ADDRESS OF THE CHIEF JUSTICE

THE HONOURABLE MR. JUSTICE MICHAEL DE LA BASTIDE, Q.C.

at the

Opening of the 1995-1996 *Law Term*

in the

SUPREME COURT

at the

HALL OF JUSTICE

Knox Street, Port of Spain

TUESDAY, 3RD OCTOBER 1995

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I took the oath of office as Chief Justice on the 31st May last. As you know I had been up to that time in practice for many years first as a barrister and after fusion as an attorney. It is for me a source of great satisfaction that I share with the late Sir Hugh Wooding (and with him alone), the honour of having been chosen for this high office while in practice at the Bar. Sir Hugh was a person for whom I had both great admiration and great affection. If at the end of my period in office I will have so discharged my duties as to justify being associated with him in people's minds, then I for one shall be well satisfied. Before leaving the topic of my appointment, I would like to pay tribute publicly to those Judges, who might reasonably have hoped for preferment upon the retirement of my predecessor. I would wish to acknowledge with deep appreciation and gratitude the warmth with which they have welcomed me into office, and the support and loyalty which they have not only pledged, but have already amply demonstrated in a multitude of ways. Indeed, the fact that I face the daunting task ahead with optimism and enthusiasm, is due in large measure to the generous and positive response which I have had since my appointment was announced, from all the Judges and from the legal profession generally and the officers of the Law Association in particular. I am acutely aware of how vital their support is and that without it none of the goals I have set myself will be achieved.

It has become traditional for the Chief Justice, at the commencement of each law term to deliver a sort of judicial "State of the Nation" address. I am happy to follow that tradition even though the news I bring is not good. Hopefully, you will receive the message without harming

the messenger. The Court system continues to prove inadequate to the demands being made on it, with the result that the backlog of cases has grown to monumental proportions and the delays in the determination of cases, both civil and criminal, have become almost grotesque. This situation did not develop overnight. It began building up almost from the time of Independence. In his address at the beginning of the term in 1967, Chief Justice Wooding spoke of delay in bringing persons who had been committed, to trial at the Assizes. He mentioned that at that time there were persons in custody awaiting trial since their committal on charges of murder for as many as eighteen (18) months. Chief Justice Wooding said that in the face of that situation he was "disturbed almost to the point of alarm". He described the situation as urgent and one that demanded pre-eminent attention. He said that "no one should be tolerant that such things should persist... but whatever we do or don't, we have not very much time." I wonder what Sir Hugh would have said of our present situation in which according to the Gaol Delivery as of the 31st June, 1995, the prison population included 516 persons awaiting trial at the Assizes, some of them for as long as 10 years and 465 persons with appeals pending against conviction, more than one-third of whom were convicted before 1993. According to the evidence adduced by the State in the recent case of *Tookai* (which is now under appeal to the Privy Council) it is not unusual for committal proceedings to take as long as 4 years to be completed and a wait of a further 8 years between committal and trial is said to be in keeping with the average. There is no shortage of cases being listed for trial at the Assizes. Between 3rd October 1994 and 31st July 1995, the total number of cases listed for trial at the Assizes was 755 but the number of those cases, which were determined, was only 311 or 41 per cent. The corresponding figures for the previous year, October 1993 to July 1994, were 994 cases listed and 219 determined, 22 per cent. Figures provided to me by the Director of Public Prosecutions indicate that the total number of criminal

cases in Trinidad, in which persons committed for trial have not yet been tried, was 2,651 at the end of 1994.

