

**ANNUAL
REPORT
BY
THE JUDGES
1994**



PHOTOGRAPHS

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N055241



PAPUA NEW GUINEA

ANNUAL REPORT

BY

THE JUDGES

1994



JUDGES OF THE SUPREME AND NATIONAL COURT 1994

- *From left to right standing.*
Sevua J. Sakora J. Kidu AJ. Wenge AJ. Samuel AJ. Sawong AJ. Injia J. Akuram AJ.
- *From left to right seated.*
Jalina J. Brown J. Hinchliffe J. Kapi DCJ. Amet CJ. Woods J. Sheehan J. Salika J. Andrew J
- *Inserts.*
left: Los J, right insert: Doherty J

REPORT BY THE JUDGES TO THE HEAD OF STATE FOR THE YEAR ENDED 31 DECEMBER 1994 FOR PRESENTATION TO THE NATIONAL PARLIAMENT ON THE WORK OF THE SUPREME COURT AND THE NATIONAL COURTS, PURSUANT TO *CONSTITUTION*, SECTION 187 AND THE *NATIONAL COURT ACT* (CHAPTER NO 38) SECTION 6.

JUDGES OF THE SUPREME COURT OF PAPUA NEW GUINEA AND THE NATIONAL COURT OF JUSTICE DURING 1994

THE HONOURABLE SIR ARNOLD KARIBONE AMET, C.B.E, LL.D,

Chief Justice of Papua New Guinea

THE HONOURABLE SIR MARI KAPI, C.B.E

Deputy Chief Justice of Papua New Guinea

THE HON. JUSTICE ROBERT KYNERSLEY WOODS, C.B.E

THE HON. JUSTICE KUBULAN LOS, C.B.E

THE HON. JUSTICE TIMOTHY ALEXANDER HINCHLIFFE

THE HON. JUSTICE TOMARUM KONILIO (Deceased 3rd July 1994)

THE HON. JUSTICE MAURICE JAMES SHEEHAN, P.M.

THE HON. JUSTICE JOHN RODNEY BROWN

THE HON. JUSTICE GIBUMA GIBBS SALIKA

THE HON. JUSTICE MOSES JOHN JEFFREY JALINA

THE HON. JUSTICE TERESA ANNE DOHERTY

THE HON. JUSTICE WARWICK JOHN ANDREW, C.B.E

THE HON. JUSTICE BERNARD BEREKIA SAKORA

THE HON. JUSTICE MARK SEVUA

THE HON. JUSTICE SALAMO INJIA

THE HON. JUSTICE DON SAWONG (ACTING)

THE HON. JUSTICE RANU KIDU (ACTING)

THE HON. JUSTICE SILAS SAMUEL (ACTING)

THE HON. JUSTICE PAUL AKURAM (ACTING)

THE HON. JUSTICE LUTHER WENGE (ACTING)

SUPREME AND NATIONAL COURT OFFICIALS

Registrar - Supreme and National Courts	Mr Laurence Michael Newell, ISO, LL B., F. Inst. L. Ex.
Sheriff - Supreme, National and District Courts	Mr Laurence Michael Newell, ISO, LL B., F. Inst. L. Ex.
Admiralty Marshall	Mr Laurence Michael Newell, ISO, LL B., F. Inst. L. Ex.
Deputy Registrar (Supreme Court)	Mr Lohia Raka, LL B.
Deputy Registrar (National Court)	Mr Norbert Kubak, LL B.
Assistant Registrar (NCD)	Mr Ian Augerea, LL B.
Acting Assistant Registrar (Lae)	Mrs Rebecca Kesno
Assistant Registrar (Rabaul)	Ms June Micka, LL B.
Acting Assistant Registrar (Mount Hagen)	Ms Imelda Buru, LL B.
Assistant Registrar (Goroka)	Mr Philip Kaumba, LL B.
Acting Secretary - National Judicial Staff Service	Mr Geno Gapi until 3 rd October 1994

Secretary of the National Judicial Staff Service	Mr Laurence Michael Newell, ISO, LL B F Inst. L Ex. from 4 th October 1994.
Deputy Secretary (Finance & Administration)	Mr Geno Gapi. from 4 th October 1994
Acting Assistant Secretary (Finance)	Mr Humphrey John
Assistant Secretary (Personnel)	Mr Robin Guria
Assistant Secretary (Magisterial Services)	Mr Maze Magar
Librarian	Mr Tom Dangiaba, BLIS., DLIS
Principal Legal Officer	Mr Dilu Daniel Goma, LL B.
Research Officer	Miss Aplina Gapi, LL B
Legal Officer	Mr Pius Kingal, LL B
Computer Manager	Ms Konio Vai, DCCC

1. INTRODUCTION

We present to Parliament our report for the year ending 31 December 1994 on the work of the National Judicial System with recommendations as to such improvements as we think proper, pursuant to the *Constitution* Section 187 and the *National Court Act* (Chapter No 38), Section 6.

2. OBITUARY FOR SIR BURI WILLIAM KIDU

The former Chief Justice of Papua New Guinea, the Honourable Sir Buri William Kidu, died on Sunday 30 January 1994. The cause of death was principally heart failure, he is survived by his wife Lady Carol Kidu and five children

The late Sir Buri Kidu was born on 8 August, 1945 at New Pari, in the Central Province of Papua New Guinea. He began his formal education at Metoreia Mission School, then went to Iarowari Intermediate School in Sogeri. He continued on to Toowoomba Grammar School in Queensland, Australia and

from there to Queensland University, from which he graduated with a Bachelor of Law Degree in 1970.

On 27 April, 1971, Sir Buri was admitted as Barrister of the Supreme Court of Queensland. He joined the Papua New Guinea public service on 6 May, 1971 as a Legal Officer with the Department of Law (now Attorney-General's Department). He was admitted as a Barrister and Solicitor of the Supreme Court of Papua New Guinea on 27 May 1971.

Sir Buri was appointed as a Crown Prosecutor in 1972. In the same year he was promoted to Senior Legal Officer and appointed Deputy Crown Solicitor based in Rabaul. In March 1975, he was appointed Crown Solicitor of Papua New Guinea. Sir Buri was appointed State Solicitor in 1976. From March 1977, he was acting Secretary for Justice until January 1978 when he was appointed Secretary for Justice and Principal Legal Adviser to the National Executive Council. He served in these positions until 23 August 1979 when he was appointed Secretary of the Prime Minister's Department.

In the following year, on 14 August 1980 he was appointed Chief Justice of Papua New Guinea. He was made a Knight Bachelor on his appointment. He was the first citizen of Papua New Guinea to be appointed Chief Justice of our country. After three years, in August 1983, his appointment was renewed for a further 10 years, which ended on 14 August 1993.

Sir Buri was a former Chancellor of the University of Papua New Guinea, Chairman of the Legal Training Institute, Chancellor of the Anglican Church of Papua New Guinea, and *ex officio* member of the Ombudsman Appointment Committee and Judicial and Legal Services Commission. He was also a patron of the Port Moresby Rehabilitation Centre Inc. and President of University of Papua New Guinea Foundation. After his term ended, among other things of public importance, he was engaged in developing the concept of a Papua New Guinea Human Rights Commission when he died.

Sir Buri Kudu will be remembered, among other things, as the pioneer in establishing, in practice, the judicial independence of the judiciary in Papua New Guinea.

3. JUDGES

OBITUARY - JUSTICE TOMARUM KONILIO

On Sunday 3rd July 1994, Hon. Justice Tomarum Konilio died. The late Judge was from New Ireland. He died of heart attack, having collapsed without warning while he was on his way to the airport to board a flight to Milne Bay for National Court circuit there. At the time of his death the Judge had served on the Bench of the Supreme and National Courts for 6 years, for 1 year as an Acting Judge and then appointed as Judge for a term of 10 years on 1st January 1989. Prior to his appointment on 1st January 1988 as an Acting Judge he was Secretary for Justice. He served his country well in other distinguished capacities at different times, including a period as Secretary and Legal Officer to the General Constitutional Commission from 1980 to 1982. The country lost a dedicated public servant in the late Judge Konilio. He is survived by two young daughters. We extend our condolences to his daughters, family and friends.

APPOINTMENT OF JUDGES

HON. Justice Warwick Andrew was re-appointed as a Judge of the Supreme and National Courts for a further term of 3 years commencing on 6th May 1994. The Judge is from Australia and has served on the Bench of the Supreme and National Courts at various times since February 1978.

HON. Justice Salamo Injia was appointed a Judge of the Supreme and National Courts, after serving as Acting Judge for 12 months, for a period of 10 years commencing on 22 October 1994. Mr Justice Injia comes from the Enga Province. Prior to his appointment he was in private legal practice with the firm of Shepherd's Lawyers in Port Moresby.

APPOINTMENT OF ACTING JUDGES

Don Sawong was appointed an Acting Judge of the National Court for a period of 12 months commencing on 24 February 1994. He is from the Morobe Province. Prior to his appointment he was in private legal practice with the firm of Sawong & Associates Lawyers in Lae.

Ranu Kidu was appointed an Acting Judge of the National Court for a period of 12 months commencing on 1 July 1994. He is from Pari Village in the National Capital District. Prior to his appointment he was Deputy Chief Magistrate.

Silas Samuel was appointed an Acting Judge of the National Court for a period of 12 months commencing on the 1 July 1994. He is from the Manus Province. Prior to his appointment he was a Principal Magistrate based in Rabaul.

Paul Akuram was appointed an Acting Judge of the National Court for a period of 12 months commencing on the 1 July 1994. He is from the Madang Province. Prior to his appointment he was a Principal Magistrate based in Kundiawa.

Luther Wenge was appointed an Acting Judge of the National Court for a period of 12 months commencing on the 1 July 1994. He is from the Morobe Province. Prior to his appointment he was Principal Magistrate of the South Eastern region based in Popondetta.

