



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

THE RIGHT HON. THE LORD BURNETT OF MALDON

THE AGE OF REFORM

SIR HENRY BROOKE ANNUAL LECTURE 2018

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Introduction¹

1. Sir Henry Brooke was ahead of his time. No doubt he was frustrated that obvious improvements in the way justice could be delivered foundered on lack of money, inertia, innate conservatism and the skilful deployment of arguments by groups that elegantly conceal self-interest. But his vision of harnessing technology to the service of the interests of justice, of unblocking the sclerotic arteries of jurisdictional divisions and of deploying judges more flexibly is in the process of being delivered, in part, through what is rather grandiloquently called “the Reform Programme”. I like to think of it as long overdue modernisation of a system which has been neglected by Governments for decades. I welcome the unequivocal commitment of the Ministry of Justice and HM Treasury to provide the funds for the programme but emphasise that their support is not founded in altruism. The changes envisaged will deliver savings. This is a programme which will pay for itself rapidly.
2. It is a particular pleasure to have been asked to deliver the first Sir Henry Brooke Annual Lecture. He was a driving force behind the creation of BAILII and so it is fitting that the BAILII Lecture is now dedicated to his memory.
3. Throughout his long and distinguished career Sir Henry was at the forefront of change supported by a mind fizzing with ideas.

¹ I wish to thank John Sorabji for all his help in preparing this lecture.

4. He devised the use of neutral citation numbers for judgments in England and Wales. I will remember being chided gently as counsel, albeit with the familiar smile and twinkle in the eye, for failing to use a neutral citation number as well as law report reference, in a skeleton argument. He was responsible in our jurisdiction for the publication of judgments in electronic form. Both these developments were essential for BAILII to thrive. BAILII provides an easy to use facility for lawyers and public alike to find judgments and legislation from the United Kingdom, and elsewhere, instantly and at no charge. It contributes to an understanding of our laws and to access to justice. These innovations point to an important aspect of Sir Henry's reforming spirit: his keen appreciation of the need to embrace technological developments to improve the delivery of justice.
5. You will be unsurprised to hear that he was very often there at the start of things. He approached innovation with a famously open and visionary mind. To give you one example, 40 years ago in 1978 he travelled to Ohio to attend the launch by Butterworths of its link with the LEXIS legal information database.² Today we all use electronic resources for legal research without a second thought. Sir Henry's tweeting and blogging in retirement³ and attendance at last year's *Online Courts Hackathon* illustrate how far we have come, and how his enthusiasm for reform never dimmed.⁴
6. Sir Henry's interest in information technology led him to be the lead judge on the subject for seven years from 1997. During that time, he was for three years the judge with responsibility for court modernisation, and the judicial representative on the Courts Service's Modernisation Programme Board. By no coincidence he was also President of the Society for Computers and the Law between 1992 and 2001.⁵ The constant throughout this time, and in fact from before it, was his understanding that our courts needed to modernise, to embrace the effective use of IT and become more efficient and accessible.
7. In 1986 Sir Henry contributed evidence to the Civil Justice Review looking at modernisation of our civil court processes. He suggested that a judge should be responsible for overseeing

² Sir Henry Brooke, *The Information Society, The Judiciary and the Courts*, (University of Hertfordshire lecture, 23 May 2002).

³ See <<https://sirhenrybrooke.me/2018/01/>>

⁴ See <<https://www.onlinecourthackathon.com/>>.

⁵ See further, Sir Henry Brooke, *Technology and the Judicial Process*, in *Essays in Honour of Sir Brian Neill: The Quintessential Judge*, (Lexis Nexis UK, 2003) <<https://sirhenrybrooke.me/2015/10/25/my-2002-essay-ontechnology-and-the-judicial-process/>>.

and putting into effect ideas for harnessing modern technology to ensure its implementation.⁶ Ten years after that evidence was written, Lord Woolf echoed the point, and called for the introduction of modern IT into our civil processes. It would, he hoped, be part of his reforms which came into effect in 1998. In neither 1986 nor 1996 were these calls for modernisation heeded. The attention of Government was elsewhere and spending priorities different. Thirteen years later in 2009, Sir Rupert Jackson again called for IT modernisation and, in 2013, Sir Michael Briggs did so again as part of the much-needed modernisation of civil justice.⁷