Protracted delays prejudice the administration of the criminal justice system in a number of different ways. Obviously, if punishment when it does follow the crime, only does so after the lapse of 12 years, then much of the deterrent effect of the punishment is 'lost. Secondly, the risk of witnesses not being either available or willing to give evidence when the trial eventually does take place is greatly increased. During the years of waiting they may be threatened or coerced in one way or another or even killed, or they may die of natural causes or emigrate, or simply become disenchanted by the long delay and the many adjournments. Moreover, the prospect of being vulnerable to reprisals over such a long period must deter many potential witnesses from giving information to the police in the first place. Thirdly, there is the dilemma of whether to grant bail to persons who have been awaiting trial or the hearing of an appeal over an extended period. There is obviously a lot of pressure on a Court to give bail in such circumstances, but the evidence is that many persons who are granted bail take the opportunity of going on a rampage of crime, secure in the knowledge that even if they are caught and convicted of the new offences they commit, any sentence of imprisonment imposed in respect of them is almost certain to run concurrently with that imposed on the original charge. On the other hand, if bail is not granted there is the real risk 1hat you may keep an innocent person incarcerated for many years. Finally, as the *Tookai* case illustrates, delay may cause the proceedings against an accused person to be aborted altogether if it results in such prejudice to the accused as to render it unfair for him to be tried at all.

When we turn to the civil side, the picture, I am afraid, is just as bleak. In the last law year a total of 5,596 civil cases were listed for trial in Trinidad and Tobago. Of those only 868 or

15.5 per cent were determined. In the previous law year 4,380 cases were listed and 971 or 22 per cent were determined. The total number of cases that have been set down for trial, but have not yet been tried or otherwise determined stands at present at 7, 163-that in. effect is the backlog of civil actions in the High Court. If you have any doubt that it is growing significantly year-by-year, I refer you to the cumulative figures for the last 15 years that is since 1st October 1980. The total number of cases set down for trial during this period was 8,571 while the number determined in the same period was 5,427, i.e., 63 per cent. So that each year the backlog is being increased on average by more than one-third of the new cases set down for trial. To complete the picture, the average time between the issue of a writ and the obtaining of a decision is now estimated by the Registrar to be upwards of 7 years. In London, it is just over 3 years.

If one looks at the statistics for the Court of Appeal, a similar picture emerges. In November 1993, the Judicial Committee of the Privy Council in the case of *Pratt* & *Morgan* ruled that a convicted murderer should not be hanged if more than 5 years had elapsed since his conviction. As a result of that decision, the Court of Appeal quite understandably gave priority to murder appeals. In fact it devoted itself almost exclusively to the hearing of such appeals in an effort to keep within the timetable set by the Privy Council. As a result there was a rapid growth in the backlog of appeals in civil matters and from Magistrates' decisions. In fact, even persons convicted of murder more than 5 years previously lost their priority because it was too late to save the death sentences passed on them. The result is that there are still pending some 15 appeals from convictions for murder recorded in 1988. Both in the High Court and in the Court of Appeal there is one body of Judges who preside over both criminal and civil cases. The effect therefore of concentrating judicial attention on one type or category of case, is inevitably a rapid escalation of the arrears in all other types or categories of cases.

Again it is not dit1icult to illustrate the unfairness that is suffered as a result of the failure of the Court system to provide a determination of civil disputes within an acceptable time frame. I will give you two examples from my own experience. In one case a factory burnt down and a claim on insurers was made by the company, which owned and operated it. The insurers repudiated liability and pleaded arson and a number of other defences. The fire occurred in October 1983 and the writ was issued in October 1984. The matter was first listed for trial in October 1988 and after 12 adjournments the trial began in January 1992. After 58 days of trial the plaintiff's case was still in progress and the prospect of the case ever being completed seemed remote. The costs by that stage were enormous. Mercifully at that stage the matter was settled by the insurers making a without prejudice payment of a certain sum to the plaintiff. The settlement was arrived at some 81/2 years after the fire and 71/2 years after the writ. For the plaintiff it was a question of too little too late as it had long before gone into receivership.