REGIONAL JUDICIAL CO-OPERATION

The Papua New Guinea government has entered into bilateral agreements with several neighbouring Pacific Island countries for judicial co-operation whereby the PNG judiciary has been requested to and has willingly made available a number of Judges to preside on the trial court and the appellate courts of these countries.

Solomon Islands

The Deputy Chief Justice, Sir Mari Kapi and Justice Los alternately sit on the Solomon Islands Court of Appeal.

Justice Amel (as the Chief Justice then was) and Justice Los have also presided on trials on the High Court of Solomon Islands.

The Deputy Chief Justice Sir Mari Kapi was awarded the Cross of the Solomon Islands when that country celebrated its 10th Independence Anniversary in 1994, for his long service to the Court of Appeal. An honour well deserved.

FIJI

In 1992 the Deputy Chief Justice Sir Mari Kapi and Justice Amet (as the Chief Justice then was) were appointed members of the Fiji Court of Appeal for 3 years. In 1995 the Deputy Chief Justice was re-appointed for a further term of 3 years.

VANUATU

Judicial

Justice Amet (as the Chief Justice then was) and Justice Los have served on the Vanuatu Court of Appeal.

Magisterial

Under a Memorandum of Understanding between the Governments of Vanuatu and Papua New Guinea entered into on the 25th January 1989, a senior Papua New Guinea magistrate had been seconded to the service of the Vanuatu Magistrates Court. Mr. Salatiel Lenaila is presently occupying that position.

We consider the co-operative assistance to our smaller Pacific neighbours to be valuable, both for the individual Judges & Magistrates who participate as well as for regional co-operation.

4. CIRCUITS BY THE SUPREME COURT

For the first time in the history of the country since independence the Supreme Court sat outside of Waigani and the National Capital District. In June 1994 the Supreme Court sat in Mount Hagen, and in September 1994 it sat in Lae. It had planned to sit in Rabaul toward the end of the year but could not because of the volcanic eruptions that devastated the town. The Chief Justice intends that this will continue, to bring the highest court closer to the people.

5. REGIONALISATION OF THE NATIONAL COURT

The regionalisation process of the National Court in the country continued in 1994 with additions made in the number of resident Judges.

Locations and Resident Judges:

Goroka

Justice B. Sakora

Kavieng

Justice M. J. J. Jalina
(from October 1994) *

Lae	Justice T. A. Hinchliffe Justice M. Sevua
Madang	Justice W. J. Andrew
Mount Hagen	Justice R. K. Woods Justice S. Injia Acting Justice P. Akuram
Rabaul*	Justice M. J. J. Jalina Justice T. A. Doherty Acting Justice S. Samuel

- * The volcanic eruptions in Rabaul in late 1994 disrupted the National Court (as well as the District and Local Courts) in Rabaul. As a result, Justice Jalina has been relocated to Kavieng, with Justice Doherty and Acting Justice Samuel moving to Waigani. Arrangements have begun for the National Court to sit at Kokopo, or possibly at Kerevat.

National Court Circuits:

Judges of the National Court makes circuits to a total of twenty two provincial or district centres, of which six Provincial Centres and the National Capital District have one or more resident Judges

A major interference in National Court circuits generally in 1994 was the unavoidability of lawyers from the Department of Attorney General (ie . Solicitor-General, Public Prosecutor and Public Solicitor) to handle cases, mainly involving the State. That was due to the shortage of funds to finance circuit travel of these lawyers.

In fact, the Judiciary, from its own funds, financed government lawyers' travel on Court Circuits (both National Court and District Court Grade 5) during August and September 1994, in order that Courts could continue to hear cases and dispense justice. The work of the Courts are affected if the Offices of the Public Prosecutor,

the Public Solicitor and the Solicitor General are not funded or properly funded. This could very well amount to affecting the independence of the Judiciary.

6. REPORTS FROM THE REGIONS

The following reports deal with Circuits Reports from Judges of the National Court based in Provincial Centres

EASTERN HIGHLANDS PROVINCE

There has been a resident judge in Goroka since 1991. Until mid 1994 the National Court at Goroka was responsible for the sittings of the Court in both the Eastern Highlands and Chimbu Provinces, sittings conducted in each province on alternate months. After the permanent location of an additional Judge at Mount Hagen in 1994, the National Court at Mount Hagen assumed direct responsibility for the Chimbu Province.

The National Court now sits every month at Goroka Court House, and this is enabled to a large extent by the fact that both the offices of the Public Prosecutor and Public Solicitor have had lawyers resident there. The Court deals with criminal cases coming through from the Kainantu District and Local Courts as well as from the Goroka District and Local Courts.

Mainly due to the ability now to sit on a regular monthly basis, backlogs in criminal cases are being eliminated. This has enabled a more realistic forward listing, on an average of at least two months ahead, with greater certitude. Most criminal cases are now being disposed of from a maximum period of at least 6 to 8 months from committals.

After the Kainantu Court house was burnt down, cases from that District used to be dealt with in temporary premises at the Council Chambers until December 1993 when those facilities were no longer available to the Courts. Thus, all lower court cases plus the National Court matters are now dealt with at Goroka Court House. This undoubtedly has placed great strains on Court facilities in Goroka which are, and have been for quite a while, inadequate. The Senior Provincial Magistrate is a Grade V Magistrate who has three other magistrates dealing with Goroka matters. Added to these are the two Magistrates and Clerk of Court from Kainantu who have to be accommodated in Goroka as well. It is intended that when suitable accommodation and court facilities are found in Okapa, a Magistrate will be resident there. Similarly, it is hoped a Magistrate will be placed in Lufa.

The present situation is inconvenient and expensive for the ordinary people in the outlying villages in the districts of Kainantu, Okapa and Lufa, who have matters before the lower courts, let alone before the National Court, to travel to and from Goroka. Access to justice, therefore, becomes a real problem. The second Corrective Institution in the Eastern Highlands Province, Bundaira, is situated in the Kainantu District. With the usual unpredictable financial difficulties that the Corrective Institutions Service often face, affecting transportation, amongst other operational facilities bringing remandees up to Goroka for the daily criminal sittings can be and often is a real problem. The only solution readily available under such circumstances, is to bring remandees up to Bihute Corrective Institution and house them there overnight or for a few days, this creates its own strains on the facilities at Bihute.

On the whole, since mid 1994, in the spirit and with the objective of achieving efficient/effective and expeditious disposal of cases, especially criminal cases, the

lists have been manageable and any associated problems are not altogether insurmountable

Since the Court House was burnt down at Kainantu attempts have been made to get a Court House there on a site within easy walking distance of the Police Station. such a site was finally obtained in 1993. The National Supply and Tenders Board in 1994 refused to grant a certificate of inexpediency for the construction of a Court House in Kainantu on the grounds of delay in obtaining suitable land for the Court House. The Judiciary in 1994 started work on a temporary Court House in Kainantu which it is hoped will be available for occupation in early 1995.

EAST NEW BRITAIN PROVINCE

Until the eruption of the volcanoes in September 1994 which destroyed Rabaul Court House and Registry the National Court in the Islands Region had continued to service 4 provinces (East & West New Britain, Bougainville and New Ireland Provinces), Manus Province being administered from Madang in early 1994 and then later from Lae.

There were 2 Judges until July 1993 - three thereafter. The Judges in the region set the circuits but adhered to the policy of having one Judge every month in Rabaul and one on circuit to the other provinces with Judges alternating the roles.

Rabaul continued to have the Registry functions for the region and 1994 saw a marked improvement in the administration of the registry but constant care was needed to ensure injustices did not occur. The first half of 1994 saw an increase in civil matters being handled and motion days were held fortnightly

There was an increase in circuits to Buka in the Bougainville Province as work increased and more people and a greater area came within the jurisdiction of the Court. The majority of criminal cases arose from the crisis and cases from all parts of the Province from Lemantua in the North to Buin in the South were dealt with. Sporadic fighting in areas where witnesses lived interfered with cases and delays ensued. Despite this District Court at Buka remains a very efficient well run Court.

The increase in cases in Buka has led to a need to have a jail in the province, as mentioned in other reports that prisoners are brought to Kerevat leading to expense, overcrowding and a disruption to their family life and rehabilitation chances.

Prison visits and police cells inspections were carried out and it is very apparent that breaches of law occur at lower levels of the Court system and require regular constant education of magistrates in lower courts about their jurisdiction and the rights of the individual. Crime increased throughout the region, as in previous years the pattern of crime in East New Britain differed from other provinces with more crime in the rural areas than the urban area.

There were resident public solicitor and public prosecutor officers in Rabaul and until the volcano these coped adequately with cases for the region until cash restrictions interfered with their travel. The waiting list in remand was reduced with the average period from committal to hearing being reduced to 5-7 months

The volcano disrupted the entire operations of the National Court. There had been no indication of any chance of an eruption so the court was left in the normal way over the independence weekend. Late on Sunday night the Assistant Registrar (Ms June Micka) retrieved much of the registry equipment and files. The court rooms were destroyed shortly after the eruption but the offices and chambers stood. In the second week of the eruption various staff volunteered to help retrieve

court property and virtually the entire court library furniture and equipment, were retrieved by digging the chambers and offices.

The court was called on to help in various matters especially at the Kerevat Correctional Institution which was experiencing considerable unrest. With help from the emergency committee a ship was requisitioned and 118 prisoners transferred to their home provinces. Despite efforts there was an escape but the mass escape threatened was averted.

The Judges have been relocated, Judge Jalina setting up the National Court on a semi-permanent basis in New Ireland (previously there was no Judge based in Kavieng, but it had been served by Judges on Circuit).

The National Court Registry remains at Kokopo, and at the end of 1994 plans were made to establish further temporary Court buildings on the present site. Land has been allocated for a Court House at Kerevat.

The volcanic eruption definitely interrupted the work of the Courts and this coupled with financial restrictions on Public Solicitor and Public Prosecutor has meant a build-up of cases in some Provinces that will need to be addressed in 1995.

