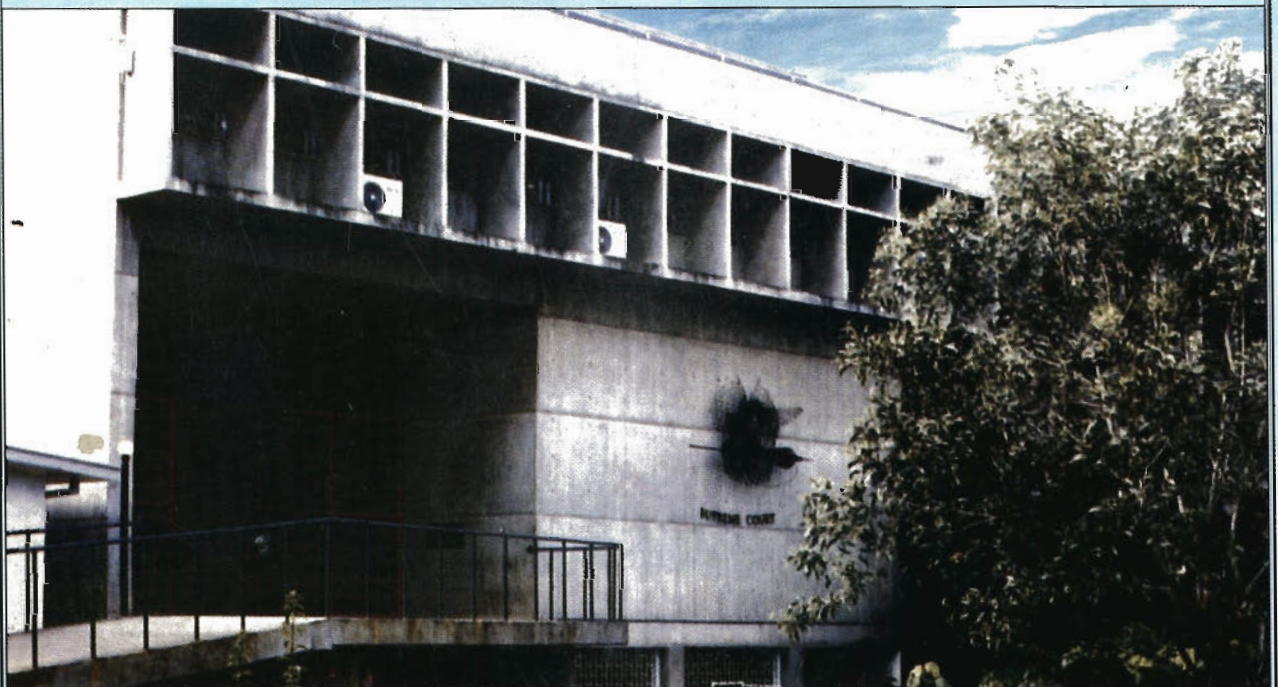




1999 Annual Report



by
The Judges

**ANNUAL
REPORT
BY
THE JUDGES**



1999



PAPUA NEW GUINEA

ANNUAL REPORT

BY

THE JUDGES

1999

REPORT BY THE JUDGES TO THE HEAD OF STATE FOR THE YEAR ENDED 31 DECEMBER 1999 FOR PRESENTATION TO THE NATIONAL PARLIAMENT ON THE WORK OF THE NATIONAL JUDICIAL SYSTEM, PURSUANT TO *CONSTITUTION*, SECTION 187 AND THE *NATIONAL COURT Act* (CHAPTER 38) SECTION 6.

**JUDGES OF THE SUPREME COURT OF PAPUA NEW GUINEA AND
THE NATIONAL COURT OF JUSTICE DURING 1999**

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., C.S.I., LL M.
Deputy Chief Justice of Papua New Guinea

THE HONOURABLE JUSTICE ROBERT KYNNEERSLEY WOOD, C.B.E.

THE HONOURABLE SIR KUBULAN LOS, C.B.E., M.C.J.

THE HONOURABLE JUSTICE TIMOTHY ALEXANDER HINCHLIFFE, C.B.E.

THE HONOURABLE JUSTICE MAURICE JAMES SHEEHAN, P.M.

THE HONOURABLE JUSTICE GIBUMA GIBBS SALIKA

THE HONOURABLE JUSTICE MOSES JEFFREY JALINA

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

THE HONOURABLE JUSTICE BERNARD BEREKIA SAKORA, LL M.

THE HONOURABLE JUSTICE MARK SEVUA

THE HONOURABLE JUSTICE SALAMO INJIA

THE HONOURABLE JUSTICE DON SAWONG, M.B.E.

THE HONOURABLE JUSTICE PAUL AKURAM

THE HONOURABLE JUSTICE NICHOLAS KIRRIWOM

THE HONOURABLE JUSTICE MICAH PITPIT (ACTING)

THE HONOURABLE JUSTICE SALATIEL LENALIA (ACTING)

THE HONOURABLE JUSTICE COSMAS BIDAR (ACTING)

THE HONOURABLE JUSTICE SITION PASSINGAN (ACTING)

THE HONOURABLE JUSTICE ELENAS BATARI (ACTING)

THE HONOURABLE JUSTICE KARO VAGI (ACTING)

SENIOR COURT OFFICIALS

Registry

Registrar - Supreme and National Courts	Mr Laurence Michael Newell ISO, LL B., F. Inst. L. Ex. AIMM
Sheriff - Supreme, National and District Courts	Mr Laurence Michael Newell ISO, LL B., F. Inst. L. Ex, AIMM
Admiralty Marshall	Mr Laurence Michael Newell ISO, LL B., F. Inst. L. Ex, AIMM
Deputy Registrar - Supreme Court	Ms Christine Daingo, LL B.
Deputy Registrar - National Court	Ms Freda Talao, LL B.
Deputy Registrar - Lower Court	Mr Ian Augerea, LL B.
Assistant Registrar - National Court	Mrs Marie Miria
Assistant Registrar - Lower Court	Ms Aimo Opiang, LL B.
Assistant Registrar - Rabaul	Ms June Micka, LL B.
Assistant Registrar - Mount Hagen	Ms Emelda Buru, LL B.
Assistant Registrar - Goroka	Mr Philip Kaumba, LL B.
Assistant Registrar - Lae	Mr Samuel Ikiso, LL B.
Assistant Registrar - Madang	Mrs Margaret Lingas