In another case an officer of a trade union alleged he had been wrongly removed from his office and claimed damages as a result. The writ was issued in September 1976, and the trial took place in October/November, 1980. Judgment was given in favour of the union officer in September 1981. He was awarded damages and costs. An appeal was filed but up to today the Record of Appeal has never been filed. It appears that the Judge who heard the case retired without giving written reasons for his judgment. The last extension of time obtained for filing the Record of Appeal expired on the 1st September 1985. Since then absolutely nothing has happened, but the appeal is technically alive and the plaintiff has still not recovered his judgment, though nineteen years have passed since he filed his writ.

But this case is not unique. There is now a total of 1,109 appeals in which the Record of Appeal has not been filed although the time for filing it as provided by the Rules or extended by

the Court has expired. This total comprises appeals filed in every single year going right back to 1972. There are appeals at least technically alive, which are 23 years old! Later this month the Court of Appeal will begin getting rid of this dead wood.

The Master of the Rolls in England recently stated that "Delay has long been recognised as the enemy of justice". Apart, however, from the hardship created for individuals and businesses whose claims are effectively defeated by the inertia in the system, we have got to recognise the effect of all of this on our ambition to be the financial centre of the Caribbean. In his recently published report "Access to Justice" to which I shall be returning, Lord Woolf said "An international financial centre has to provide . . . an efficient legal system for resolving the legal disputes which will inevitably arise."

I trust I have said enough to persuade you that if time was running out for the Court system in 1967, it has now run out. Clearly, some drastic and immediate action is required if the system is not to be totally discredited.

I recognise that by outlining the extent of the problem as starkly as I have, I may have created two: wrong impressions, which I hasten to correct. Firstly, the problem is not peculiar to Trinidad and Tobago. Not only is delay in the administration of justice a serious problem, e.g., in Jamaica, but it is also so, though not to the same extent, in the larger metropolitan countries of the Commonwealth such as England and Australia. Indeed in one case from New South Wales reported in 1989, the delay complained of in a criminal case was of the order of 4 years to committal and 5 years between committal and listing for trial. In a recent edition of *The Economist* one commentator claimed that British courts "are ossifying" and "are throttled by procedures so Byzantine in their complexity that none but the rich, or those qualifying for legal aid, need consider bringing a case". Secondly, I do not want to give the impression that over the

years those with responsibility for the administration of justice have not recognised the problem and identified and sought to implement a variety of measures in an effort to alleviate the situation. Nor do I wish to suggest that their efforts have not met with some measure of success. The introduction of the CAT system of verbatim reporting during the tenure of office of my predecessor, Chief Justice Bernard, is an example of an invaluable innovation, the full benefits of which have not yet been reaped. Chief Justice Bernard also by a practice direction introduced the use of skeleton arguments in the Court of Appeal in an effort to reduce the length of time taken by oral submissions in that Court. There were a number of other measures, which he called for but which depended for their implementation on funding that was not provided and/or legislation that was not passed. These include an increase in the number of High Court Judges, the establishment of County Courts, the conversion of the Supreme Court into a "closed department" for staffing purposes, hearing of magisterial appeals by a panel of two Judges of the High Court, the transfer to the Masters of the Judge's jurisdiction in relation to judgment summonses, and many others. Let me also state for the record that the Judges of the Supreme Court, both permanent and temporary, have served and continue to serve with dedication and industry and any attempt to blame them for the inability of the system to cope would be totally misguided and grossly unfair. Nor is it my purpose today to engage in any recriminations against the Executive for having failed over the years to provide the financing to implement many of the recommendations made by my predecessors, not to mention the several committees which have addressed the same problem. One understands that there are competing claims to limited resources and obviously there has not been a proper appreciation of how critical the situation is. The link between the maintenance of an efficient Court system and the preservation of our democracy was perhaps highlighted when those who perpetrated the abortive coup in July, 1990

sought to justify their actions by reference to the lack of progress of certain litigation in which they had an interest.