For a number of years attempts have been made to find a suitable alternative site for the Court House at Kokopo, however due to a lack of success in finding suitable alternative sites, a plan for a 4 Court Room Court Complex was finalised in July 1994, however no planning approval was given for this. Since the eruption plans have begun to locate a portable building on the existing site, and a new 6 Court Room Complex in replacement of the Court House at Rabaul at another site. Plans for this should be finalised in early 1995, subject to land being made available. One site being considered is a large block close to the site of what was *Queen Emma's Residence* in the era of German New Guinea.

MADANG , EAST & WEST SEPIK PROVINCES

The National Court continued to conduct sittings in Madang and in both the Sepik Provinces on an alternate monthly basis.

MADANG PROVINCE

The numbers of cases committed for trial to the National Court has remained steady throughout the year although there was an increase at the years end. Apart from a few serious cases there has not been a large increase in crime and the criminal list is at a manageable level. This has allowed the Court to better able control its procedures and to give cases fixed dates for hearing well in advance and the Police, Public Prosecutor, Public Solicitor, and the Probation Service have all co-operated well throughout the year.

EAST AND WEST SEPIK PROVINCES

There continues to be an increase in criminal cases throughout the East Sepik Province although there has been a decrease in the numbers of armed robbery cases which were reaching alarming proportions especially in the Maprik/Yangoru and East Sepik Highway areas. The increase in the number of cases being committed for trial in the National Court and the tightening of bail conditions has meant a significant increase in the workload of the Court.

The Court has just managed to keep pace with this increase by increasing the number of circuits especially to Wewak. But this volume of work means that there is a greater need for the National Court to be based permanently in Wewak. There

were relatively few cases in the West Sepik Province and the Court has conducted sittings in Aitape and Vanimo at approximately four months intervals.

There have been relatively few civil cases brought before the Court in both the East and West Sepik Provinces. There have been surprisingly few claims for road accident injury and few commercial cases.

MOROBE PROVINCE

Since April 1993, there has been a second resident Judge based in the Lae Court House. Justice Sevua, who had been acting as a Judge of the National Court from March to August 1993 in Lae became a Judge of the Supreme and National Courts in September 1993 and joined Justice Hinchliffe.

Despite having two resident Judges in Lae, the volume of work, particularly criminal cases, increased markedly. There were quite a large volume of civil work too. Violent crimes have increased dramatically. With both Courts sittings every month, the waiting period from the date of committal to disposition has been reduced to about four months.

The Morobe Province will need four full time Judges to effectively control the work load. At present, the rate of disposition in criminal cases is approximately 25 to 30 cases per month and the public will continue to complain about the services we provide if we only have 2 resident Judges.

Lae Court House is a colonial legacy. A modern complex is long overdue. Until a modern Court Complex is established in Lae, the Judiciary will continue to have problems with facilities. Inadequate facilities do not provide an impressive image of the impartiality and independence of the Judiciary.

There have been problems with filing and registry work because there has been no permanent Assistant Registrar in the Lae Court House for a number of years. Until a permanent appointment is made, the registry will continue to encounter problems and lawyers.

No circuits have been made to Bulolo, Finschafen or Wau Court Houses in the last year, all matters being held in Lae Court House.

WESTERN HIGHLANDS PROVINCE

At the beginning of the year the extensions to the Mount Hagen Court House were completed and at the opening of the Court year on 4th February 1994 the 2 new Court rooms and the new separate building housing the Judges Chambers with room for the associates and secretaries was opened. The Court complex in Mount Hagen is now a functional and impressive complex of 5 well designed modern courtrooms for the National and District Courts and supporting chambers for Judges and Magistrates, with a well equipped library. The Court Registry to service both Courts has expanded in the old building taking over one of the old court rooms but still leaving a court room there for the Local Court.

During most of the year there have been 2 Judges sitting in Mount Hagen every month one of whom was Justice Woods. A second Judge, Acting Justice Akuram, taking up permanent residence in Mount Hagen in July 1994.

Unfortunately whilst the Judiciary has shown its efficiency, the Department of the Attorney-General has effectively emasculated the efficient operation of the Courts by continually failing to do its duty to the State of ensuring there were adequate funds and staff to properly service the Court. Whilst the Public Prosecutor has stationed adequate staff in Mount Hagen, neither the Public Solicitor nor the

Solicitor-General has acted on continual urgent requests to position staff in Mount Hagen. This has meant continual waste of time and delays in the scheduling of criminal matters such that by the end of the year the number of remandees in custody awaiting trial had doubled and there are serious questions being raised about constitutional rights to a trial within a reasonable time. Over one half of the days scheduled for the hearing of criminal trials were wasted because of no Public Solicitor being available.

There has been another effect of this delay namely the dropping of serious charges by the State because of the delay and the failure of witnesses to co-operate after a length of time which even suggests the people are settling serious cases amongst themselves by compensation arrangements and then refusing to press the matters and refusing to co-operate with the police. Whilst perhaps this may be a customary attitude, it also suggests that if you have the money or wealth you can buy your way out of any crime. Unfortunately there have also been other consequences where the people have got frustrated at the failure of the court system to work efficiently and they have proceeded to continue with their traditional method of pay-back killings.

In the Civil jurisdiction the relatively large number of lawyers practising in Mount Hagen have kept the Court very busy and one Court has been permanently hearing civil matters all year. The only problem, although only a costly problem for the State, has been the failure of the Solicitor-General to appear to protect the interests of the State in the many cases involving the State. Every week matters involving the State come before the Court with no appearance by the State. This could be a clear case of gross dereliction of duty by the Secretary for Finance and the Attorney-General in their duty to the State in failing to protect the interests of the State.

Most National Court matters from Enga Province were dealt with in Mount Hagen but several trips were made to Wabag for short stays to hold callovers and ensure there was consensus to the venue for trial being in Mount Hagen. Until the National and Provincial Government assist with the rebuilding of the Court House in Enga and also establish a Corrective Institution in Enga, as is required under the Constitution, it is usually preferable and easier to transfer matters to Mount Hagen.

In July there was a landmark occasion in the operation of the Courts in our country when the Chief Justice came with the Supreme Court for a sitting in Mount Hagen and spent a week hearing appeals from National Court matters which had commenced here. This was the first time that the Supreme Court had held a sitting outside Port Moresby in over 50 years and this greatly enhanced the prestige and status of the National and Supreme Court in the country.

At the end of the year arrangements were being made for a third Judge to take up permanent residence in Mount Hagen and then there will be 3 Judges resident in Mount Hagen to handle the National Courts for the Western Highlands and the surrounding Provinces of Enga, Southern Highlands and Simbu. The only problem will be the stationing of sufficient Government Lawyers in all three offices of the Public Prosecutor, Public Solicitor, and Solicitor-General to efficiently service the National Court. At the end of the year there had been no response from any of those Offices to assure the Court of their plans and support.

7. MATTERS BEFORE THE SUPREME COURT

The Supreme Court deals with appeals, reviews, references and applications. In 1994 the Court dealt with matters registered in 1994 as well as those registered in previous years and were pending. Some of these matters pending were from as far back as in 1986. The Supreme Court statistics are contained in Appendix 'C'. The statistics show the following:

Appeal

- 133 were registered in 1994, and 272 were pending from previous years, making it a total of 405 for 1994;
- a total of 42 were dealt with and disposed off in 1994;
- 353 appeals were carried over into 1995.

Review

- 54 were registered in 1994, and 75 were pending from previous years, making it a total of 129 for 1994;
- none of them were disposed off in 1994;
- 129 reviews were carried over into 1995.

References

- 4 were registered in 1994, and 26 were pending from previous years, making it a total of 30 for 1994;
- 2 were heard and decisions on them were reserved;
- 28 references were carried over into 1995.

Motions

- 10 were registered in 1994, and 3 were pending from previous years, making it a total of 13 for 1994;
- 3 were disposed off in 1994,
- 10 motions were carried over into 1995.

Applications

- 9 were registered in 1994, and 13 were pending from previous years, making it a total of 22 for 1994;
- 8 were disposed off in 1994,
- 14 applications were carried over into 1995.

8. CASES DEALT WITH BY THE NATIONAL COURT

The National Court deals with mainly criminal, civil and appeal cases.

The statistics on cases dealt with by the National Court in 1994 are contained in Appendix "A" & "B".

The statistics show the following

Criminal

- 1141 committals were made in 1994, which number (uncertain at this stage) was added to the cases pending from previous years.
- 1966 cases were dealt with in 1994;
- 255 cases were outstanding, to be dealt with in 1995.
- 11,034 Bench Warrants were issued in 1994.
- 3612 bails were granted in 1994.
- the total number of remandees in 1994 was 6315;
- the total number of those awaiting trial at one point in time or another over the year was 9927.

Civil

- 2076 were registered in 1994, and 1154 were pending from previous years, making a total of 3230 for 1994
- 1809 were disposed off in 1994,
- owing to discontinuance or withdrawals, 967 remained to be dealt with in the new year
- 74 writs of execution were registered in 1994, and 60 were pending from previous years, making it a total of 134; of this,
 - 14 were dealt with in 1994 and the remainder were carried over into 1995

Appeal

- 367 were registered in 1994, and 269 were pending from previous years, making it a total 636 for 1994;
- 146 were dealt with and disposed off in 1994.
- the remaining appeals were carried into 1995.

Instruments

- 7,962 Bills of Sale were registered in 1994, of which 214 were discharged and two were renewed;
- 3 Stock Mortgages were registered in 1994, of which 2 were discharged.

Note: Under the Instruments Act (Ch. 254) the Registrar of the National Court registers Stock Mortgages and Bills of Sale

9. WARRANTS OF ARREST

We report that, as in previous years, the number of unexecuted Arrest Warrants issued by the National Court in 1994, ie Bench Warrants, have increased. Police will have to improve in this regard. The Police Force have on many occasions suggested that bench warrants would not be necessary if the Correctional Institution Service properly secured persons on remand and in custody, and if Bail were restricted to appropriate cases with real control of those persons by Courts.