8. The point I want to emphasise is straightforward. In 1986 Sir Henry recognised the need to use IT to modernise our courts. At that time IT was in its infancy. I recollect with fondness my first Amstrad computer at about that time – I started in practice a few years earlier in 1982 - and having a surreal conversation with a former head of chambers, appointed to the High Court in 1961, who was unable to comprehend how one could copy and paste standard sentences in pleadings, or start with templates.
9. It is true that some technology was introduced into the courts. We still use systems that more obviously belong in the Science Museum. They sit in splendid technological isolation, unable to talk to each other or anyone in the outside world. If we had done more than adopt piecemeal measures, but instead had pursued the sort of approach followed by any efficient and forward looking commercial organisation, even local authorities and Government, and seen sufficient resources put into a modernisation programme we would have reaped technology's benefits. And by "we" at this point I do not mean the judiciary but the public we serve.
10. The opportunity to start and then maintain the redesign of our court system was missed. Rather than improve our court system, a failure to modernise at the right time only entrenched inefficiency and outdated systems, almost all paper-based. After so long a period of stasis, when finally – as we are now doing – modernisation occurs one is faced with two problems: first, modernisation looks more radical than it is because of the sharper distinction between what it will introduce and what it will replace; and, secondly, it is likely to be more expensive than it would have been if it had started earlier.

⁶ Sir Henry Brooke, *Technology and the Judicial Process*, in *Essays in Honour of Sir Brian Neill: The Quintessential Judge* *ibid*.

⁷ For an overview see, Sir Terence Etherton MR, *The Civil Court of the Future*, (The Lord Slynn Memorial Lecture, 14 June 2017) <<https://www.judiciary.gov.uk/wp-content/uploads/2017/06/slynn-lecture-mr-civil-court-of-the-future-20170615.pdf>>.

11. The Reform Programme on which we have finally embarked has three essential goals. First, to make all jurisdictions operate more smoothly and efficiently for the benefit of those who use our courts and tribunals and at the same time reduce unnecessary cost. Secondly, to improve access to justice; and thirdly to improve the physical environment in which those who work in and use our justice system have to operate. Technology is the servant of these goals, not their master. Any well-functioning, efficient and effective justice system must harness modern technology in support of the rule of law. The current programme of modernisation is doing just that, with the strong support of the Lord Chancellor and his predecessors, and of those leading the judiciary. It is no modest programme but one which aims to eliminate outdated practices. The question then is how is it going to do so? To answer that we must first look at what we aim to achieve in a little more detail.

12. Professor Richard Susskind, who has provided advice on technology to all Chief Justices since Lord Bingham, often poses a question when he talks about the future of legal services. He shows a picture of a hole in a wall. And then he shows a picture of a power drill. What do people want? Do they want a well-drilled hole in the wall? Or do they want a shiny new power drill?⁸ His answer: they want the well-drilled hole in the wall. The question for the power drill manufacturer is: what business are you in? The hole in the wall business or the power drill business. No doubt a small number of customers like the idea of having a shiny new drill. The majority however are looking for the best means to get the hole they want. The idea can be applied to any area of activity. For example, in the end, none of us wants better surgeons, we want better health outcomes and would rather see the results of surgery achieved through non-invasive techniques.

13. Applying this question to the civil and family courts and tribunals, the answer is that they are in the dispute resolution business. The criminal courts serve an allied but different purpose. Individuals and companies want a means to resolve their disputes, and the courts and tribunals are the public forum through which they can do so. That is not to overlook the critical importance of having a functioning independent judicial system at the heart of upholding the rule of law. The dispute resolution business is one facet of that. The fact of its existence, and the possibility of using it, leads to the private resolution of countless disputes (with or without

⁸ As most recently recounted by Professor Richard Susskind, *The Case for Online Courts*, UCL Future of Justice Conference, 14 May 2018 <https://www.ucl.ac.uk/laws/events/2018/may/future-justice-harnessing-power-empirical-research?mc_cid=bd52024b93&mc_eid=c3c8301dc1>.

the assistance of lawyers) and the reality that many do not behave in a way which gives rise to disputes in the first place. Yet there are many instances where those with proper claims fail to bring them, often because it is too difficult or too costly.

