

**Address by the Chief Justice, Sir Arthur Hugh McShine, on the occasion of the
Cereimonial Opening of the Supreme Court of Trinidad and Tobago at the
beginning of Term on Monday, 6th October, 1969.**

I can do no better in my first remarks than refer to the kind courtesy and continued cooperation of the legal profession in the administration of justice. Your consideration demands my warmest acknowledgments. It has become customary when we gather to mark the beginning of the New Law Year to review the work which the courts have done over the past year. In addition it is an occasion when attention may be focussed on the conditions under which the Courts work and the ideas or suggestions for administrative changes for greater efficiency within the present framework of the law, and also for changes in the law itself in order that it might naturally reflect that pattern of society foreseen in the directive principles of the Constitution. These things I now do but briefly.

The Court of Appeal has completed all save ten of the matters in which records had been submitted. In other words, it has disposed of 568 cases. Of the ten outstanding cases seven are civil, two petty civil and one criminal. Of the civil two had been for so long unattended to, that they had to be placed on the 'non-compliance' list and the time ultimately was extended. Judgments had been reserved in two other matters and in respect of one, the matter has had to be referred for an expression of further findings of the trial judge. 568 cases is not a record for in the year previous to the one under review, 973 cases had been completed. It is worthy of note however that every one of the 381 appeals submitted from the magistrates' courts was completed. In contrast the year before there were 752 magisterial appeals listed and disposed of.

In the two years last past magistrates have done a splendid job in transmitting to the Court of Appeal with the utmost despatch, the records in the appeals filed hence the diminution in numbers. So worthy and commendable has this effort been, that from all but two magisterial districts there were as of 30th September 1969 no pending appeals. As regards the outstanding appeals, the transmission of the records in one petty civil appeal only may be regarded as being unsatisfactory. All other matters were filed in and after the month of June 1969 and just prior to the long vacation. The Chief Magistrate has complimented the magistrates on this achievement in his own and on my behalf and I am happy to have this public opportunity for myself, not only to thank them for their sustained effort but to commend them all for their zeal, un-remitting devotion and splendid performance. I am happy moreso because magistrates have to labour in most trying circumstances and under quite disheartening conditions. But of this a little more later.

Whilst all but one criminal appeal from the High Court have been completed, one perceives an unhappy situation in the time taken to process these records in criminal appeals. The deciphering of handwriting is an arduous task and one which takes a great deal of time. In all murder appeals a full transcript of the notes of evidence must be submitted for the use of the Court of Appeal. I would venture to suggest that the time is ripe for the employment of palantypists if not shorthand writers for the taking of all the evidence in murder cases; then there would be more despatch in the transmitting of such records to the Court of Appeal. I think here particularly of the virtue of expedition if perchance a new trial is ordered.

I am very concerned about the progress of the cases at the criminal assizes. The monthly Gaol delivery which, inter alia, shows the number of persons in custody on remand awaiting trial does not make for happy reading. At the 31st August 1968, the number of committals outstanding at Assizes was 524. During the period 1st September 1968 to 15th September 1969, the number of committals received was 459 making a total of 983 assize matters that were to be disposed of during the last year. Nolle prosequis were entered in 49 cases and the several courts of Port of Spain, San Fernando and Tobago disposed of 526. In the result 408 remain unheard and are to be carried into the lists of the present law year. There has no doubt been a strong attack on the backlog of these cases but even at the rate of 116 in the period of one year it will be another four years before there can be a clearing off of this backlog provided, of course, that the annual incidents of crime suffer no increase. The position in my view looks still more gloomy when one thinks that there are 110 persons in custody on remand awaiting trial.