Unfortunately the Correctional Institution Service has insufficient facilities to keep remandees, and in fact in most Correctional facilities the space for remandees is at least 50% below the space required. This means that more people need to be on bail that can be remanded in custody due to space limitations in Correctional Institutions. Bail is granted by the Police Force, by Magistrates and Judges. However bail conditions are not always met, and lead to Bench Warrants being issued. The Judiciary will over the course of the next year be carrying out a thorough review of existing Bench Warrants including having the Police and Prosecutors report regularly to all Judges and Magistrates on progress in dealing with arrest of persons in respect of Bench Warrants issued by the National and District Court. In addition the Judiciary over the last few years has been conducting a continuing review of Bail Conditions. Research on why Bench Warrants are issued, and what percentages are attributable to Bail from the Courts and Police and whether certain conditions are not being met is being carried out at present.

10. REVIEW OF WORK IN THE COURTS

Court Building and Maintenance

Building and maintenance of Court Houses through-out the country is a major task, which has been an on-going concern but began in earnest in 1994. The Court Building Committee was revived and its foremost task has been to develop a 'blue print' on the needs and developments, in this area.

Pilot Project on Transcript Services Established

In 1994 an agreement was made between the National Judicial Staff Service and Auscript (formerly the Commonwealth Reporting Agency) in Australia for the establishment of a pilot Court Transcript Project at Waigani Court House for the purpose of recording court proceedings and producing transcripts for Appeals to the Supreme Court. This will, amongst other things, minimise the delay in obtaining of transcripts for purposes of making an appeal or review to a higher court. After completion of the pilot project, recording and transcript systems will be installed in provincial centres where there are resident judges.

Job Evaluation Exercise

A job evaluation exercise was conducted by Hay Consultancy Group to determine the appropriateness and classification of senior and essential staff positions in the Courts. A report done of this exercise was used together with the performance based salary structure introduced by the Public Service to determine appropriate salaries with their corresponding classifications.

Court Restructure

The Judges and Magistrates began discussion on a review exercise that will see a restructure of the Courts within the National Judicial System. The restructure includes separation of Supreme Court and the National Court, the removal of the grade 5 jurisdiction from the District Court and with the addition of other matters from other Courts, giving that jurisdiction to a court between the National and District Courts to be called the Provincial Court, doing away with grading of magistrates and abolishing of the Local Court. The Judicial and Legal Services Commission gave its approval in principle to this exercise.

Consideration was also given to giving Coroners powers to deal with their inquiries with greater despatch, and also allowing Judges to have those powers if required.

Waigani Court Complex

A new court complex is to be built in Waigani house the various Courts in the National Capital District on a site adjacent to the present Waigani Court House. A new design brief was prepared toward the middle of 1994 and on this brief the Works Department called tenders for a new architectural design in late 1994.

Judicial Administration Council

This body is part of a new initiative by the Chief Justice and Chief Magistrate to enable Judges and the Magistrates to work as a team in the organisation and administration of the affairs of the Judiciary. The Judicial and Legal Services Commission has given its approval for the existence of this body. It will be constituted by Senior Judges and Magistrates together with the Registrar/Secretary.

Appointment of Acting Judges

In 1994, five Acting Judges were appointed to the National Court, each for 12 months period. This happened because the workload of the National Court nationwide was high, particularly in criminal cases.

Judicial and Staff Training

With the Judiciary's aim of improving productivity and efficiency in the operations of the courts two training committees were established. The first being the Continuing Judicial Education Committee comprised of judges and magistrates and Secretary-Registrar and other staff when required. This Committee's aim is to organise workshops internally and co-ordinate attendance at overseas workshops or conferences by judges and magistrates.

In essence the co-ordination involves ensuring that judges, magistrates and staff attendance at overseas conferences is not only of personal benefits but in the main beneficial to judicial administration which involves improvement in the case management techniques such as fast tracking of cases, improvement in procedures, minimising delays in disposition of cases and decision making. In 1994 some conferences and courses attended were case management training in San Francisco and Nevada, Melbourne, and orientation course for new Judges and some Magistrates in Sydney. Internally a workshop for criminal procedures was due to be held in Port Moresby for all the judges, magistrates and many staff involved in registry and as clerk of courts early in 1995.

Parallel with the on-going training of the Judicial Officers is the training of the support staff organised by the Secretary and the National Judicial Staff Service Staff Training Committee. Before the workshop in Port Moresby next year there are to be sessions for court clerks and administrators generally because the staff provide an important link in the judicial administration in the country. With the introduction of new case management scheme, it is important that the scheme be backed up by modern technology. In the beginning of 1994 moves were on foot to introduce and install a transcript and recording system in a number of court with the assistance of Auscript formerly Commonwealth transcription Bureau of Federal Department of Attorney General Australia. Some staff were waiting to attend training in transcript and recording system shortly after the period covered by this report (January 1995).

Some time in early 1994 Justices Los and Salika visited the main office of Auscript in Sydney the NSW Judicial Commission and the Sheriff of NSW also in Sydney. Their honours' visit enabled them to be familiar with court recording & transcript, judicial training and court security.

During March-May 1994 certain senior staff of the Courts at Waigani visited the same places as the Judges and also attended conferences related to court administration, including the Australian Institute of Judicial Administration Course for Higher Court Administrators dealing with Managing Strategic Change in Court Administration. The course was under the leadership of Dr. Doug Stace, a leading Australian Management Consultant. In March the Chief Justice went on an official visit to the High Court in Canberra, at the same time attending the Australian Institute of Judicial Administration Council meeting in Melbourne. The Registrar/Secretary Mr. Newell represented the Courts in Papua New Guinea at the Australian Institute of Judicial Administration Annual General Meeting in Perth, and was also able to attend the Australian Court Departments Management Group Quarterly Meeting with observer status, the Australian Institute of Judicial Administration Annual Court Administrator's Conference, and the Thirteenth Annual Conference of the Institute.

There were a number of in-country training sessions given to judicial officers and staff; one of which was the workshop on Sentencing Principles conducted by the Chief Executive of the NSW Judicial Commission at Waigani Court House

Relationship with Other Law Enforcing Agencies and Government Departments

The Courts are desirous of working together with other law enforcing agencies and government departments. In fact, the Chief Justice continued to be Chairman of the National Law Order and Justice Council. The Judiciary worked with the Department of Works on court buildings, in particular on the Waigani Court Complex.

11. BUDGET

The Judiciary's appropriation for 1994 was for a sum of K18,381,000, approved by Parliament in November 1993. The amount appropriated was equal to the amount of our estimates.

The Judiciary just managed to function until the end of 1994. The monthly releases by the Department of Finance was slow in coming, in particular toward the end of

the year. This is a matter of great concern to us, especially when this is a problem that had continued from the previous years and constant concerns raised by the judiciary have not been heeded. In fact, a part of the Judiciary's appropriation for 1994 was delayed until early 1995. We reiterate what we said in our last report that the Judiciary funds be released on a quarterly rather than monthly basis, as this will enable us to better plan and expend moneys according to the priorities we set for the operations of Judiciary. The Chief Justice will be pursuing this with the Prime Minister.

12. FINANCE

The Judiciary's funds are said to be appropriated for 'judiciary services', which (in practice) include the salaries and allowances for all judicial officers (Judges and Magistrates) and staff of the National Judicial Staff Service, and the maintenance of all Courts (Supreme, National, District and Local Courts) and the National Judicial Staff Service. What was released under the allocation for 1994 was used for these. The Judiciary was forced to assist the Department of Attorney General in respect of travel costs for lawyers to go for Court Circuits during August and September 1994, which cost the Judiciary K91,499.00. In addition to this tight financial situation, it was learnt that some funds of the Judiciary held in trust under the name of the Department of Works and operated by the Department of Finance, was frozen by order of the Department of Finance. This further strained the financial capacity or ability of the Judiciary. Such unilateral action by Department of Finance in relation to funds of the Judiciary seriously undermines the independence of the Judiciary.

13. STAFF

The staff of the Courts at Waigani and throughout all the Courts in the country are employed by the National Judicial Staff Service. Personal matters of Judges and Magistrates are handled, in accordance with instructions from the Chief Justice and Chief Magistrate, respectively, by the National Judicial Staff Service at Waigani. The Secretary of the National Judicial Staff Service is responsible for the employment and control of all staff of the Courts.

On 4 October 1994, Mr Laurence M. Newell, the Registrar of all the Courts, was appointed Secretary of the National Judicial Staff Service for a period of three years. Prior to that Mr Geno Gapi had been acting on the position.

In 1994, 170 new recruits joined the National Judicial Staff Service. The increase came about largely because of expansion in the operations of the Courts, and in particular with the appointment of 5 Acting Judges of the National Court.

14. PUBLICATION OF PRINTED LAWS

We have expressed concern in previous reports that there is a dearth of printed laws available generally. This has contributed to wrong laws being applied or advice being given based on outdated laws. New legislation's enacted by parliament is not being readily printed for circulation.

We urge that the Department of Prime Minister which is responsible for the publication of laws address this deficiency.

15. SUPREME COURT AND NATIONAL COURT STATISTICS 1994

The Statistics for the Supreme and National Court are as follows

- Appendix A - National Court - Civil Statistics;
- Appendix B - National Court - Criminal Statistics
- Appendix C - Supreme Court Statistics.

CORRIGENDA

By mistake names of two Judges of the Supreme and National Courts were omitted from the list of Judges in the Judges' Report for 1993. These were -

THE HON. BERNARD BEREKIA SAKORA

THE HON. MARK SEVUA

And the name of Justice Mark Sevua should be on page 7 of that Report as a Judge at Lae together with Justice Timothy Hinchliffe.