Administration

Secretary - National Judicial Staff Services	Mr Laurence Michael Newell, ISO, LL B., F. Inst. L. Ex, AIMM. (to September, 1999) Mr Leo Toichem (from October, 1999)
Deputy Secretary - Finance and Administration	Mr Robin Guria
Assistant Secretary - Finance	Mr Humphrey John
Assistant Secretary - Personnel	Mr John Aiga
Assistant Secretary - Information Technology	Ms Konio Vai, DCCC
Principal Legal Officer	Mr Pius Kingal, LL B. Mr William Hagahuno, LL B. Mr Peter Yasbi, LL B. Mr Clivson Philip, LL B. Mr William Hagahuno, LL B. Mr Vagi Tashmaha Isaiah, B Arch. Mr Tom Dangiaba, B LIS.
Research Officer to Chief Justice	
Legal Officer	
Building Manager	
Librarian	

INTRODUCTION

We present to Parliament our joint report for the year ending 31 December, 1999 on the work of the National Judicial System with recommendations as to such improvement as we think proper, pursuant to the *Constitution* Section 187 and the *National Court Act* (Chapter 38), Section 6.

JUDICIAL ADMINISTRATION

The Administration of the Supreme and the National Courts is vested by the *Constitution* in the Chief Justice. To assist the Chief Justice in the administration of the Supreme Court and the National Courts, the Judicial Administration Council was established.

The Council's function was to provide a venue at and through which legal and judicial issues relating to the work of all Courts within the National Judicial System may be raised and discussed with a view to improvement in the work of the courts.

The council has 13 members consisting of the Chief Justice as Chairman, the Deputy Chief Justice, four senior judges, Chief Magistrate, Deputy Chief Magistrate, four senior magistrates and the Secretary/Registrar.

The council has no legislative basis or powers and functions at present. It is an administrative arrangement whereby it acts as an advisory body to the Chief Justice and Chief Magistrate.

JUDICIAL AND LEGAL SERVICES COMMISSION

Section 183 of the *Constitution* gives the authority to the Judicial and Legal Services Commission (JLSC) to appoint Judges of the National Court of Justice and the Supreme Court of Justice. During the currency of this report, the following appointments and re-appointments were made.

Appointment of Judges

- ❖ **Justice Woods** was re-appointed a Judge of the National and the Supreme Court for 1 year from 1st January, 1999.
- ❖ **Justice Hinchliffe** was re-appointed a Judge of the National and the Supreme Court for 3 years from 1st January, 1999.
- ❖ **Justice Sheehan** was re-appointed a Judge of the National and the Supreme Court for 3 years from 1st January, 1999.

Retirement of Judges

The Honourable Justice Warwick John Andrew, CBE retired as a judge of the National Court on 31st January, 1999 having been a Judge of both the Supreme and National Courts for 14 years at various times over more than 20 years.

His Honour was a former Public Solicitor having been admitted as a Barrister and Solicitor in the Supreme Court of Papua New Guinea in 1971.

His Honour was appointed a Judge of the National and Supreme Courts for three (3) years on 13th February, 1978 and re-appointed for a further three (3) years on 14th February, 1981. On 1st January, 1984 he was awarded a C.B.E.

On 8th January, 1990 he was re-appointed an Acting Judge of the National Court for a period of two months. Then on 5th May, 1991 he was re-appointed as a Judge of the Supreme and National Courts.

His Honour was for a number of years an Officer in the RAAF Military Justice branch. He was responsible whilst being a Lawyer and later a Judge for the location and restoration of a number of World War II aircrafts.

Justice Andrew leaves Papua New Guinea after a long and distinguished service to the Law in Papua New Guinea.

His Honour was early in the year 2000 appointed a Judge of the District Court of New South Wales for one year.

We wish him well in the future.

The Honourable Justice Robert Kynersley Woods, CBE was farewelled as a Judge of the National and Supreme Court on 1st November, 1999. His Honour departs our Courts and country after 30 years of outstanding and distinguished public services to the legal profession, the judiciary and the community.

His Honour was appointed an Acting Judge of the National Court on 9th March, 1982 and was formally farewelled as a Judge of the Supreme and National Courts of Papua New Guinea on 1st November, 1999 a period of over 17 years with the National Judicial System.

Prior to his period as a Judge he had been an Assistant Secretary in the Department of Law, State Solicitor and for a time Acting Secretary for Law and Adviser to the National Executive Council.

In addition to His Honour's service to the Law, we wish to recognise his Honour's continuing commitment over many years to the Scout Movement in Papua New Guinea, of which he was Deputy Commissioner from 1984 and also for his commitment to the Anglican Church in Papua New Guinea, of which he was Chancellor from 1995.

His Honour was early in the year 2000 appointed a Judge of the District Court of New South Wales for one year. He was also granted a Knighthood in the year 2000 Queen's Birthday Honours list.

We wish him well in the future.

Resignation of a Judge

Justice Paul Akuram resigned as a Judge of the National and Supreme Court of Papua New Guinea effective December, 1999 for personal reasons. His commitment for over five (5) years of service as a Judge of the Supreme and National Courts of Papua New Guinea is acknowledged.

We wish him well in the future.

Other Judicial Matters

During 1999 it appeared that an action involving defamation action by former Justice Andrew (who retired from the Bench in January 1999) against the media was likely to go to trial. In the interests of transparency, arrangements were in place to appoint Justice Daniel Fatiaki of the Supreme Court of Fiji as a Judge of the National Court to hear the matter. However, the arrangements were never put into effect when the action was settled out of court.

SUPREME COURT

The *Constitution*, Section 155 establishes the Supreme Court of Papua New Guinea. The *Supreme Court Act* (Chapter 37) further provides the powers and rules of practice and procedures for the Supreme Court. It is the highest court in Papua New Guinea and its decision is final. It is a court of record, meaning that it must keep a record of the proceedings done before it and give a written decision on these proceedings.

Membership

Full time Judges of the National Court are also Judges of the Supreme Court. This includes the Chief Justice and the Deputy Chief Justice. Three, five or seven judges sitting together constitute a Supreme Court Bench. An Acting Judge of the National Court is not also a Judge of the Supreme Court. In appropriate circumstances, a single judge may constitute a Supreme Court.

