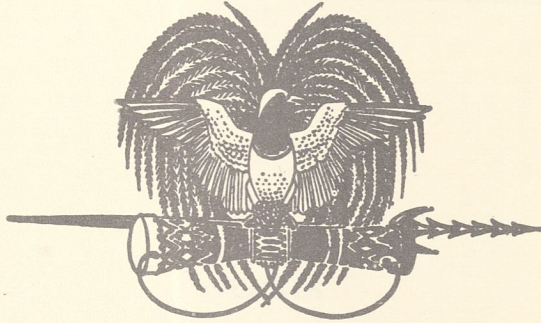


Papua New Guinea

1978 — ANNUAL REPORT
BY THE JUDGES



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ANNUAL REPORT

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ANNUAL REPORT FOR THE YEAR 1978 BY THE JUDGES TO THE HEAD OF STATE FOR PRESENTATION TO THE NATIONAL PARLIAMENT ON THE WORK OF THE SUPREME COURT AND THE NATIONAL COURT, PURSUANT TO THE CONSTITUTION, SECTION 187, AND THE *NATIONAL COURT ACT* 1975, SECTION 10.

**JUDGES
OF THE SUPREME COURT OF JUSTICE
AND THE NATIONAL COURT OF JUSTICE**

THE HONOURABLE SIR WILLIAM PRENTICE, Kt., M.B.E. Chief Justice of Papua New Guinea.

THE HONOURABLE EDMUND PETER TOM RAINÉ, E.D. Deputy Chief Justice of Papua New Guinea.

THE HONOURABLE LOYOLA PASCAL SALDANHA,

THE HONOURABLE WILLIAM JOHN FRANCIS KEARNEY, C.B.E.,

THE HONOURABLE JOHN ADRIAN MCNAIR PRITCHARD,

THE HONOURABLE ANDREW BRAY CAMERON WILSON,

THE HONOURABLE JOHN GREVILLE SMITH,

THE HONOURABLE WARWICK JOHN ANDREW.

SUPREME COURT OF JUSTICE

1. During the year ended 31st July, 1978 the Supreme Court business has been as follows:

Appeals from National Court	22
References to Supreme Court under Section 18 of the Constitution	Nil
References to Supreme Court under Section 19 of the Constitution	5
References to Supreme Court under Section 41 of the Supreme Court Act	1

NATIONAL COURT OF JUSTICE

2. NUMBER OF JUDGES. With the appointment of 3 Judges in February, 1978, and the re-appointment of Mr Justice Saldanha following an amendment by Parliament of the Organic Law on the Terms and Conditions of Employment of Judges, the National Court Bench is now at its present Constitutional maximum of 8 Judges (including the Chief Justice and Deputy Chief Justice). It can be expected that if the work of the Court continues to increase at the present rate, an Act to allow the appointment of further Judges (as provided by Section 164(c) of the Constitution) may become necessary within the next few years.
3. THE PROPOSALS TO LESSEN THE WORK OF THE NATIONAL COURT BY INCREASING THE CRIMINAL JURISDICTION OF THE DISTRICT (OR MAGISTRATES') COURT AND FOR THE REFORM OF COMMITTAL PROCEEDINGS. These reforms were referred to in both the 1976 and 1977 reports. They have not been implemented by legislation as yet. We would respectfully urge upon Parliament the desirability of effecting them as soon as possible. The Judges recommend that in addition to the new powers provisionally suggested for the District Court, jurisdiction to deal with cases of dangerous driving causing death should also be given to it. These cases are time-consuming, and play an increasing part in the work of the National Court. (The District Court already has the power to deal with dangerous driving when no death results.)
4. DELAYS IN COURT HEARINGS ON CRIMINAL MATTERS. We consider delays in criminal matters are being quite well contained in Papua New Guinea compared with other countries. When a person has not been brought to trial within 4 months of committal, a report is forwarded by the trial Judge, commented upon by the Chief Justice, and sent to the Minister for Justice (Section 37(14)). Many of the worst delays have resulted from the failure of the committing Magistrate to have the depositions typed and forwarded following the committal for trial. It is hoped that the difficulties in this regard have been dealt with by the administrative and disciplinary action by the Chief Magistrate. A lot of the others are due to delays occasioned by psychiatric examination being confined to one medical practitioner who has multiple commitments. We respectfully suggest that the appointment of an additional psychiatrist in a centre other than Port Moresby to allow psychiatric examination of people awaiting trial (when such is requested by the defence) be considered.