The name of Justice Mark Sevua should be on page 5 of that report as being appointed as a judge of the Supreme and National Court after serving as Acting Judge for 6 months, for a period of 10 years commencing on 6th August 1993. Mr Justice Sevua comes from the Manus Province. Prior to his appointment he was in private legal practice with the firm of M. J. Sevua Lawyers in Lae.

A P P E N D I X 'A'**NATIONAL COURT CIVIL STATISTICS FOR
1994**

• **NATIONAL COURT CIVIL STATISTICS:**

(FOR WAIGANI, RABAU, LAE, GOROKA, MT HAGEN, MADANG)

ITEM	TOTAL REGISTERED IN 1994	DEALT WITH IN 1994	DISCONTINUED IN 1994	DEFAULT JUDGEMENT	PENDING IN 1994	OTHER YEARS DEALT WITH IN 1994	OTHER YEARS PENDING IN 1994
APPELLATE JURISDICTION	367	43	11	N/A	109	103	269
PROBATE JURISDICTION	23	13	NIL	N/A	12	2	29
OVERSEAS JUDGEMENTS & ORDERS	5	5	NIL	N/A	NIL	NIL	NIL
WRIT OF SUMMONS	1016	72	41	166	719	519	615
ORIGINATING SUMMONS	521	444	14	N/A	83	129	273
MISCELLANEOUS PROCEEDINGS	442	360	12	N/A	153	89	212
MATRIMONIAL CAUSES	24	3	1	N/A	20	3	25
OMBUDSMAN COMMISSION	1	1	NIL	N/A	NIL	NIL	NIL
LAWYERS ACT	41	NIL	NIL	N/A	NIL	NIL	NIL
ADMIRALTY	2	2	NIL	N/A	NIL	NIL	NIL
CAVEAT & WARRANT BOOK	1	1	NIL	N/A	NIL	NIL	NIL
WRIT OF EXECUTION	74	14	NIL	NIL	60	NIL	NIL

INSTRUMENTS	BILL OF SALE	STOCK MORTGAGE
REGISTERED	7,962	3
DISCHARGE	214	2
RENEWAL	2	NIL
TOTAL	8,178	5

A P P E N D I X ' B '

