Legislation Reprints dating from 1930, including the Qld Statute Reprint (1980-98) and the Qld Legislation Reprint (1992 onwards), are also being prepared for binding. This project will be repeated as required for both sets of legislation.

Accommodation

The Library lacks adequate suitable accommodation. Addressing the problem has now become a matter of urgency. Four study carrels have necessarily over time been converted to a photocopying room and to house electronic resource facilities. Requests are being received from the profession for additional carrels. The Department of Justice has been approached to assist with the provision of these rooms for readers.

The accommodation problems extend to staff work areas. The demand for Library services

has increased dramatically in the last five years, but the two research officers still share a 3m x 3m cramped work area with other staff and, at various times, Court employees. This problem is exacerbated by the continuous noise generated by phone, fax and photocopying equipment located at the front desk.

In Technical Services ten staff (who service fourteen libraries and process over 2,000 items a month) are housed in a single 9m x 9m open room which also contains the computer network hardware, office equipment and storage items. As a result of the expansion of the Barristers' and Solicitors' Boards, the Office Manager is now housed in a storage room and extra stationery is kept in the staff photocopy room, creating an unsafe work area. It is hoped that the continuing Court refurbishment program will address some of these acute problems.

Funding

The inordinate reliance on the Queensland Law Society Trust Fund account as the principal source of funding for the Library's activities has resulted in the Library's having to draw upon its reserves to finance operational expenditure and meet statutory obligations.

This, at best, is a short term remedy. In the long term the continued financial viability of the Library depends upon the allocation of an adequate grant from Consolidated Revenue and appropriate compensation for the loss of income resulting from making judgments freely available on the Internet.

The government has been made fully aware of these reasonable requirements, for years; the Chief Justice drew attention to them directly in his last year's 'overview'. They have yet to be addressed, and remain a matter of critical concern for the Court. They will be the subject of continuing submissions until properly addressed. It is hoped that some rationalization of electronic technology across the Department of Justice portfolio can be achieved. This is the area of greatest cost and in the future cannot be resourced from existing sources of revenue.

Future Plans

There are opportunities for further vital development next year. Discussions have been taking place with a sponsor to establish a state of the art training and electronic resource centre within the Library. If successful, that centre could be a launching pad for electronic research and training initiatives both within the Courts and on the Internet. The Library Committee is also considering a proposal for the Library to provide case notes on Supreme

and selected District Court decisions to the Themis service.

New technologies are dramatically changing the nature of knowledge management. The Supreme Court Library strives to meet these challenges with new initiatives. One such project for next year will involve the creation of a knowledge database to document the processes and resources used for major research projects. In addition, as a part of the Library's long term strategic plan, a comprehensive organisational review will be conducted to determine the optimal deployment of staff and resources for an increasingly electronic Courts information service.

APPENDIX 1

Taxing Officer

SUPREME COURT BRISBANE

<i>NAME</i>	<i>QUALIFICATION</i>	<i>DATE ADMITTED</i>	<i>DATE APPOINTED</i>
James Edward BAINES			1889 - 1932
Denis Martin O'FLYNN			1933 - 1954
James Patrick O'CALLAGHAN	Barrister	27.9.1938	1955
Francis Joseph RUSSELL	Solicitor	2.9.1930	1955 - 1967
John Thomas MUNRO	Solicitor	5.8.1969	1967 - 1975
Robert HORE	Solicitor	19.12.1968	1975 - 1984
David Chisholm BERNAYS	Solicitor	29.9.1970	1984 - 1987
Peter Douglas KELLY	Barrister	12.3.1984	1988 - 1989
Joan Ellen WHITE	Solicitor	31.1.1984	1989 - 1992
Robert John HOUGHTON	Solicitor	15.5.1989	1992 - 1999

APPENDIX 2

Sheriff and Marshal

SUPREME COURT BRISBANE

<i>NAME QUALIFICATION</i>		<i>DATE ADMITTED</i>	<i>DATE APPOINTED</i>
William Anthony BROWN	-	-	1859 - 1864
Arthur Edward HALLORAN	-	-	1864 - 1888
Capt. William TOWNLEY	-	-	1888 - 1898
Philip PINNOCK	-	-	1898 - 1902
John GALLWEY	-	-	1902
Gilson Fox Lesley FOXTON	-	-	1902 - 1904
William Archibald DOUGLAS	Solicitor	1.12.1891	1904 - 1915
William Henry CARVOSSO	-	-	1916 - 1932
Joseph Shield EMERSON	-	-	1933 - 1957
Charles Leslie CHRISTOPHERSON	-	-	1958 - 1969
William George FOSTER	Solicitor	18.6.1968	1969 - 1978
Edgar Phillip LARACY	Solicitor	15.12.1955	1978 - 1980
David Chisolm BERNAYS	Solicitor	29.9.1970	1980 - 1984
Kenneth Thomas TOOGOOD	Solicitor	17.8.1981	1984 - 1985
Edmund Francis GREEN	-	-	1985 - 1998
Neil William HANSEN	-	-	1998-