It is far better to look forward rather than back and to consider where we go from here. One thing I am convinced of is that we will not get out of the crisis we are in, unless we are all persuaded of the urgency of the situation and of the priority that must be given to remedial action, and we are prepared to co-operate and combine with one another in order to implement that remedial action.

It is easy to see that logically we need to do two things in order to remove the backlog and keep the Courts abreast of their work. Firstly, we need to increase the number of courts and extend their sittings. Secondly, we must use the available Court time more productively. The length of time taken to try cases must be shortened.

With regard to the first objective, I renew the call for an increase in the number of Judges. The maximum number of permanent Judges in the High Court is fixed by statute. In the last 15 years, there has been one increase in that number - from 15 to 16 in 1991. This increase is hardly commensurate with the growth in the business of the Court, particularly on the criminal side, during the same period. As a result, the number of Assize Courts sitting in Port-of-Spain in 1995 is the same (five) as it was in 1986. In the High Court the complement of permanent Judges should be increased immediately by 4 and in the Court of Appeal by 3. This will enable the Court of Appeal to hear appeals from the Assizes on a continuous basis without causing its other work to fall into arrears. In addition the necessary infrastructure to support the additional Courts in which these new Judges will sit must be put in place. This involves the provision of additional staff in the form of court and registry clerks, ushers, verbatim note takers, secretaries and policemen. Extra courts do not just mean extra Judges. Prisoners have to be transported from the

prisons and have to be guarded and escorted on their way to and from Court. It may seem trivial to mention this, but you may be surprised to know that the work of a Magistrate is sometimes held up because there are not enough handcuffs, so that when there are several defendants the Magistrate is forced to sit and wait while the defendants are brought up from the cells one by one as the same pair of handcuffs has to be used for all of them in turn!

Transportation of prisoners to and from Court has also for a long time been a problem due to the lack of serviceable vehicles. Allegations have even been made by prisoners that they have to pay "bus fare" to secure a place in the vehicle transporting them to Court. Recent reports indicate that it is Government's intention to contract out the transportation of prisoners to Court. Hopefully, this will produce an improved service.

We have two goals. One is to get rid of the backlog of cases that has built up and the other is to empower the system to deal promptly with new cases as they arise. Obviously we need additional Judges in order to achieve both objectives, but hopefully the need for additional Judges to clear up the backlog will be temporary and will disappear when the backlog does. It seems to me logical therefore, to resort for this purpose to the use of temporary Judges. The system of temporary Judges was tried with great success in 1980 and 1981, but unfortunately the temporary Judges became enmeshed in a dispute as to whether a retired Judge should return to practice and became a casualty of that controversy even though the retired Judge himself resumed full practice. The great advantage of using temporary Judges is that it is easier to persuade successful and talented lawyers to abandon their lucrative practices for a limited period in order to give service on the Bench. I submit that it is quite unrealistic, and an unwarranted slur on our judiciary, to suggest that those who provide such service will subsequently receive favoured treatment from the Bench.

With regard to the sittings of the Courts it does seem to me an anomaly that at a time when the work of the Courts is so badly in deficit, they should virtually shut down for a period of two months in each year. In my view the Long Vacation has become a luxury that we can no longer afford. I realise that this is a controversial subject. No doubt the Long Vacation does provide a badly needed break for both Judges and lawyers. But there is an alternative, which may be easier to identify than to implement. For Judges it is to establish with greater precision their vacation entitlement and to detach it from the Long Vacation so that different Judges' take their vacation at different times in the course of the year. Attorneys who work in firms can make similar arrangements. It is, however, the attorneys who are sole practitioners who would be hardest hit by the abolition of the Long Vacation. At the moment they enjoy the facility of going away on holiday, secure in the knowledge that no one else will take their briefs or their clients. But ought the protection of their interests to prevail, especially when there are so many under-employed but competent attorneys prepared to take up the slack? Clearly this is one of the matters on which there must be consultation with the Law Association. In the meantime, however, I have looked at the position in other Commonwealth Caribbean countries and have discovered that on average the length of the Long Vacation in those countries does not exceed 6 weeks. Accordingly, I intend to propose to the Rules Committee at an early date that the Rules of the Supreme Court be amended to provide that the Long Vacation shall in future run from the 1st August to 15th September. Hopefully this will be in force in time for the next Long Vacation.