Jurisdiction

The jurisdiction or powers of the Supreme Court are as given by the *Constitution* or another statutory law of Papua New Guinea. The main jurisdiction of the Supreme Court is to:

- ❖ Hear appeals from decisions made by the National Court;
- ❖ Review decisions made by the National Court (concerning matters of which the law does not allow for appeals to be made);
- ❖ Give an opinion or advice on whether a proposed law or a law already made by Parliament is constitutional (that is, complies with the Constitution);
- ❖ Develop rules of the underlying law; and,
- ❖ Enforce human rights as provided under the Constitution.
- ❖ Review its own decision in appropriate case.

Sitting

The principal seat of the Supreme Court is at Waigani. Until June, 1994 the Supreme Court had been sitting in Waigani only to deal with cases coming to the Supreme Court from all places where the National Court sat in Papua New Guinea. The Supreme Court sitting in the regional centres is the result of the Chief Justice's intention to bring the formal courts closer to the ordinary people of this country.

The Supreme Court now sits on a regular basis in Kimbe, Kokopo, Lae and Mount Hagen. It may also from time to time sit elsewhere in other Provincial Centres. However, the difficulty with this is that in many places the Bench of the main Court is too short to accommodate 3 or more Judges sitting at one time, so for instance at Kokopo the Supreme Court has not sat at the Court House, but sat at other places in Kokopo.

As Appeals come from all Provinces, any Provincial Administration which would like to see a resident Judge and also the Supreme Court sitting in a Provincial Centre should provide funds for a suitable Courtroom and office chamber for the Judge and Senior staff at the Court House and also residences for the Judge and some senior staff.

An example of this is in Wabag where the Enga Provincial Administration is rebuilding the existing Court House to provide a Courtroom large enough to not only cater for the day to day needs of a resident Judge but also able to accommodate a three or five man Supreme Court Bench. In addition chambers for a Judge and his staff and a suitable size Registry for an Assistant Registrar is to be provided together with accommodation for the Judge and Senior staff at the Court House and also residences for the Judge and four (4) senior staff.

Registry

The registry of the Supreme Court is at the Waigani Court House (Supreme Court Building). That is the place where cases for the Supreme Court are registered, dates for hearing are given and any other matters concerning the Supreme Court are handled.

Management of Case Work Load

Progress has been made into this area of measuring the workload of the Courts, particularly the appeal workload of the Supreme Court. In 1998 work started in compiling a Supreme Court database. This database was further developed in 1999. The aim of this project is to track the number of days it takes from the date of filing for a decision to be delivered, the average number of days between the hearing date and the delivery of decision and the time taken to prepare the transcript of proceedings.

A Summary of cases dealt with in 1999 in the Supreme Court is in Appendix "A".

NATIONAL COURT

The National Court of Justice is established by Section 155 of the *Constitution*. Further provisions concerning the National Court, which includes rules of practice and procedures are provided for by or under the *National Court Act* (Chapter 38).

Membership

Judges of the National Court are the Chief Justice, Deputy Chief Justice and full time as well as acting judges of the National Court. Full time citizen judges are appointed for a 10-year period whilst full time non-citizen judges are appointed for a three-year term for which appointments may be renewed or extended. Acting Judges are appointed for up to a 12-month period, to help ease an unexpected workload or to temporarily occupy a vacancy or fill in during the absence of a judge. One judge constitutes a National Court bench.

Jurisdiction

The *Constitution* states that the National Court is a court of unlimited jurisdiction, meaning that the National Court has the power to hear any case unless the Constitution gives the power to hear a particular case to another court. The main jurisdictional areas dealt with by the National Court are:

- ❖ Tries indictable offences (serious offences under the Criminal Code);
- ❖ Tries major civil matters;
- ❖ Hears appeals from Local Court, District Court and the Commissioner of Inland Revenue;
- ❖ Enforces human rights under the Constitution;
- ❖ Interprets the Constitution and Organic Laws;
- ❖ Develops rules of the underlying law; and,
- ❖ Reviews administrative decisions or actions.

The major civil matters handled by the National Court include:

- ❖ Claims involving any amount however, as the District Court deals with amounts below K10,000.00, in practice the National Court only deals with claims exceeding K10,000.00 unless legislation says otherwise;
- ❖ Election Petitions (for National Parliament – Local level Government Election Petitions are dealt with by the District Court);
- ❖ Matrimonial matters (Adoption and Custody of children, Dissolution of marriage where a marriage is registered – District and Local Courts also deal with custody and other matrimonial matters)
- ❖ Probate and Administration (To allow for distribution of a property of a person who has died where there is a Will or a large sum of money involved – customary and smaller matters are dealt with administratively by other means);
- ❖ Company matters (winding up companies and other matters);
- ❖ Insolvency;
- ❖ Admiralty (Shipping and Cargo Claims);
- ❖ Lawyers Admission; and,
- ❖ Prerogative or other orders.

Registry

The main National Court Registry is at Waigani Court House (Supreme Court Building). There are sub-registries of the National Court in each provincial centre where there is a resident Judge and an Assistant Registrar. The Registrar of the National Court oversees the registry at Waigani with a Deputy Registrar and Assistant Registrars overseeing the sub-registries.

Management of Case Work Load

Progress has been made into this area of measuring the workload of the Courts. In 1998 work started in compiling a National Court database. This database was further developed in 1999. The aim of this project is to track the number of days it takes from the date of filing to when a decision is delivered and matters specific to Criminal or Civil tracks. In addition a database for sentencing statistics is available.

Criminal Data

By the end of 1999 only a small amount of criminal data for the National Court had been entered into the database. Entry of primary data into this database will continue through to 2000 and it is hoped that by 2001, data on all outstanding criminal matters in the National Court across the country will be accurate. It provides a range of statistical and management information.

Amongst the purposes of the database are the following:

- To enable the Chief Justice and the Judge responsible for National Criminal Trial Management across Papua New Guinea (Justice Salika) to determine where there is sufficient data to require a Judge to determine Criminal matters;
- To enable the Chief Justice to determine where Judges should be placed on a permanent basis and in some places such as Lae, Mount Hagen and Waigani determine how many Judges need to be resident to deal with Criminal matters;
- To ensure that persons on remand are dealt with in a timely fashion;
- To ensure persons on appeal from the lower courts in criminal matters are dealt with promptly before the period on remand or probation expires;
- To track Bench Warrants and determine what category of persons breached bail or escaped custody thus leading to the issue of the bench warrants;
- To track the issue of Bail by Courts and ensure that terms of Bail are complied with;
- To ensure that decisions of the courts are handed down in a timely manner; and,
- A range of other management information.