**NATIONAL COURT CRIMINAL STATISTICS
FOR 1994**

TOTAL NUMBER OF MATTERS DEALT WITH BY MONTH IN 1994

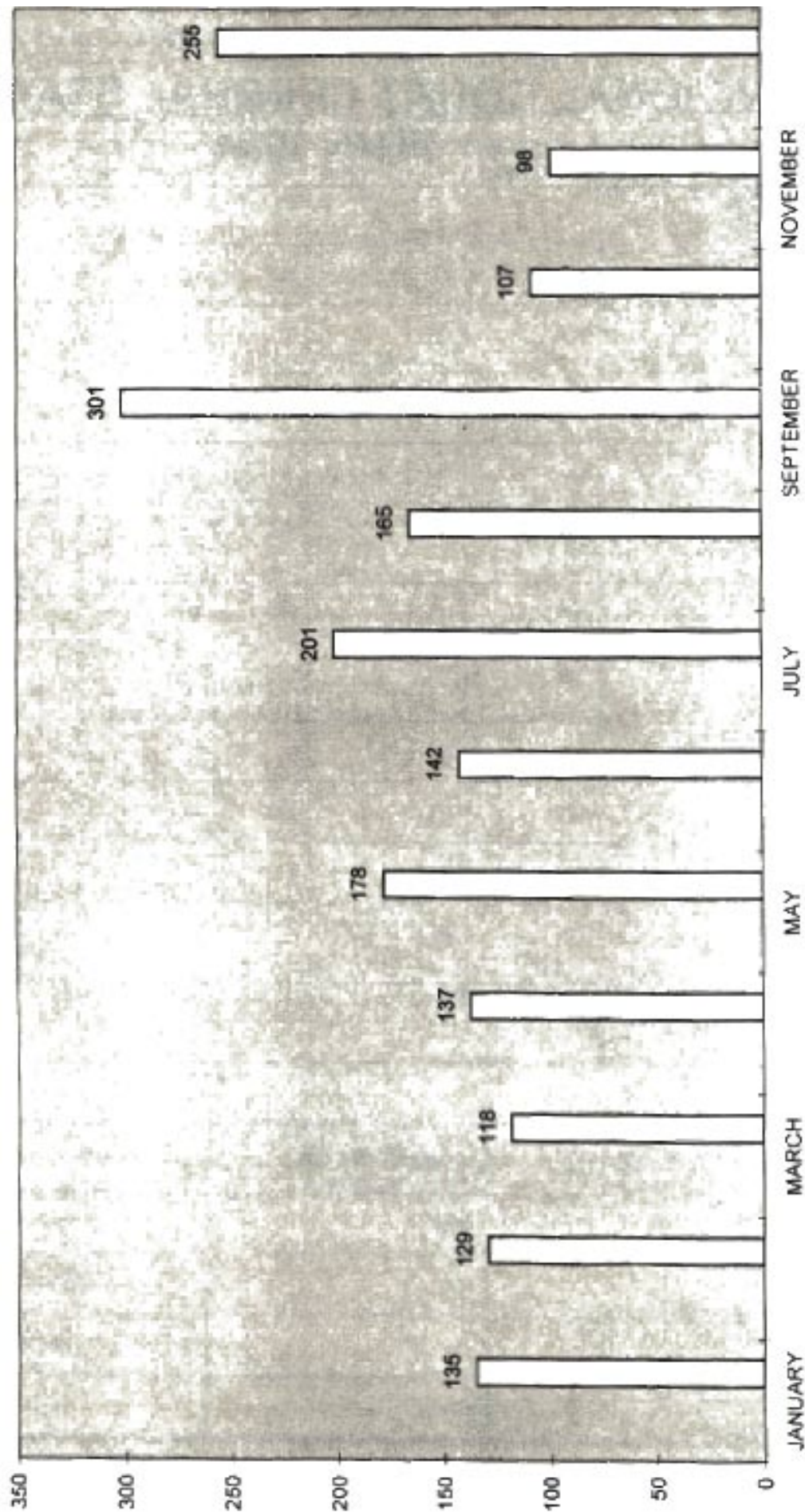


Chart2

TOTAL NUMBER OF BAIL GRANTED IN 1994

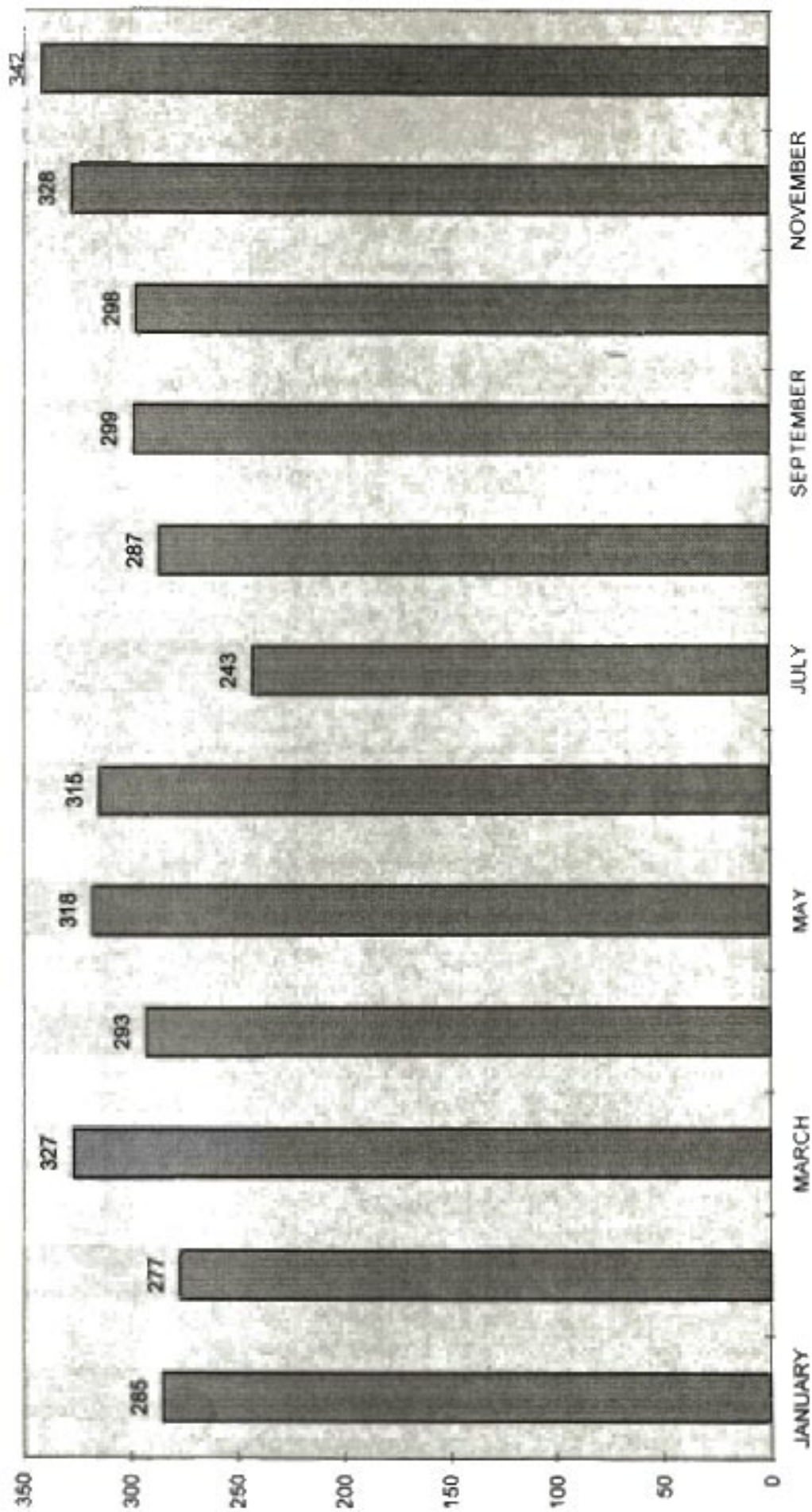
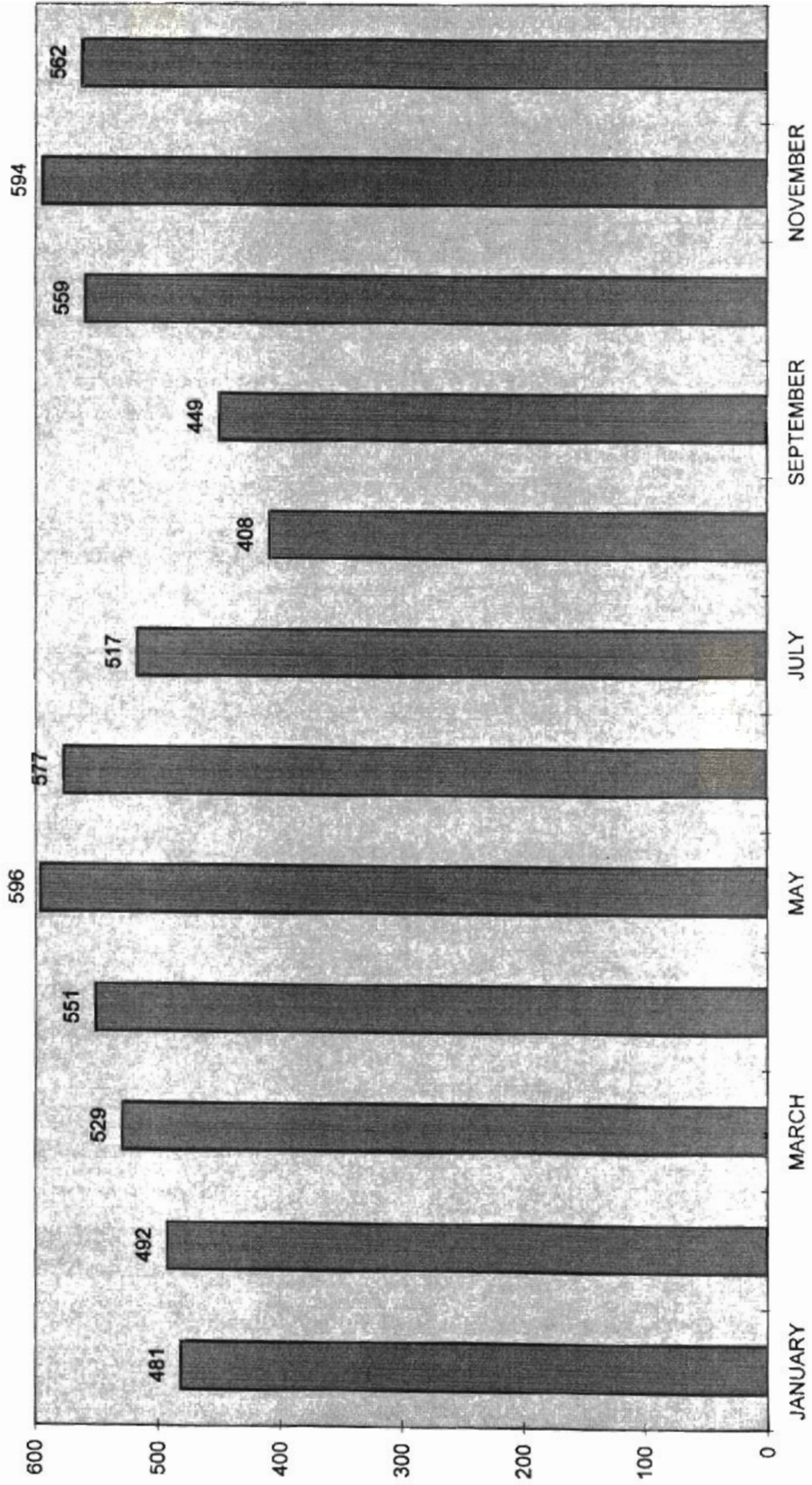
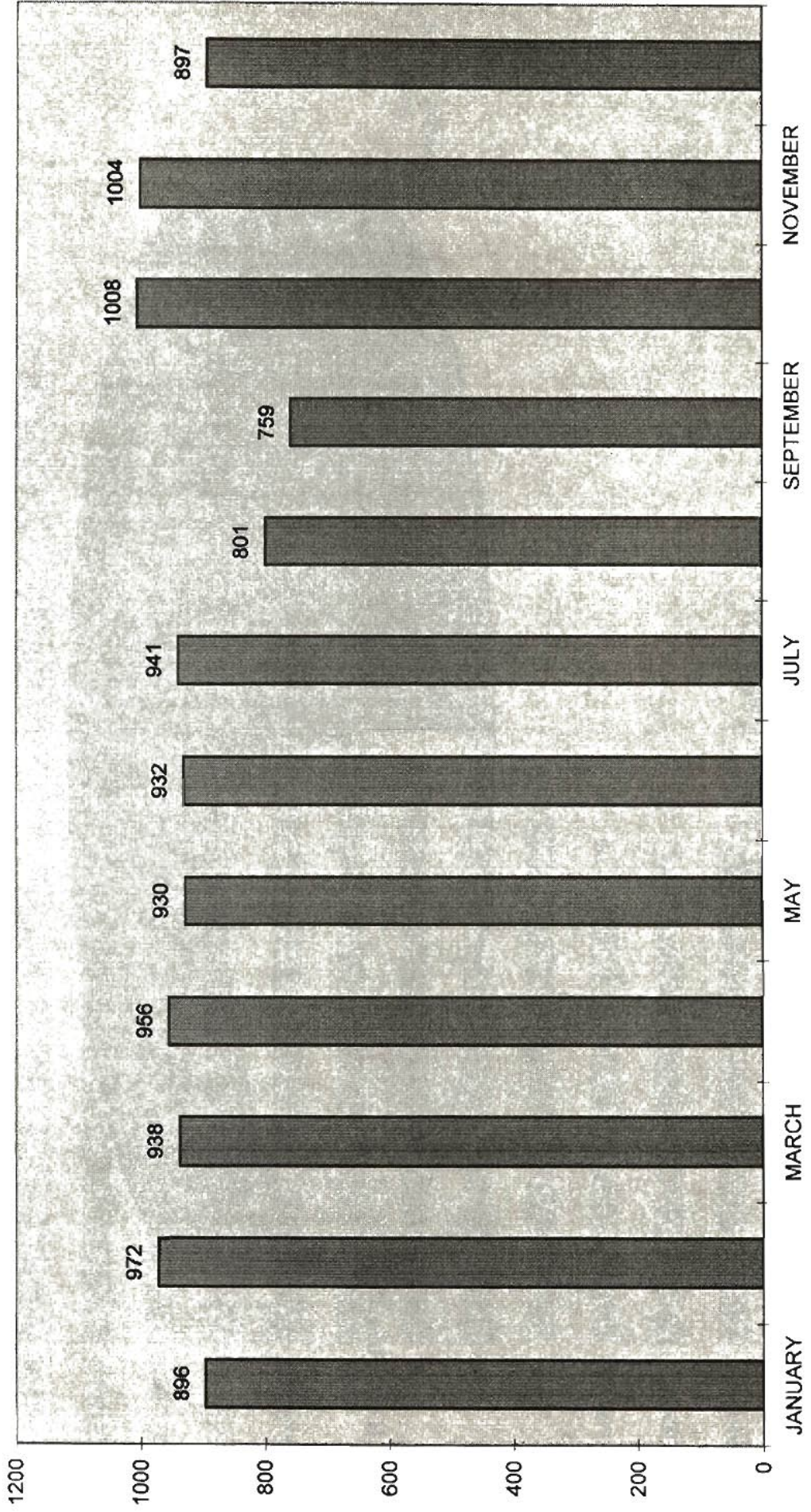