Towards the end of last term my attention was drawn by a brother Judge to a Court of Appeal Rule [Order I**,** Rule 4 (2)] which permits, if it does not direct, the Court of Appeal to hear appeals from magistrates' decisions during the Long Vacation. Accordingly, at his suggestion I arranged for the Court of Appeal to sit on a total of 8 days during this Long Vacation to hear

magisterial appeals; on 6 of these days the sittings were in San Fernando and on 2 in Tobago. As a result we start the new term having reduced the number of outstanding magisterial appeals in Tobago by 62 and in San Fernando by 90.

For some time now the Civil Courts in the High Court have started work at 9.30 a.m. while the Criminal Courts start at 9 a.m. The reason for this anomaly is that when the Civil Courts were moved temporarily from the Red House to NIPDEC House, the then Chief Justice, Sir Isaac Hyatali, put back the start of the sittings in the Civil Courts by half an hour in consideration of the extra distance which the lawyers would have to travel to Court. Now that both Civil and Criminal Courts are housed in the same centrally located Hall of Justice, there is no longer any justification for the anomaly. Accordingly as from tomorrow, all Courts in this building including the Civil Courts, the Chamber Courts and the Court of Appeal, will commence sitting at 9 a.m. The normal hours of sitting of the Courts will be from 9 a.m. to 1.30 p.m. with a break of approximately 20 minutes taken at a convenient stage of the proceedings between 11 a.m. and 12 noon.

I turn now to the second major objective - more productive use of the Courts' time. The delays inherent in a Judge recording in long - hand the evidence and submissions have long been recognized and lamented. That outmoded system is now being replaced progressively in our Courts by a computerized system of verbatim reporting known as Computer Aided Transcription (CAT). The complete CAT system, which includes a computer screen for the Judge on which he can view the evidence as it is given and recorded, is operative in three Assize Courts in Port-of-Spain. The system without the facility of the computer screen for the Judge, is now being used in the Court of Appeal and for summing-ups and guilty pleas in the Fourth and Fifth Assize Courts in Port-of-Spain and occasionally for submissions in the Civil Courts. It is hoped during the new

law term to extend the complete CAT service to all the Criminal Courts in Port-of-Spain and San Fernando. In course of time it is planned to extend it also to all the Civil Courts and the Magistrates' Courts and of course to Tobago, and to this end a contract has been entered into with a private company with expertise in the field to provide 100 locally trained CAT reporters at the end of a three-year period commencing January, 1996.

A great deal of magistrates' time is consumed in conducting preliminary inquiries in indictable cases. Moreover, as we have seen, it often takes as long as 4 years before a preliminary inquiry can be completed. The expedient has been adopted in England of permitting committals on the basis of written depositions without the need for an oral hearing. A similar system has been introduced in Trinidad and Tobago but with one unfortunate difference-the accused is given a power of veto over the new procedure. While in England the law provides that the Magistrate may on the request of the accused require the evidence to be given orally, our statute provides that the Magistrate must accede to any request by the accused for an oral hearing. The result is that paper committals are never used in practice. On both of the two occasions when the new procedure was attempted, the accused exercised his power of veto, and I imagine that the prosecution has in other cases not gone to the trouble of preparing depositions knowing that the exercise can be frustrated at the whim of the accused. In my view the law here should be changed so as to vest in the Magistrate, as in England, the discretion whether or not to permit a paper committal or to require an oral hearing. I must point out, however, that unless the logjam between committal and trial is cleared, the use of paper committals will serve to increase that logjam, but at least it will free up the Magistrates' Courts and the police prosecutors and the State Attorneys who prosecute in them, to do other work.