National Court Civil Workload

In 1998 a National Court Civil and Appeal database was developed. Amongst its purposes are to ensure that the Chief Justice and the Judges responsible for Civil matters are able to deal with Civil matters in a prompt and efficient manner. It is expected that by the end of the year 2000 all current Civil data will be input into the database nationwide. In 2001 historical data relating to a number of areas will also be input, such as the Roll of Lawyers admitted to practice in Papua New Guinea, Appeals from Land Courts (some of which have lain dormant since the 1970's), family matters (Divorces, Custody, Adoptions etc), Company Winding Up and Insolvency matters etc.

For a number of years in Waigani there have been three (3) Judges handling National Court Civil matters, in 1999 this was increased to five (5) Judges (the Deputy Chief Justice Hon. Sir Mari Kapi, Justices Woods, Los, Sheehan and Sevua). To make the assignment of matters to these Judges easier, all matters are assigned to the five Judges so that each Judge has the same number of current matters to deal with. With 12, 000 civil matters filed in Waigani (of which only a small proportion proceed to trial) there is more than enough work for Judges to ensure that matters that can be settled before trial are dealt with promptly and efficiently. Also, that those matters that proceed to trial are disposed of with only a few months delay.

National Court Criminal Sentencing data

Up until 1999, Justice Woods had prepared a tabular summary on a quarterly basis of decisions made by Judges of the National Court who were dealing with Criminal Trials across Papua New Guinea. In 1999 a Criminal Sentencing database was compiled to indicate for a range of National Court matters what sentences Judges gave for different offences. This also enables Judges to see at a glance the range of penalties for each offence and what the average penalty for each offences were.

This data will enable greater precision in Sentencing between Judges and allow Lawyers to know what the range for particular offences are.

In 1999 Judges of the National Court handed down no death penalties. Though an Appeal against a decision of Justice Woods on a death penalty handed down in Kimbe for three (3) persons was before the Supreme Court.

A summary of Matters before the National Court in 1999 can be found in Appendix "B".

Sittings of the National Court

The National Court sits in all provincial centres and other major district centres. Where a judge is resident, the National Court is based there too. Where there is no resident judge, the National Court sits there when it makes its circuit to that area from Waigani or some other centres. Judges are resident in the National Capital District, Lae, Mount Hagen, Goroka and Kokopo. It is the intention of the Chief Justice to put in place a resident judge in all provincial centres, this exercise is continuing.

See Appendix "C" for listing of Judges' location by Provinces in 1999.

Specialised Jurisdictions of the National Court

In this section of the Annual Report we deal with the various Jurisdictions in which Judges sat during 1999 that are not normal day to day National and Supreme Court trials or hearings.

Election Petitions

In 1996 and 1997 the *Organic Law on Provincial Governments and Local-level Governments* was approved by Parliament and amended a number of times. In April 1997 the Organic Law on National and Local-level Government Elections was brought into operation.

Despite the best endeavours of the National and Supreme Courts a number of Election Petitions from the 1997 National Elections and also some petitions arising from National Parliament By-Elections were still on foot in the National and Supreme Courts at the end of 1999.

It is hoped that all petitions from the 1997 National Elections will be disposed of in the year 2000.

Leadership Tribunal

In 1999 only one Leadership Tribunal was commenced.

Tribunal Members	Leader	Appointed	Dates of Hearing
Justice Jalina, Magistrates Regina Sagu and Cosmas Bidar	Major General Jerry Singirok, MBE	4 th November, 1999	15 th December, 1999 then adjourned to February, 2000

Military Court

Section 172 of the *Constitution* establishes Other Courts within the National Judicial System framework. One of which is the Court constituted by a Judge of the National Court or a Magistrate Grade 4 of the District Court that can hear charges of offences or appeals under the *Defence Act* and the *Code of Military Conduct* under the *Defence Act*.

The powers and responsibilities of the Judges and Magistrates are as provided for under the *Defence Act* (Chapter 74) and the Code of Military Discipline in the Schedule to the *Defence Act*. Only members of the Defence Force and members of Overseas Forces and others that are brought under the *Defence Act* and are not exempted are subject to the *Code of Military Discipline*.

A number of matters arising from the Sandline incident were still on foot at the end of 1999 and needing to be dealt with on appeal to the Supreme Court or by the National Court Judges appointed to hear Military Disciplinary matters.

JUDICIAL COMMITTEES AND CONFERENCES

Judges and Senior court staff sit on a number of Committees as well as attend various Conferences.

National Legal Convention

In 1998 and 1999 Justice Sir Kubalan Los in his capacity as Chairman of the Continuing Judicial Education Committee chaired the National Legal Convention organising Committee.

The Convention is a joint initiative of the Chief Justice, the Attorney General, President of the Law Society and the Dean of the Law Faculty at University of Papua New Guinea. It is directed at providing a convention that can be attended by and meet the needs of Judges, Magistrates, Lawyers and Court staff. It is modelled on the work done by the Australian Institute of Judicial Administration in Australia.

The National Legal Convention was held in July, 1999 at the Islander Travelodge. The theme of the Convention was "Alternative Dispute Resolution" (ADR), which is concerned with how to divert Criminal and Civil matters away from the formal Justice System. In the Criminal Justice system it is more particularly known as restorative justice.

Judges and Lawyers (including those who gave papers and those attending the sessions) from Australia, Fiji, Ghana, Kiribati, Solomon Islands and Vanuatu attended. Amongst notable persons attending were the Chief Justices of Fiji, Kiribati, Solomon Islands, Vanuatu and the Chief Justice of the Family Court of Australia (who is the son of a planter from before WW II from the Rigo area of the Central Province). The Chief Justice of Kiribati, the Honourable Richard Lussick who attended the conference was the brother of the late Wally Lussick.

The convention received support from a number of sponsors including the Commonwealth Secretariat.

A follow up in-country workshop on ADR was planned for the year 2000.

The 2001 National Legal Convention will then like the 1999 Convention be a convention for Papua New Guinea Judges, Magistrates, Lawyers and Court staff with international participation from delegates and speakers.

Court Restructure Committee

A Court Restructure Committee under the Chairmanship of The Honourable Justice Timothy Hinchliffe finalised its work in 1999. This committee will report to the Judicial Administration Council with its final findings and recommendations in the year 2000.