Chart3

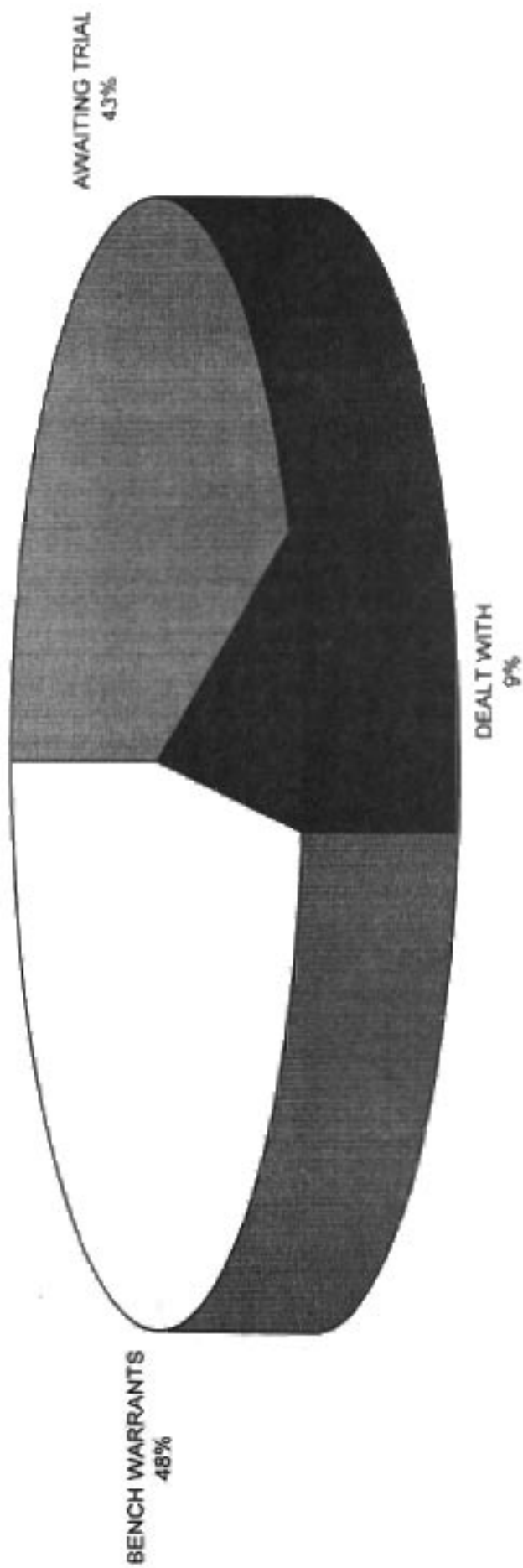
PERSONS HELD ON REMAND DURING 1994



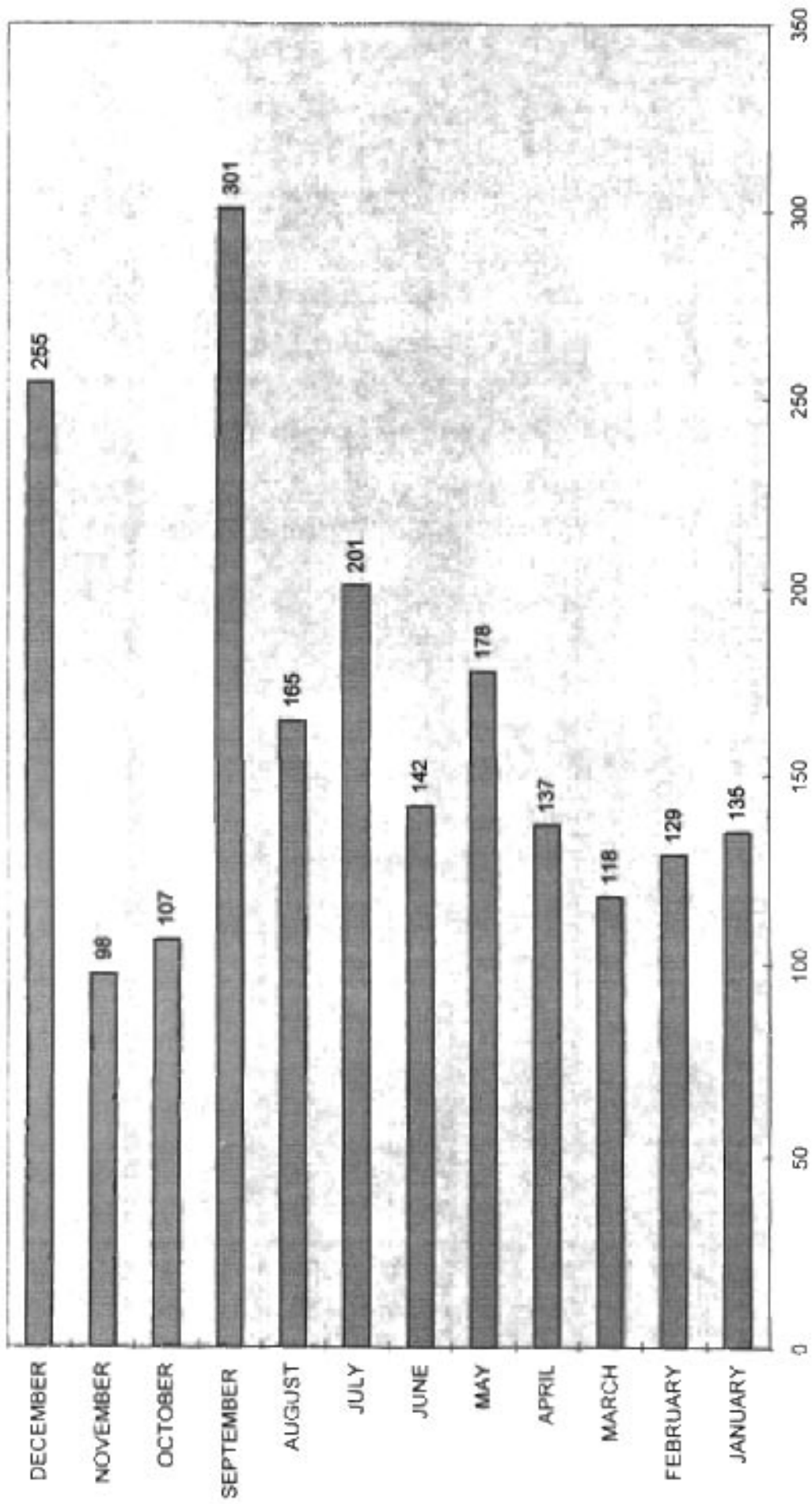
TOTAL NUMBER OF BENCH WARRANTS IN 1994



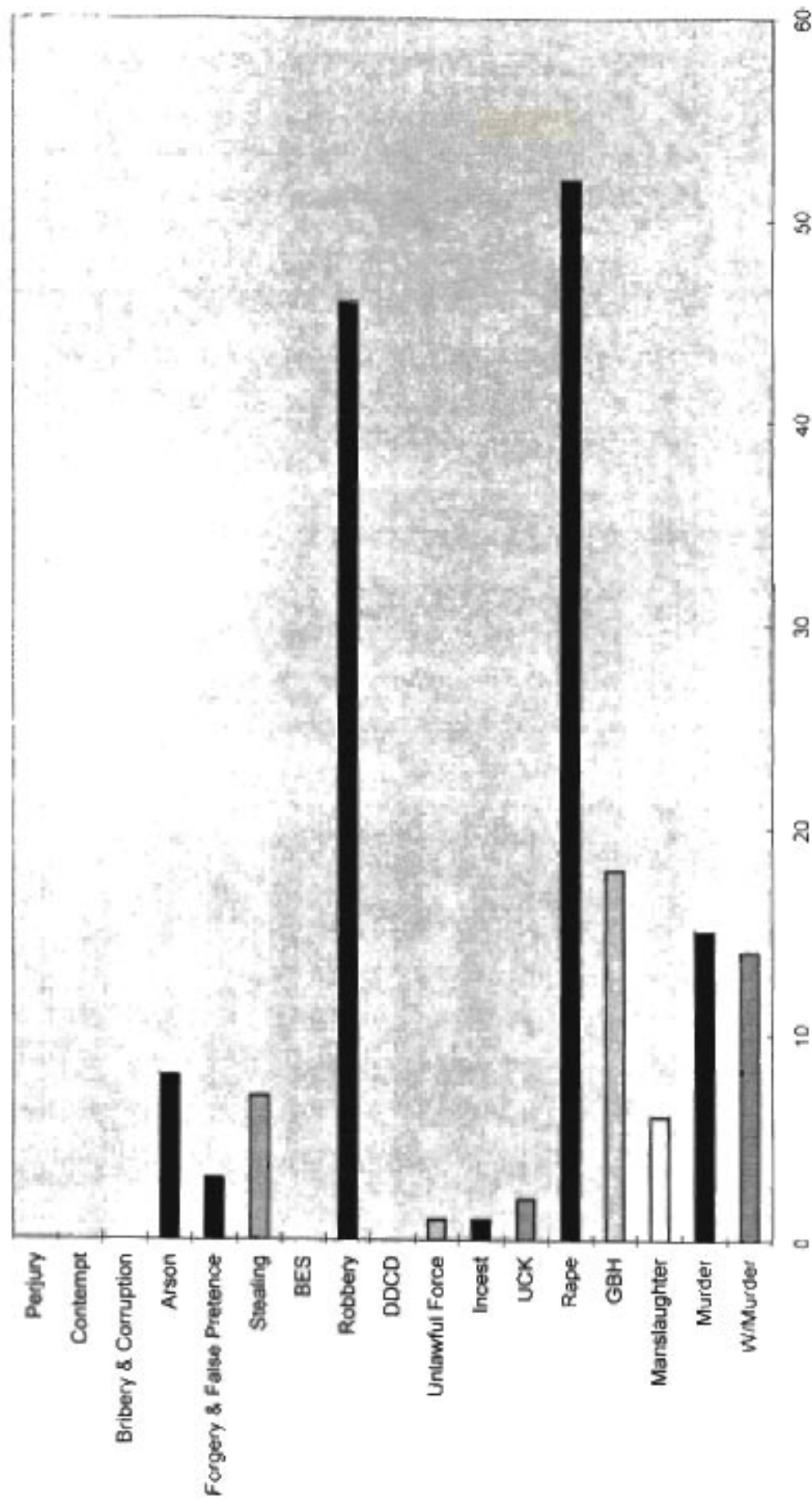
TOTAL CRIMINAL MATTERS 1994



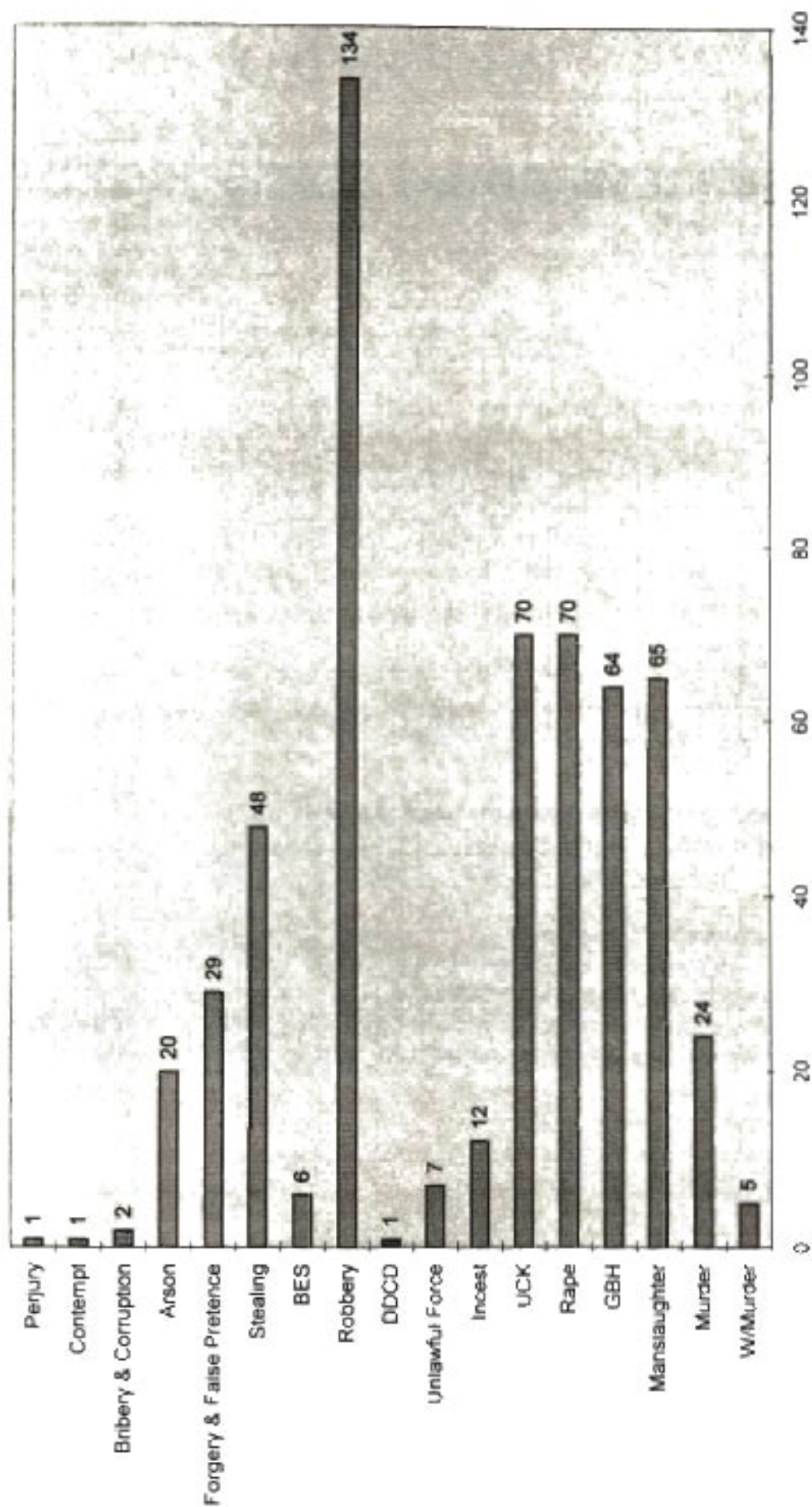
TOTAL NUMBER OF MATTERS DEALT WITH BY MONTH IN 1994



TOTAL NUMBER OF MATTERS CONVICTED ON TRIAL IN 1994



TOTAL NUMBER OF PLEA MATTERS DEALT WITH IN 1994



A P P E N D I X 'C'

SUPREME COURT STATISTICS FOR 1994

SUPREME COURT STATISTICS TO 1994.

PARTICULARS	YEAR 1994						
	SC REV	SCA	CA	CRA	SC AP	SCM	SC REF
(1) Appeals pending at the beginning of the year	75	272	n/a	n/a	13	3	26
(2) Appeals instituted during 1994	54	133	52	81	9	10	4
(3) Appeals disposed off during the year							
(a) Judgements delivered	0	18	11	7	4	2	0
(b) Appeals discontinued or settled	0	3	0	3	0	0	2
(4) 1994 Appeals pending at the end 1994							
(a) Appeals struck off	54	112	41	71	5	7	2
(b) Appeals awaiting judgment	0	18	11	7	4	2	0
(c) Appeals awaiting reasons for decision	0	0	0	0	0	1	0
(d) Appeals withdrawn or discontinued	0	0	0	0	0	0	0
(d) Appeals withdrawn or discontinued	0	3	0	3	0	0	2
Total pending (1) + (4)	129	305	-	-	18	10	28

At the beginning of 1994, a total of 272 Appeal cases were pending. The total was made up of cases pending from 1976 to end of 1993. Other totals included Reviews, 75; Applications 13; Motions 3; and References 26.

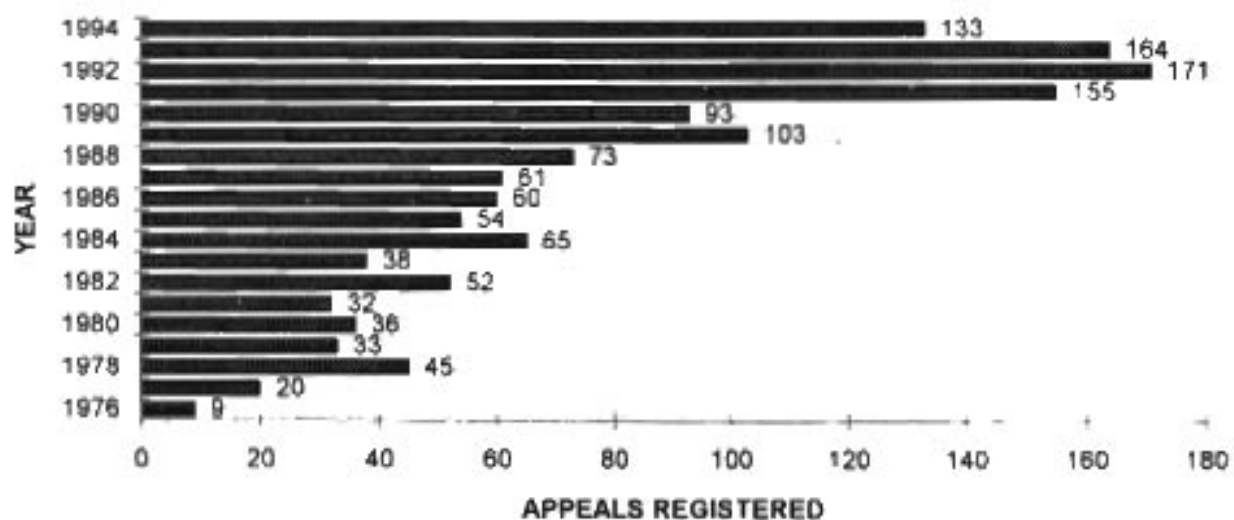
The total registered for 1994 in each category are shown in (2), (3) and (4) above. You will note that the most alarming statistic is for Reviews in 1994. Of the 54 registered, none was disposed off in any manner. They are all pending to be dealt with. Most of the Reviews are Criminal Appeals which have been received from prisoners well out of the regulation time period of 40 days.

SUPREME COURT APPEALS - STATISTICS