It is important that we should all regard a Judge's court time as a very precious

commodity, to be used as economically and productively as possible. With this in mind I intend to abolish by Practice Direction the reading of judgments in Court. The Privy Council, our highest Court of Appeal, did so since the 1920s. This was also recommended by the Cabinet Committee on delays known as the Gurley Committee. Instead, the Court will give its decision orally and copies of the judgment will be made available to the parties or their attorneys. Before issuing the necessary Practice Direction, however, I propose to have further consultation very soon with the Law Association so that problems, which may arise from the proposed new practice, can be satisfactorily resolved.

It is obvious from the tremendous disparity between the number of cases listed and those determined that a great deal of Court time is spent in adjourning cases. Another and even more unfortunate consequence of so many adjournments is that attorneys do not expect their cases to go on and so often do not prepare them properly, or in some cases, at all. It is perhaps understandable that attorneys should choose not to do work which more likely than not (given the odds in favour of adjournment) will have to be repeated at some future time. I am at a loss to understand what is achieved by putting 30 or 40 cases per month on a Judge's list when it is obvious that he cannot try more than a handful of them. The system must be changed to ensure two things, viz. (1) that there is a continuous flow of work in the Courts and (2) that cases are heard by and large on or about the dates when they are fixed for hearing. In my view, the only way this can be achieved is by the Court adopting a more interventionist role in what is now called Case Flow Management. This would involve, at a minimum, a conference between the attorneys who will appear at the trial and a judicial officer, preferably a Judge, before the matter is finally listed for trial at which a number of things will be ascertained. These include:

(1) whether all the necessary pre-trial steps have been taken in order to make the

matter ready for trial;

(2) whether there is any other impediment, such as the unavailability of witnesses, to the matter proceeding on the date proposed; and

(3) an accurate estimate of the length of the trial.

This is not of course an original suggestion as those familiar with practice directions given in England earlier this year will appreciate. I have already discussed this matter with the officers of the Law Association and I am in the process of preparing an appropriate Practice Direction, which I propose to discuss with them, further before it is issued. I am well aware that what works well in England will not necessarily work well here, but the time for some positive action has come, and provided we adopt a sufficiently flexible approach and are prepared to correct and adapt as we learn from our own experience, I do not think that there is any need to be timorous about making these innovations.

Now I come to the most fundamental reform of all, and possibly the most difficult to achieve. I hold the deep conviction born of my experience in these courts that this reform is absolutely essential if we are to reduce the backlog to acceptable proportions and provide a court system able to cope with the new work, which comes to it. The reform of which I speak is a radical change in the approach towards litigation, from one that is overly combative and gives nothing at all away, to one that is more co-operative and open, and recognizes "the obligation of litigants and their lawyers to prosecute and defend proceedings with efficiency and despatch". This language and the proposed reform itself are taken from a recently published report by Lord Woolf entitled "Access to Justice" which is the result of a year's investigation and consultation by the author. Like Lord Woolf, I am not proposing abandoning our adversarial system, but simply getting rid of some of its worst excesses. I do not propose to go in detail into the practical

manifestations of this proposed new approach, but I will mention some:

(1) Changes in the Rules of Court intended to simplify pleading, shorten interlocutory procedures and facilitate settlement.

(2) Establishing in advance after consultation with the parties and their lawyers the maximum length of every trial, subject to a discretion in the Court to permit such limit to be exceeded but only for good reason.

(3) Pre-trial exchange of witness statements and the use of such statements as evidence.

(4) The substitution to a large extent of written for oral submissions.