Another distressing aspect is of course the many cases which take more than a year before they are completed. A futile attempt may be made to serve an accused who is on bail with the indictment after the lapse of many months since committal, but he may have left the territory or merely cannot be found. Or in other cases the witness may not be traced, no evidence is then offered when perhaps all the circumstances demanded the fullest investigation. I wish to be the first to compliment all the trial judges on the good job done in reducing the arrears of cases at the criminal assizes but they like me cannot be happy at the overall picture thus reflected in these returns. I have given considerable and anxious thought to possible ways and means for cutting more deeply into the backlog

of these cases and I am sure I can say that all judges are prepared to do what they can in this regard. I am of the view that a more practical utilization of the same number of daily hours could perhaps produce somewhat better results and most certainly less domestic and physical hardship. By this I mean that the courts could more graciously and readily conform with the traditional domestic arrangements of the people of this country. The people matter most and the convenience of litigants, witnesses, jurymen, clerks and court attendants and the school age children of these, ought not, I venture to think, to be subordinated to that of the practitioner at assizes only. The present court hours 9.00 a.m. to 1.30 p.m. are from all reports, and from the complaints made, disruptive of the routine of most housekeeping and inimical of physical well being. The one continuous period without a luncheon break (albeit with a coffee break) has for most people proved unsatisfactory at Criminal Assizes and will be discontinued. With a view therefore to the more effective exploitation of the hours of the Courts' sittings at Assizes, with a view to respecting the convenience of the largest number of persons, with a view to the avoidance of physical illness and fourthly with a view possibly to increased productivity the Criminal Assize Courts shall return to the daily two period sittings from tomorrow October 7, 1969 in Port of Spain and San Fernando. The sittings will therefore be from 9.00 a.m. to 11.30 a.m. and from 1.30 p.m. to 3.30 p.m. To a few persons concerned in the administration of justice this may prove perhaps a little burdensome my only answer is my earnest and genuine desire to try to do what I think is in the best interests of justice in this country.

The picture presented by a summary of the civil actions entered on the General List and the numbers disposed of during the term October 1968 to September 30, 1969 is no more

encouraging than on the criminal side. At September 30, 1968 there were 380 actions awaiting trial. During the past year 284 actions were freshly entered whereas 357 actions were disposed of, leaving therefore 307 actions awaiting trial at 15th September 1969. In short, the courts have been able only very moderately to cut into the backlog of cases in Port of Spain. In San Fernando there has been no cutting into the backlog of civil actions whatever for indeed there are 30 cases more awaiting trial at 15th September 1969 than there were one year previously. Whilst this gives no cause for jubilation, it must be said that for the greatest part of the last law year it was only possible for one judge at a time to be posted for work in the civil court in San Fernando. When two judges are to sit in the civil courts there can only be one at Assizes. This is not a satisfactory measure and for four judges to work at the same time, one must be accommodated (if at all and as was once tried) in the library. This was an unsatisfactory arrangement. The only circumstance in which I can for see two judges sitting in civil courts in San Fernando is for the criminal cases to be so well under control that there is not the need for two criminal courts for every month throughout the year.

The situation in the South calls for a complete reassessment of all the relevant factors and a new approach and attitude by all who are earnestly concerned there in the administration of justice. As I speak of attitudes I think of a case which was first entered for hearing six years after the writ was filed, two years have since passed and the parties have not as yet come to grips. In the period between the issue of a writ and the entering of the matter on the General list, practitioners play an important role, and it is more particularly at such a stage in the existence of a matter that I solicit still greater cooperation from all practitioners.

In another place I once said that litigation cannot be concluded as soon as it is started but that the endeavour must be to avoid unnecessary delay. There is a waste of judicial time where there are constant postponements. Courts with only a limited number of cases on their lists have little delay. Common sense dictates therefore that the most direct way to attack delay is to reduce backlogs.

In its totality, the results of the work done by all my brethren of the Judiciary excite my hearty congratulations. In the encomiums at these results I must join the practitioners, barristers, likewise solicitors, the Registry and sub-Registries of the Supreme Court, the Magistracy and the staffs of these departments for their worthy and sustained cooperation in the work which was to be done. I look forward to the continued cooperation of all agencies commonly engaged in the administration of justice. This means a great deal “for public respect for the Courts and the Law”.

I do once again ask that anxious and urgent consideration be given to the building of a Law Courts, for as it has been said that “our fathers... expressed very clearly their conviction that only an impressive building would be a fitting place for the sittings of a court of justice”. A proper building to house the Law Courts is a symbol of national pride, far from pomposity it suggest the dignity and majesty of the Law and, as the Rt. Hon. Vincent Massey commented is a “means of maintaining and preserving the rule of law which is the very ground of our Liberty”.