14. In organising the way in which our courts operate we should put the needs of court users at the heart of our thinking and remember that high value disputes form only a tiny proportion of the cases we deal with. Perhaps we have not given enough of our attention to these matters. Sir Michael Briggs noted in his Civil Courts Structure Review, that our court processes and our court rules have too often been designed by lawyers for lawyers and not from the perspective of litigants.⁹ We cannot ignore the reality that civil and family cases increasingly are conducted without the assistance of lawyers. So, our starting point must have in mind litigants' wants and needs, and how best to structure our processes for their benefit. To borrow from Salter and Thompson, driving forces behind British Columbia's Civil Resolution Tribunal in Canada, we need to ensure that the modernisation of our courts and tribunals is based on a 'user-centred justice design'.¹⁰ The work of that tribunal is an object lesson in how a carefully designed online dispute resolution system can widen access to justice. Its focus is on small claims, and disputes that arise in condominiums, which were of little interest to the legal profession and went largely un-litigated.

15. I want to say a little about how the modernisation programme is beginning to work in delivering the first two goals I identified, and then look ahead to where we should be after 2023 when it is complete.

Implementing reform

16. At the heart of the Reform Programme is the digitalisation of our processes. We aim to replace our paper-based processes with digital ones. It is quite something that in 2018 to engage with the justice system in most of its facets it remains necessary to fill out forms and provide paper copies of everything. In what other area of everyday life does that remain true? Digitalisation will increase efficiency, reduce the scope of error and reduce unnecessary duplication of work. It will also help reduce the time and cost of litigation, including in the criminal sphere. The

⁹ Sir Michael Briggs, *Civil Courts Structure Review*, (Interim Report, December 2015) at 5.27ff <<https://www.judiciary.gov.uk/wp-content/uploads/2016/01/CCSR-interim-report-dec-15-final-31.pdf>>.

¹⁰ Shannon Salter and Darin Thompson, *Public-Centred Civil Justice Redesign: A Case Study of the British Columbia Civil Resolution Tribunal* (2016) 3 McGill J Disp Resol 113 at 115.

programme also seeks to build on the well-tried and tested use of telephone hearings and video links to avoid the time-consuming need for all participants to be present physically at a hearing unless the interests of justice require it.

17. In crime, we have moved to online booking in magistrates' courts. Our magistrates use iPads in court to view their case papers that in the past would have been laboriously copied and printed for them. One of the most remarkable successes has been the Digital Case System in the Crown Court. This enables the parties and the judge to receive the case papers digitally. There was deep scepticism before its introduction about two years ago, but now the professions and the judges regard it as a god-send. Its use has avoided the need to print somewhere between 40 and 50 million pieces of paper. A more ambitious case management system known as the Common Platform is in development and beginning its early trials. Its aim is to introduce a system used by the police, Crown Prosecution Service, courts, legal professionals and probation which gives each player access only to material relevant for their purposes. It should squeeze most paper out of the criminal justice system altogether. Separately, by the end of this month 'Online Juror' will be available across England and Wales allowing those who receive jury summonses to respond and engage online, rather than correspond by post.
18. It has long been the case that some hearings in the criminal courts are conducted with one or more participant attending by video-link. The Court of Appeal Criminal Division routinely hears appeals where the appellant attends by video-link from prison and even counsel via video-link from a different area of the country. Indeed, almost no appellants appear in person any more in that court. They do not want to. The savings, at no cost to the quality of justice, have been vast. In the magistrates' and Crown Courts some case management and sentencing hearings are carried out with the defendant present by video-link from custody. It is envisaged that the scope of video-enabled hearings in the criminal arena will be widened but, importantly, they will remain subject to judicial control and governed by rules of court and practice directions.
19. In civil we have seen e-filing in the Business and Property Courts in London. These courts deal with high-value claims and now require everything to be filed and exchanged digitally. The same system will be extended to the Business and Property Courts across the country. In due course the option of filing all documents electronically will come to the Court of Appeal,

the High Court, the County Court, the Family Court and tribunals. A striking phenomenon apparent in court centres across the country is that Crown Court offices are almost devoid of files, their filing cabinets empty or gone, with the free space being put to good use. County Court offices, by contrast, have groaning filing cabinets and often papers stacked around the walls. Fully digital case management must be our goal, not as an end in itself, but because it will make everything done in the courts more efficient, more cost effective for the parties and HMCTS and also because it is the best means to increase access to justice.