5. CIVIL LITIGATION. Work on the civil side of the Court is increasing and beginning to impose strain at times on courtroom accommodation in Port Moresby, and on judicial time. Most civil litigation will probably be confined to the Capital for some years. The more ready availability of fully competent shorthand typists (court reporters) could contribute to easing this strain. As a solution to this problem we would suggest an expansion of the parliamentary staff of reporters and their more ready availability to National Court, Taxation Review Boards and Arbitration Tribunals, as the most economic way of meeting the very necessary modernization of the National Court's and the other Tribunals' procedures. The country, we think, ought not to rely in the future, on longhand recording of lengthy National Court trials by the Judges themselves. This process greatly increases the costs to litigants of a long trial.
6. INTERPRETATION. Interpretation continues to present a cause for delay in court work. The situation could probably be solved only by facing the necessity of engaging as interpreters, better educated persons. This would seem to involve a realistic up-grading on interpreters' salaries.
7. COURT BUILDINGS. Since our last report a new Court House is approaching completion in Kimbe. We were greatly discouraged however, to find that by far the most urgent court building programme—that in Mt Hagen where a tremendous amount of work is done—has been removed from the 1978 estimates, after pegging out of the site had been done. We urge its inclusion in the 1979 programme. It is notable that the National Court sits for a sizable portion of each month in Mt Hagen and, when it does, the space available to the District Court (which itself is most heavily engaged) is halved.

We consider that an on-going programme of court building should be faced up to as essential to the administration of courts and the application of the law in the country. The most urgent priorities for the next few years we consider (after consultation with the Magistracy) to be:

- (a) Mt Hagen.
- (b) Arawa.
- (c) Simbu.
- (d) Manus.
- (e) Wewak.
- (f) Kavieng.
- (g) Port Moresby.

We respectfully draw attention to the obligations imposed upon the National Government and all other government bodies, public office holders and institutions to facilitate the proper and convenient administration of justice as provided for in Sections 224 and 225 of the Constitution.

8. DEVELOPMENT OF UNDERLYING LAW (the Constitution Sch. 2.5.). Reverting to our discussions of this subject in last year's report, we are unaware of any case heard in the past year in which custom has been proposed towards development of underlying law in the National Court in the last 12 months. Very little of the work of the National Court in the civil field, where there might be room for such a development, has up to date involved other than sophisticated contractual problems and the like, which are covered usually by Statute Law.
9. The Judges are looking forward with interest to hearing of any proposals in relation to instituting a parole system.

PAPUA NEW GUINEA

NATIONAL COURT OF JUSTICE

CASES TRIED DURING THE PERIOD 1st AUGUST, 1977 to 31st JULY, 1978

OFFENCES	CHARGES	CONVICTED	DISCHARGED	N.P.	SENTENCE
1. Offences Against the Person					
Wilful Murder	84	72	7	5	Rising of the Court to 20 years IHL
Murder	26	19	3	4	6 months IHL to 6 years 7 months IHL
Unlawful killing or attempt	59	41	7	11	Rising of the Court to 7 years 4 months IHL
Unlawful wounding	16	13	1	2	K20 recognizance to 10 years IHL
Grievous bodily harm	38	31	2	5	K100 recognizance to 3 years 3 months IHL
Rape or attempt	60	50	6	4	11 months IHL to 6 years IHL
Unlawful assault	12	9	2	1	3 months IHL to 1 year IHL
Other offences against females	54	38	6	10	3 months IHL to 4 years 3 months IHL
Incest	36	30	2	4	8 months IHL to 4 years IHL
Unnatural and indecent offences	15	9	5	1	11 months IHL to 1 year IHL
Other offences against the person	94	71	14	9	Rising of the Court to 3 years 8 months IHL
TOTAL:	494	383	55	56	

2. Offences Against Property

Breaking and entering	94	90	-	4	K 200 recognizance to 4 years 9 months IHL
House Breaking	44	39	3	2	3 months IHL to 2 years 3 months IHL
Stealing	272	231	12	29	K 25 recognizance to 4 years 9 months IHL
Receiving	9	6	-	3	Rising of the Court to 6 months IHL
Other offences against property	7	1	-	6	6 weeks IHL to 1 year IHL
TOTAL:	426	367	15	44	

3. Offences Against Currency

Forging	18	18	-	-	Rising of the Court to 4 years
Uttering	48	39	3	6	Rising of the Court to 2 years IHL
TOTAL:	66	57	3	6	

4. Offences not included in preceding classes

Relating to escape	5	4	-	1	3 months IHL to 6 months IHL
Relating to Post and Telegraphs	1	-	1	-	-
Arson	5	4	1	-	K 200. recognizance to 2 years IHL
Conspiracy	3	2	1	-	4 months IHL
Unlawful assemblies	-	-	-	-	
TOTAL:	14	10	3	1	
GRAND TOTAL:	1 000	817	76	107	

NATIONAL COURT OF JUSTICE
Cases tried during the Period 1st August 1977 to 31st July 1978

Criminal Cases Comprising:	Charges	Convicted	Discharged	N.P.
Europeans	9	5	2	2
Asians—Philippines	1	-	1	-
Other non-Nationals	-	-	-	-
Nationals	990	812	73	105
GRAND TOTAL	1 000	817	76	107

NOTES: IHL—Imprisonment with Hard Labour
 N.P.—Nolle Prosequi

Papua New Guinea—Period 1st August 1977 to 31st July 1978

NATIONAL COURT

A.	In its Appellate jurisdiction—Filed	321
B.	In its Probate jurisdiction—Filed and dealt with Probate and Letters of Administration Rescal Order to Administer	19 2 8
C.	In its Civil jurisdiction— Order to Administer with the Will Annexed Writ of Summons issued Motions and Petitions heard	1 803 231
D.	Bill of Sale	1 200