Continuing Judicial Education Committee

The Continuing Judicial Education Committee (CJEC) headed by The Honourable Justice Sir Kubalan Los, was renamed the Judicial Education Committee (JEC) near the end of 1999. The JEC deals with an essential part of the lives of the judicial officers, continuing discussions and updating of the skills of Judges and Magistrates. The CJEC has organised workshops for Judges and Magistrates as part of an on-going transfer of skills between Judges and Magistrates in Papua New Guinea and Overseas. As part of its programme, judges and magistrates have attended conferences overseas. It also arranges workshops in partnership with the National Institute of Continuing Legal Education (NICLE), a body consisting of judicial officers and lawyers. The Honourable Deputy Chief Justice Sir Mari Kapi, is the Chairman of NICLE.

Judges attended a number of workshops and conferences as part of its CJEC program.

The Chief Justice, Deputy Chief Justice and the Chief Magistrate attended the 13th South Pacific Judicial Conference in Western Samoa during July 1999.

Australian Institute of Judicial Administration

The Australian Institute of Judicial Administration (AIJA) is the body in Australia that has for some twenty years been providing education and carried out research for Judges, Magistrates and Court staff in Australia.

Judges, Magistrates and Court staff in Papua New Guinea have attended workshops, conferences and seminars in Australia and New Zealand put on by the AIJA on a variety of subjects ranging from Criminal and Civil Court Procedure to Technology issues for Courts. Orientation programs are an annual or biannual event for Judges and Magistrates. In addition there are Conferences specifically for Magistrates for Court Librarians and for Court Administrators. There are annual Conferences each year in various State Capitals in Australia.

The Chief Justice (Hon. Sir Arnold Amet) is a member of the Council of the AIJA. For a number of years Papua New Guinea was represented on the AIJA council by the Chief Justice as an observer however, for the last few years he has been a full council member. The AIJA council meets on Saturdays on a quarterly basis, generally in capital cities on the eastern seaboard of Australia. The Chief Justice is a member of the AIJA Education Committee that is involved in planning Conferences and Workshops.

On 8 August, 1999 Justice Woods and Mr. Laurence Newell attended the AIJA Annual General Meeting (AGM). As some Papua New Guinea based members of AIJA did not get notification of the AGM before it was held, it was agreed by the AIJA that notices to members of the AIJA in Papua New Guinea would in future be sent by Air Mail. Justice Woods and Mr. Newell each have been members of AIJA for 15 years.

Pacific Regional Judicial Training Project.

Funding for the Pacific Judicial Training Project which is described in more detail in the National Judicial System report for 1998 was obtained in 1999 from AusAid, New Zealand Aid, United Nations Development Program and a number of other sources.

It is intended that a number of Judicial Training Projects will be initiated in the year 2000, mainly in Fiji where the Project is centred at the University of South Pacific.

The Chief Justice of Papua New Guinea (Hon. Sir Arnold Amet) continues as Chairman of the Project Committee and in 1999 attended a number of meetings in Fiji (funded by Project Funds) in Fiji and elsewhere.

Council of Law Reporting.

The Honourable Deputy Chief Justice Sir Mari Kapi, is the Chairman of the Council of Law Reporting. The Council of Law Reporting supervises the production of the Papua New Guinea Law Reports (PNGLR).

The 1963 edition of the PNGLR was printed and published for the Council of Law Reporting of the Territory of Papua and New Guinea by the Government Printing Office in Port Moresby. The 1964 edition of the PNGLR was printed and published for the Council of Law Reporting of the Territory of Papua and New Guinea by the Government Printing Office in Sydney, New South Wales.

From 1965 until 1991 all editions of the PNGLR were published by the Law Book Company in Australia.

From the 1992 edition of the PNGLR the Faculty of Law at the University of Papua New Guinea (UPNG) produced them.

In 1999 Scott Pettersen, the representative of the LBC Information Services with the Access to Laws Project produced a report as required by the terms of reference of the Project on whether the PNGLR and other Law publications should still be produced by UPNG. The Access to Laws Project is funded by AusAid and contracted by LBC Information Services, with part of the work being done by Niimedia Pacific Propriety Limited.

In 1999 the Faculty of Law at the UPNG published the 1996 PNGLR for the Council of Law Reporting for Papua New Guinea.

At the end of 1999, the 1997 PNGLR had still not been published however, the Council of Law Reporting was informed by the UPNG Law Faculty that it was being printed.

OTHER COMMITTEES

Sectoral Committees on Law and Order

The Judges were represented on the Sectoral Committee on Law and Order by Mr. Laurence Newell (Registrar of Courts), which at the end of 1999 produced a 'Law and Justice Policy' which is hoped will become the Law and Order Policy of the National Government, Provincial Administrations and Local-level Governments next year (2000).

The Policy was drafted with the assistance of a Criminologist from the Australian National University in Canberra, Mr. Sinclair Dinnen who was formerly working with the Papua New Guinea National Research Institute. Mr. Dinnen consulted the Chief Justice in the course of preparation of the Policy Paper which was made available to the Department of National Planning and Monitoring in December 1999.

The policy is based on three pillars:

- Strengthening the existing Criminal Justice System;
- Co-ordination between the Courts, Police, Correctional System and Lawyers engaged in Criminal Justice litigation. Also integrating the work of provincial administrations and the Local level Governments into the National Law and Justice Policy so that all agencies at all levels maximise those elements that lead to peace and harmony in Papua New Guinea and do away with the negative image of Papua New Guinea which is evident overseas;
- Developing measures to divert minor offences and first time petty matters out of the formal Criminal Justice system into what is known as Restorative Justice and by the National, Provincial and Local Governments developing crime prevention measures at all levels of Society: in the Home, in the Village or Urban Community, at Provincial and National level.

Restorative Justice is a technique in Criminal Justice that emphasises reconciliation between the person who is wronged by the person responsible for committing the offence. It emphasises community justice where the offender is integrated back into the community after admitting his or her guilt and undertaking to take measures to make up to the victim for the wrong done. The present Criminal Justice System does not provide sufficient support to victims and witnesses of crime, Restorative Justice seeks to restore that balance in the community in favour of the victim, where the victim is asked to support the penalty the criminal should bear.