If there are those who would protest uncharitably that "overly combative" was aptly descriptive of my own style of advocacy, I would say to them that at least one impediment to the adoption of the new approach has been removed by my departure from the arena! Surely the time has come when we too should regard "trial by ambush" as no longer acceptable and recognize that there is no fundamental incompatibility between an adversarial system and putting one's cards on the table from the beginning of a dispute. Lord Woolf's report is an extension of an approach recommended by two earlier reports, the Civil Justice Review published in June 1988, and the Report published in June 1993 of an independent working party set up by the General Council of the Bar and the Law Society. In his report Lord Woolf adverts to a very fundamental point originally made by Lord Devlin. It is that if we go on pursuing the illusion of perfection in our legal system, we may end up not only failing to give a whole loaf to the few, but denying even half a loaf to the many. The results, which Lord Woolf hopes to achieve by the reforms he proposes, are:

(a) to reduce the length of time taken to try cases in court;

(b) to quicken the pace at which cases move to judgment;

(c) to promote settlement at an early stage; *(d)* to provide and encourage the use of alternative forms of dispute resolution; and

(e) by virtue of the above, to reduce the cost of litigation and make justice more accessible to all.

Since the measures he recommends seem likely to produce these results, we must have very good reason indeed to turn our backs on them.

While it is essential to increase the speed at which justice is dispensed, we must also make sure to maintain and enhance the quality of that justice. This depends in large measure on the quality of the Judiciary and that in turn depends on the quality of those who offer themselves for appointment to the Bench. We all know there is no shortage of lawyers in private practice in this country with the necessary competence and integrity to make excellent Judges. To accept such appointment, however, inevitably involves a drastic reduction in one's earnings. I would be the last one to criticise anyone who made the decision that his or her responsibilities did not permit him or her to make that sacrifice. It is my fervent hope, however, that those who have the qualifications of which I speak will think this an opportune time to re-assess their situation and possibly their priorities, and reconsider the feasibility of accepting the call to service on the Bench.

With regard to the procedure for appointing Judges, the Judicial and Legal Service Commission has recently broken with tradition by publishing a Notice in the press inviting applications for appointment to the Bench. This has elicited a response from some 25 attorneys. At present there are 4 vacancies on the High Court Bench, and as I have already indicated, I am asking the Government to amend the Supreme Court of Judicature Act so as to increase the number of Judges from 16 to 20 and to provide the necessary funding for these 4 additional

Judges as well as for 3 additional Judges of Appeal. It is hoped that there will be sufficient suitable candidates to enable all of these posts to be filled in the course of the coming year.

Another decision taken by the Commission recently is to deepen the consultation with the President of the Law Association on the selection of persons for appointment as Judges. In addition to asking him to recommend persons for appointment to the Bench, the Commission has decided that before making any appointment the Commission will indicate to the President of the Law Association the person or persons whom it proposes to appoint and obtain the benefit of his views with regard to the proposed appointments. It is the Commission's policy to use whatever means it can, to try and ensure that the best persons are appointed from those available, and also to inspire greater public confidence in the process of appointment.

There is a very important component in the machinery of justice on which I have not so far focused, and that is the Magistracy. When I took up office I found in place arrangements for the institution of a Night Court at the Arima Magistrate's Court. Credit for this innovation must be given to my predecessor, Chief Justice Bernard, and to the Attorney General. The experiment, for such it was, would not have been possible without the co-operation of the Magistrates (starting with the Chief Magistrate) who volunteered to sit in the Night Court and of the Court Clerks and police prosecutors who gave their services, also on a voluntary basis. The Night Court began sitting on the l0th July 1995, and to date, it has completed 537 cases and 22 inquests. Despite reports of a mixed response from the practitioners, my information is that the Court has proved a success, and I am pleased to report that Cabinet has approved the continued operation of the Night Court in Arima and in addition the institution of 4 other Night Courts, of which 2 will operate in Port-of-Spain and one each in Sangre Grande and San Fernando.