It might be sufficient to say please look around this building or our portion of it in order to observe how inadequate is the accommodation, how lacking in amenities and how trying the conditions under which the Courts must operate. I repeat with more conviction

now than ever before that a 'Law Courts' for this country is not a castle in the air to be built by architects and demolished by accountants. It is a symbol projecting an image of a people whilst at the same time serving a real practical purpose. It is a pressing need. I am given to understand that notice of this has been taken and that this is reflected in the new development plan. I earnestly trust this may not for long be shelved. On the score of accommodation and amenities I should also draw attention to the condition of our magistrates' courts. A large number of persons have no image of the administration of justice other than is to be gathered through these courts. With buildings in aspect so clearly wanting repair, renovation or rebuilding, it is not difficult to suspect that persons when looking at these courts must hold a mild contempt for what justice is supposed to stand for. Whilst I can report that work is in progress for the extension of the magistrates' courts at San Fernando, in many other districts the need for a new or considerably repaired building with proper amenities is most pressing. Hand in hand with this are the terms and conditions under which magistrates work, this urgently calls for revision and readjustment. It is only when such matters are fairly noticed and considered as of prime importance will proper regard be had for majesty and dignity of the law.

It is always a matter of interest how far judges are prepared to go in 'making law' and how far they feel confined to the literal interpretation of statutes and the strict application of precedents. A great duty lies upon the legislature, by law reform to bring the law up to date, more in consonance with modern forms and instances and to meet the exigencies of the times. I would call for the early functioning of the law reform commission and for law revision. I shall not tire you with an enumeration of the many spheres for revision

and law reform, they have been adumbrated on a number of occasions but the time has come for reform which is essential, to be instituted if we are to maintain the reputation for a good judicial system. During the law year which has just ended there have been complaints by judges, lawyers and litigants about the length of time litigation takes. The volume of litigation, inadequate court accommodation and amenities at all levels and unreformed procedures combine to defeat the object of expeditious justice. For myself, I should hate to think delay is due to any antagonism to progress in the work of the courts. There is always resistance to a change in legal machinery and there seems to be no organized body which is concerned to campaign for a replacement of the defective parts which day by day damage a country's reputation for good justice. I should have hoped that reform and revision would have been a matter of the greatest interest to the dozen or more lawyers, members who adorn our legislative assemblies. Without reform, without revision we cannot wholly rid ourselves of the backlog of cases gathered partly as a result of the cumbersome, dilatory and some times archaic rules of practice and procedure. To say nothing of some archaic and outdated substantive law. Lawyers must think in terms of these advances if they are to keep pace with their scientific brethren in other spheres of human endeavour. In short, to expect our courts, dealing as they do with constantly changing demands that are made upon them, to do their job promptly and efficiently, governed as they are by inflexible rules or practice and procedure that admit of almost no adjustment of their resources to their needs, violates common sense.

Before I end, I would refer to our Registrar, Mr Eric McCarthy, who will soon be leaving us after twelve years of devoted and efficient service. My brethren would wish for me not only to thank him for all he has done and congratulate him on a job well done but also

to wish him long life, good health, and prosperity in whatever he may undertake upon leaving us. For myself, I shall miss his ready laughter, his experienced help and guidance and shall be the less rich in human relationships, in not having him close at hand. We wish him God speed.

I wish to thank my brethren for their help in the past, for their promise of continued cooperation and assistance in the future in the performance of our common tasks. In these expressions of thanks for cooperation given and promised, I name also the practitioners (barristers and solicitors alike), the Registry of the Supreme Court, the Magistracy and their staffs, the Police and Probation Services and all persons of goodwill and who have the real interest of justice at heart.

At the head of the judicial system stand the Supreme Court whose duty is to see that the great principles embodied in the Constitution are preserved. Their preservation is no simple matter. Hence it is a source of joy at times to read or to listen to comments upon the work of the Judiciary notwithstanding the conditions under which it has to work in the performance of “a great function of state”. We will adjourn until tomorrow.