The Judges were represented on another Sectoral Committee on Law and Order, which comes under the auspices of the Consultative and Implementation Monitoring Council (CIMC) by the Registrar of Courts. This Committee which is chaired by Dr. John Nonggorr, in 1999 was in discussion with overseas funding agencies for a review of the Criminal Law and Procedures in Papua New Guinea to take Papua New Guinea beyond its present colonial models to a system more attune to Papua New Guinea than from Queensland where the Criminal Code was adopted in the early years of the Twentieth Century. The Policy on Law and Justice prepared for the National Government by Mr. Dinnen is concentrating on an overall Government Policy on Law and Order, the proposal by the CIMC Law and Order Committee is for a review of the Criminal Law and Procedures.

The CIMC Law and Order Committee was also involved in working on a proposed law to regulate the work of Security Companies in Papua New Guinea.

FINANCE AND ADMINISTRATION

The funds of the Courts are given by separate appropriation of Parliament and are managed by the National Judicial Staff Services (NJSS) under the control of the Chief Justice. The NJSS looks after the court buildings and institutional houses of the judiciary. Services such as provision of secretarial and clerical staff, library, research, legal, security, office vehicle and equipment are the responsibility of the NJSS.

The Salaries and Remuneration Commission determines the Judges' terms and conditions of employment.

Finance

The Chief Justice presents the Judiciary's Budget Estimates to the Prime Minister. Its estimate for 1999 was K35 million but was appropriated K26 million. Although the appropriation was less than what had been estimated, the judiciary continued to function until the end of the financial year but at the expense of some plans and projects not being implemented to accommodate the shortfalls.

The monthly releases by the Department of Finance were on many occasions not made within reasonable time. At times, we were given our monthly allocation well into the month, sometimes as late as one week before the month was up. Because of the lateness in the allocation of funds by the Finance Department, we at times had difficulty in meeting our commitments or even worse still, circuits were cancelled or delayed causing inconvenience to the public thereby denying them justice within reasonable time.

We have written to the Finance Department on a number of occasions, requesting the release of our funds on a quarterly basis rather than the current monthly releases so that we can effectively plan and carry out our constitutional duties and functions without having to face the problem of funds not coming on time. To date Finance Department has not responded to our requests or even acknowledged our letters. We would like the Finance Department to release our funds on a quarterly basis on the first working day of each quarter.

Court Staff

The National Judicial Staff Services (NJSS) employs the Staff of the Courts at Waigani and throughout all the court houses in the country. Personnel matters of judges and magistrates are handled, in accordance with instructions from the Chief Justice and Chief Magistrate by the NJSS. The Secretary of the NJSS is responsible for the employment and control of all staff of the Courts except Judges' personnel staff.

COURT BUILDING AND MAINTENANCE

Set out below is a Summary of the work in this area.

General Matters

Building and Maintenance of court houses throughout the country is a major task, which has been an on-going concern. Most of the court buildings are old and run down. In 1996 Officers of NJSS started work with the assistance of Frameworks Architects Propriety Limited of Goroka on a NJSS National Building Repair and Maintenance Survey. The Report prepared in 1996 for funding in 1997 covered all Highlands, Mamose and Southern Region Court Houses (except in Southern Highlands Province and a couple of southern region locations) and in 1997 the Islands Region survey was completed.

In 1999 the NJSS was committed to carry out the construction and maintenance of the court buildings nation-wide. This will continue into the years to come. In 1999 our current Maintenance Bill was over K4 Million.

Rebuilding of Court Houses in Provincial Centres

We are writing to the Governors of each province indicating to them what our plans are for the province with the hope that if they have any plans to assist, then we can work in partnership with them. We will also be writing to major developers in the provinces who are willing to assist us in building court houses.

An example of this is in Wabag where the Enga Provincial Administration is rebuilding the existing Court House to provide a Courtroom large enough to not only cater for the day to day needs of a resident Judge but also able to accommodate a three or five man Supreme Court Bench. In addition chambers for a Judge and his support staff and a suitable size Registry for an Assistant Registrar is to be provided together with accommodation for the Judge and Senior staff at the court house and also residences for the Judge and four (4) senior staff.

It is expected that this will be opened next year (2000). Justice Moses Jalina currently in Kokopo is expected to become the resident Judge in Wabag.

It had been hoped to have Popondetta Court House rebuilding finished in 1999 however, this is now expected to occur next year (2000), with that it is hoped a resident Judge would be in place by 2001.

Gazelle Restoration

Following the eruption of Tarvurur and Vulcan a plan for the Kokopo Commercial Business Centre and Ralum Civic Centre was put together for the Gazelle Restoration Authority (GRA) in 1996.

The Ralum Civic Centre design included a new Court House for Kokopo to replace the temporary buildings erected within the Kokopo Commercial Business Centre. Following on from the Report, a letter was sent to the GRA in 1996 requesting the inclusion of the construction of the new court house in Kokopo. The relocation of the temporary buildings at Kokopo to Rabaul, Palmalmal and Kerevat, and the construction of residences for Judges, Magistrates and Senior court staff in Kokopo in the World Bank funded Project.

No response had been received to this request in 1999 despite a number of visits by the Secretary – NJSS and the Deputy Registrar – National Court to Kokopo and to the Department of Finance and Planning for discussion with GRA and Planning Officials during 1999 and previous years.

Justice Moses Jalina currently in Kokopo is living at his wife's village, as the East New Britain Provincial Administration has not provided an official residence. Up until the eruptions of Tarvurur and Vulcan in 1994 an official residence was provided for the three (3) Judges, Magistrates and some Senior Court staff resident in East New Britain.

With the move to Kokopo the Assistant Registrar who lives in her village on the North Coast now has to travel a much longer distance to Kokopo than when the Registry was at Rabaul. As she is not living in Kokopo this limits the ability of the Assistant Registrar to work outside of normal Public Service hours.

We need residential accommodation at Kokopo for one or more Judges, Magistrates, an Assistant Registrar, Clerk of Court and other senior court staff, a number of whom were displaced by the eruptions of Tarvurur and Vulcan.

The present temporary Court facilities in the area adjoining the Papua New Guinea Banking Corporation are very much cramped and the Judge has insufficient facilities for his own needs let alone his staff. The construction of the proposed new court house at the Ralum Government Centre in Kokopo is long overdue, it being more than five (5) years since the court house at Rabaul was buried and rendered unusable by the eruption of Tarvurur.