I am also pleased to record that a new Magistrates Court is under construction in

Scarborough and that the refurbishing of the Chaguaramas Magistrate's Court is underway. The intention is to house an Assize Court in Chaguaramas at the same site as well. I am advised that this project will be completed by the end of the year. We are still awaiting the commencement of construction of the Tunapuna Magistrate's Court on a site on which the sod was turned in 1994. I am told that construction will begin in a week's time. It is also planned to build a new Magistrate's Court and a High Court at Arima and my information is that final drawings have been prepared for that project and that demolition of the old building has begun. The situation, which cries out most urgently for relief, however, is that which obtains at NIPDEC House where all the Port-of-Spain Magistrates' Courts are now accommodated. The problem there is two-fold. Firstly the building was not designed for, and is not suited to, use as a Magistrates' Court.

Secondly, the space and facilities there are totally inadequate for the demands on them. It also does not help that the air-conditioning system functions only intermittently. While the institution of a Court at Chaguaramas will provide some measure of relief, it is imperative that in the short term the top floor of NIPDEC House be made available to the Magistracy (a call urgently made by Chief Justice Bernard last year) and that in the longer term another Magistrate's Court be built east of Port-of-Spain, either in Barataria or San Juan, as recommended by the Gurley Committee. The vast majority of persons interface with the Court system in the Magistrates' Courts and they are entitled to do so in reasonable comfort and safety. There is also the entitlement of the Magistrates, their clerks and other support staff, not to mention the practitioners and policemen who work in these Courts, to reasonable working conditions. At the moment there are several Magistrates' Courts where these minimum standards are not being met. Recent events indicate that the job of the magistrate is not only a thankless one, it is also dangerous. It is to be hoped that the police will ensure that anyone who so openly

challenges our legal system as to make an attempt on the life of a magistrate will be caught and brought to account speedily and that magistrates are given enough protection to enable them to feel reasonably secure.

There are a number of other topics, which I would have liked to have discussed and/or report on. These include the computerisation of the Supreme Court Registry (a process which is well in hand under the supervision of a Committee headed by Master Morris-Alleyne), the institution of a series of Trinidad and Tobago Law Reports (a project long promised but never realized), the establishment of County or District Courts with limited jurisdiction in civil matters and of a Small Claims Court at an even lower level, the introduction of a system of Alternative Dispute Resolution and the sanctioning under appropriate safeguards of a system of plea bargaining. These are all extremely important projects and to do them justice would mean extending intolerably an address, which is already unduly long. I give you my assurance however, that during the coming year I intend to pursue these projects and I hope to secure for all of them the support, which I know exists for some at least from the Attorney General and his Cabinet colleagues.

I end by returning to an earlier theme, namely that we can only turn around the desperate situation in which the administration of justice now finds itself in this country, if all who participate in, and are responsible for, our system of justice are truly committed to that objective and are prepared to co-operate with one another and to make some sacrifices in order to achieve it. My appeal is therefore to the Judges, to the Masters and the Magistrates, the legal profession and its representative body the Law Association and its officers, the Attorney General and members of his department, the Director of Public Prosecutions and members of his department, the Registrar and his Deputy and Assistant Registrars and members of his department and last

but by no means least, the Government which provides the funds and sponsors the legislation that are needed. Let us work together to reduce the delays in the dispensing of justice which are now nothing short of a national scandal, not only to spare ourselves the shame and embarrassment which we feel, or should feel, when they are exposed to the incredulous scrutiny of the Privy Council, but because our own people deserve something much better.

I hope that as an indulgence to my newness in office, you will forgive the undue length of this address. To those of you who may be deterred by it from attending next year's opening, I give you my word that on that occasion my address will be much shorter. I have mentioned that one of the features of case management is the fixing in advance of the time available to parties in Court for the presentation of their cases and in order to give the lead in this direction, I am prepared to make an order that the Chief Justice's Address at the commencement of the 1996 Law Term shall not exceed 50 minutes.

I now declare the Law Term open, and adjourn sittings of the Supreme Court to tomorrow at 9 a.m. sharp.