Year	Total Registered	Heard & Disposed in same year	Heard & Disposed in later years	Discontinued/Withdrawn in same year	Discontinued/Withdrawn in later years	Heard & Awaiting decision	Pending
1976	9	4	5 in 1977	0	0	0	0
1977	20	13	3 in 1978 1 in 1979	3	0	0	0
1978	45	14	23 in 1979 1 in 1980	5	2 in 1979	0	0
1979	33	26	2 in 1980	4	0	0	1
1980	36	20	8 in 1981 3 in 1982	1	3 in 1981 1 in 1982	0	0
1981	32	13	9 in 1982 5 in 1983	0	2 in 1982	0	3
1982	52	16	14 in 1983 7 in 1984 2 in 1986	4	3 in 1983 5 in 1986	0	1
1983	38	8	9 in 1984 9 in 1985 1 in 1986	1	5 in 1984 2 in 1985 2 in 1986	0	1
1984	65	13	17 in 1985 7 in 1986 2 in 1987	8	13 in 1985 3 in 1986 1 in 1987	0	1
1985	54	7	13 in 1986 14 in 1987 3 in 1988	4	9 in 1986 3 in 1987	0	1
1986	60	8	26 in 1987 3 in 1988 2 in 1991 3 in 1992 1 in 1994	5	8 in 1987 2 in 1988 1 in 1989 1 in 1990	0	0

Year	Total Registered	Heard & Disposed in same year	Heard & Disposed in later years	Discontinued/Withdrawn in same year	Discontinued/Withdrawn in later years	Heard & Awaiting decision	Pending
1987	61	7	16 in 1988 10 in 1989 5 in 1990 1 in 1991 4 in 1992 3 in 1994	2	5 in 1988 2 in 1989 1 in 1990	0	4
1988	73	7	13 in 1989 10 in 1990 12 in 1991 4 in 1992 4 in 1994	3	4 in 1989 6 in 1990 3 in 1991	0	8
1989	102	6	18 in 1990 17 in 1991 17 in 1992 4 in 1993 10 in 1994	2	7 in 1990 7 in 1991 2 in 1992 1 in 1994	0	9
1990	93	6	18 in 1991 17 in 1992 10 in 1993 8 in 1994	3	7 in 1991 3 in 1992 2 in 1993 1 in 1994	2	16
1991	154	21	20 in 1992 7 in 1993 15 in 1994	6	8 in 1992 6 in 1993 7 in 1994	9	55
1992	171	5	24 in 1993 25 in 1994	10	9 in 1993 8 in 1994	3	87
1993	164	9	36 in 1994	2	15 in 1994	15	87
1994	133	18	0	3	0	0	112

SUMMARY SUPREME COURT APPEAL FROM 1976 TO 1994



SUPREME COURT STATISTICS FROM 1976 TO 1994



NATIONAL AND SUPREME COURT
SENIOR COURT OFFICIALS
1994

From Left to right standing.

Nobert Kubak, Pius Kingal, Maze Magar, Tom Dangiaba, Ian Augerea,
Alois Kintau, Humphrey John.

From left to right seated.

Konio Vai, Lohia Raka, Laurence Newall, Robin Guria, Aplina Gapi.



SUPREME