Negotiations for a court house in Kokopo to replace the then court house were proceeding long before the eruptions of Tarvurur and Vulcan took place in 1994. The court house at Rabaul was constructed

after World War II at Rabaul long before Independence as the Court House for the Territory of New Guinea to comply with the status of the Territory of New Guinea as a United Nations Trust Territory.

By the early 1990's when we started to place resident Judges in Rabaul, the court house was notably needing major renovations. Due to the likelihood that Tarvurur and Vulcan could erupt, plans were being formulated to build a new court house at Kokopo should there be an eruption. The Butuwin Health Centre and other locations in the Kokopo area were considered. When the eruptions of Tarvurur and Vulcan took place these plans were close to completion so the Judiciary constructed a temporary court house within a short time after the eruptions on the basis that this temporary building would be replaced by a permanent structure within a few years. The existing temporary court house was then to be moved to provide court houses at Rabaul, Palmalmal and Kerevat.

It is regrettable that whilst new facilities were provided for the Police Force in Kokopo, no support has yet been given for a new Court House and residences for Judges, Magistrates and Senior court staff.

Bougainville Restoration

In 1999 the only court house used in Bougainville was the Buka Court House. There were some discussions during the year on having a Magistrate and perhaps a Judge sitting in Arawa but there was no indication of funding for upgrading of Buka court house or restoration of other Court services elsewhere.

Waigani Court Complex

In the Judges Annual Report for 1994 it was reported that a tender for Architectural Design for a new Waigani Court Complex was called. In 1995 the design consultancy was awarded as a joint project to Frameworks Architects Propriety Limited of Goroka and Cox Richardson of Australia.

Work on Stages I, II and III of the Design of the complex was completed by 1997. In 1998 the final (IVth) stage of the design consultancy in which detailed drawings will be drawn, will need to be funded.

A sum of K2, 250, 000 (at the Kina value in 1997) is required to complete stage IV of the design.

The projection for the number of Courtrooms required in the National Capital in 2002 is 30 courtrooms, in 2010 this is projected to be 40 courtrooms. At present in the National Capital some Magistrates hear cases in their offices as there are insufficient courtrooms. In Waigani due to shortage of office space, some courtrooms are occupied by court staff. The NJSS rents a warehouse at Gordons for office and storage space.

The proposal for a suitable large building to centralise all Court hearings in the National Capital District (NCD) in one location and provide a suitable location for the Headquarters of the National Judicial System needs to have the Design Stages completed in 1998 and the Construction Phase commence in 1999. The 1998 Budgetary allocation does not include funds for stage IV of the design work.

It is expected that further buildings will be required to be built or rented in the 1998 to 2002 period in the NCD for use as courtrooms and office space for staff because of this failure to provide stage IV design funds in 1998. It is hoped that the funds will be provided in 1999 under the PIP submission lodged by the Judiciary in 1997, if so building might be able to commence by the year 2000.

In fact no further development of the project occurred despite support from both Prime Ministers in 1999.

The estimated cost of the building in 1999 was K100 Million (including the cost of the fitout of the building). It is proposed that the present Waigani court building be used jointly by the Legal Training Institute and also provide facilities for Judicial Education for both Judges and Magistrates.

Temporary buildings in Waigani will be relocated to upgrade court facilities at locations in Papua New Guinea where they can be easily delivered by sea or land.

Official Residence

In the 1950's and 1960's there was an official residence on Paga Hill for the Chief Justices used by the expatriate Chief Justices such as Sir Allan Mann.

Sir Buri Kidu when he was Chief Justice for a time stayed in that official residence and later towards the end of his period as Chief Justice developed his own residence at Taurama Beach as his official residence but when he retired that building was not available to Sir Arnold Amet when he became Chief Justice.

From maintenance surveys done of the official residence of the Chief Justice it was clear that this would need replacement, as the cost of refurbishment would be more than the cost of replacement. The Honourable Sir Rabbie Namaliu, MP had suggested that the Chief Justice have an Official Residence in the same way as the Prime Minister who had the use of the Mirigini Haus, separate from their own private residences so that they could entertain Leaders of Papua New Guinea and Judges from overseas in appropriate fashion, which the buildings inherited from the Colonial era as Judicial residences could never do.

Between 1994 and 1998 consideration was given to the purchase of a new residence or the replacement of the existing residence at Paga Hill (which is being used as a residence shared by a number of Court staff and their children). It was decided that a residence built for the British High Commission on Touaguba Hill be purchased and this was purchased and then refurbished in 1999.

In 1999 the Salaries and Remuneration Commission (SRC) under the chairmanship of The Honourable John Pundari, MP agreed that the arrangement whereby the Prime Minister had access to Mirigini Haus whilst still receiving a Housing Allowance should be regularised by providing him a housing allowance for his own residence in addition to being allowed to also occupy Mirigini Haus. The SRC adopted this as part of the package for the Prime Minister. The purpose of this is to enable Prime Ministers to have a suitable residence of their own when they cease to be Prime Minister.

Mirigini Haus is fully maintained and serviced by the State. The official residence is for the Prime Minister's use and does not become his personal property upon his ceasing to hold that office.

This facility was extended to the Chief Justice and the Speaker of Parliament in 1999 on the same conditions as applied to Prime Ministers. The Chief Justice took up this facility and moved into the house on Touaguba Hill in 1999 whilst still receiving housing allowance for his existing residence.

Official Vehicles

All leaders under the SRC determination are entitled to purchase a private vehicle under their determinations, which become their personal property. Members of the National Parliament are also entitled to an Electoral Vehicle (or aircraft, boat or helicopter) up to a certain value.

In addition the Prime Minister, the Speaker of Parliament and the Chief Justice are entitled to an Official Vehicle wholly maintained by the State. This vehicle does not become their property but belongs to the State. Under this facility the Speaker of Parliament has a number of different Parliamentary vehicles available for his use.

In 1999 the SRC extended this facility to the Deputy Chief Justice.

Questions in Parliament relating to an additional official vehicle for the Chief Justice appear to have assumed that the vehicle purchased for the official use of the Deputy Chief Justice in 1999 was purchased for the Chief Justice, which of course was incorrect.

The Chief Justice's Range Rover was replaced in 1998 as it was found to have a faulty on board computer and on a number of occasions stopped at road junctions without warning.

Court Reporting

The Court Reporting Project begun in 1995 for the recording of trials in the courts and transcribing of these recordings. This project progressed well into 1997. In 1996 and 1997 courtrooms 4, 5, 6 and 7 were installed fully with the recording system. It also extended to Mount Hagen, Lae, Goroka and Madang. Court reporting officers were employed in all of these centres. The extension of court reporting services will continue into all the provincial centres as part of its program from 1998 and beyond.

By 1999 all courtrooms used by Judges across Papua New Guinea had recording equipment installed on a permanent basis where Judges were based. For the other places where Judges went on Circuit, a Transcription Officer accompanied the Judge and his Associate to record the proceedings for transcription purposes.

Whilst Officers are based at Goroka, Kokopo, Lae, Madang, Mount Hagen and Waigani transcripts are only typed at Waigani.

The Judiciary commends the work of the Transcription Section for the excellent work in 1999. Particular mention must be made for Mr. Dean Henderson who single handedly proof reads every transcript that is produced by the section.

Information Technology

An Information Technology Strategic Plan (ITSP) was designed with the assistance of Auscript in 1997 to cover 1998 to 2002.

The ITSP provides the National Judicial System with a coherent and effective framework for the planning and implementation of the Information Technology systems and applications required for the National Judicial System.

In 1999 the Local Area Network was installed in Waigani and a number of staff and all Judges were using the system for E-mails. By the year 2000 all Judges will have access to the Internet and be able to send e-mails across Papua New Guinea to other Judges and to link internationally.

A Computer-training Officer was recruited in 1997 and a Systems Administrator recruited in 1998. However, both resigned and it is hoped to recruit three (3) Computer Support Officers in addition to the existing officer in the year 2000 to provide computer support to the increasing number of computers used by Judges, Magistrates and Court staff.

It is hoped to introduce a computerised accounting system in the year 2000.

CONCLUSION

This is our report for the work of the National Judicial System in 1999. We have done our best to administer justice efficiently within our limits. We are continuously trying to improve on the manner and extent to which we perform our constitutional duties to the people of Papua New Guinea. We will continue to try to improve in 1998 and beyond.

APPENDICES

APPENDIX "A" *Summary of Matters before the Supreme Court dealt with in 1999.*

APPENDIX "B" *Summary of Matters before the National Court dealt with in 1999.*

APPENDIX "C" *Listing of Judges' locations by Provinces.*

APPENDIX “A” - Summary of Matters before the Supreme Court dealt with in 1999.
Supreme Court Civil Appeal Statistics

Year	Total Appeals Registered	Dealt with matters 1999	Total Dealt with	Total Pending
1999	127	29	92	35
Total	127	29	92	35

Supreme Court Civil Reviews Statistics

Year	Total Appeals Registered	Dealt with matters 1999	Total Dealt with	Total Pending
1999	08		01	07
Total	08		01	07

Supreme Court Civil Motions Statistics

Year	Total Appeals Registered	Dealt with matters 1999	Total Dealt with	Total Pending
1999	08	02	05	03
Total	08	02	05	03

Supreme Court Civil Application Statistics

Year	Total Appeals Registered	Dealt with matters 1999	Total Dealt with	Total Pending
1999	06	05	05	01
Total	06	05	05	01

Supreme Court Criminal Appeals Statistics

Year	Registered	Dealt with	Discontinued/Withdrawn	Pending
1999	074	58	008	008
Total	074	58	008	008

Supreme Court Break of Pending Criminal Appeals

No.	Categories	1999	Total
01.	Awaiting 'CR' file & Certified Transcript		
02.	Awaiting 'CR' file only		
03.	Awaiting Certified Transcript only		
04.	A/Books being compiled		
05.	Awaiting Directions Hearing		
06.	A/Books awaiting certification		
07.	A/Books to be filed by private lawyers		
08.	Ready for listing	05	05
09.	Stood Over to next SC sittings	03	03
10.	Reserved for Decision/Judgement		
	Total Pending	08	08

Supreme Court Criminal Review Statistics

Year	Registered	Dealt with	Cancelled/Withdrawn	Pending
1999	37	35	01	01
Total	37	35	01	01

Supreme Court Break-up of Pending Criminal Reviews Statistics

No.	Categories	1999	Total
01.	Awaiting CR file & Certified Transcript		

02.	Awaiting CR file only		
03.	Awaiting Certified Transcript only		
04.	Appel books under compliation		
05.	Awaiting Direction Hearing		
06.	Appeal Books awaiting Certification		
07.	Appeal Books to be filed by Prlvate Lawyers		
08.	Ready for listing/hearing	01	01
09.	Adjourned/Stood over to next Supreme Court sittings		
10.	Reserved fro Decision/Judgement		
	Total Pending	01	01

APPENDIX “B” - Summary of Matters before the National Court dealt with in 1999.

National Court Criminal Statistics 1999

Total Pending start of 1999	Total cases registered in 1999	BW	Bail	Remand	Dealt with	Total pendint at the end of 1999
4474	2009	1373	698	675	697	5786

National Court Civil Statistics 1999

Item	Pendiing in 1998	Total registered in 1999	1999 Registered matters Total dealt with	1999 Registered matters Total pending	Other years dealt with in 1999	All matters pending in 1999
Civil Appeal	1600	331	16	315	40	1875
Criminal Appeal	362	69	6	63	38	400
Wills & probate		16				
Writ of Summons	4717	1458	47	1411	282	5846
Originating Summons	1723	821	190	531	274	2080
Miscellaneous Proceedings	2705	931	252	679	295	3087
Matrimonial Causes	232	36	1	35	8	259
Lawyers Admissions	Nil	8	Nil	Nil	Nil	Nil

Instruments	Bills of Sale	Stock Mortgage
Registered	29227	45
Discharged	213	21
Renewal	1	Nil
Total	29227	43

APPENDIX “C” - Listing of Judges’ locations by Provinces.

Location	Judge(s)	Responsible for
Waigani	(as available)	Central, Milne Bay, Northern,

		Western Provinces and National Capital District
Mountt Hagen	Justice Hinchliffe	Western Highlands, Enga and Southern Highlands Provinces
Goroka	Justice Kirriwom	Chimbu and Eastern Highlands Provinces
Lae	Justice Injia	Manus and Morobe Provinces
Madang	Justice Sawong	East Sepik, Madang and West Sepik Provinces
Kokopo	Justice Jalina	Bougainville, East New Britain, New Ireland and West New Britain Provinces