20. Significant reforms of the civil and family courts have been tested via pilot schemes, such as the online civil money claims pilot – commonly, if inaccurately, referred to as the online court - the probate pilot scheme and the online divorce pilot scheme. These pilots are working well.

21. First, I mention the online divorce pilot. The pilot has now moved to general availability since 1 May. Over 600 applications were received in the first week and a total of 2,600 as of this Monday. In the paper-based world, an uncontested divorce requires a petitioner to fill out a form and file it with the court. Many people fill them in themselves others pay lawyers to do it for them. They are not difficult but the rejection rate illustrates how lawyers sometimes fail to appreciate that what is our meat and drink proves indigestible for others. 40% of those forms have to be sent back to the applicant. They are rejected because they had not been completed properly. The form checking is done by District Judges or fee paid deputies. It is mind-numbing work which does not call for the skill of a judge or the cost involved in deploying a judge to such work. But a 40% rejection rate also wastes the time of the petitioners and of HMCTS in processing the forms. The paper form takes a petitioner about an hour to complete. The new online process takes roughly 25 minutes; less than half the time. And it is designed (as with so much we all do online) to prevent a person moving on to the next stage unless the earlier stage has been completed fully and correctly. The rejection rate is now only 0.5%. The benefits all round are enormous. The President of the Family Division has been singing its praises at every turn. It is the shape of things to come.

22. Secondly, the civil money claims project permits claimants to issue money claims online, up to £10,000. The defendant can choose to file the defence online. Currently 85% choose to do so. Since 26 March just over 8,000 claims have been issued. Again, we are seeing a reduction in the time taken to manage such claims. And we also see a reduction in overall resolution time, indeed claims have been settled within hours of issue. In the first week of the service a claim

was issued just after 2 pm and responded to and paid by 4 pm. The service also allows parties to reach settlement between themselves and so far, 16 cases have been settled using this function. As I have said before, this is the sort of service we should provide to the public.

23. Both examples illustrate how modernisation secures increased access to justice for society as a whole. By making our justice system more accessible, and affordable, and through better use of technology we are able to offer effective access to justice for more people. Many who previously would not have considered seeking help from the courts to turn their rights into reality, will be able to do so. The Canadian experience shows that to be the case. Modernisation will help turn access to justice into a reality for more and thereby strengthen the rule of law. Making it simpler and quicker to resolve disputes will not only increase access to justice but should reduce cost, and go some way to removing what can be an intimidating process which can itself inhibit use.
24. The probate pilot scheme has reduced the time taken to obtain probate from up to 28 days to an average of 9 to 12 days. It avoids much time-consuming activity, posting things back and forth, and is simple to use.
25. These pilot schemes point towards a far more effective justice system for the future.
26. The Reform Programme is not simply looking at digitalisation of process. It is also looking at the greater use of technology in court and tribunal hearings. Courts and tribunals have been using modern technology for case management for many years. No one today considers a case management conference by telephone as out of the ordinary. Once it was a radical, indeed controversial, innovation. In the tribunals video enabled hearings are being piloted, for example in tax appeals. They are proving popular with appellants in the First-tier Tribunal who no longer need to travel and set aside the best part of a day to take part in their appeal. These are an example of a traditional hearing being carried out through modern technology. The appellants can take part sitting at their computers or anywhere via a laptop.
27. Elsewhere in the world things are well ahead of what it being envisaged here. In Dubai, for example, they have been using this approach in the small claims part of its International Financial Centre courts. A small claim there could include one worth many tens of thousands

of pounds.¹¹ It uses a combination of information technology, including an online conferencing facility and Skype for Business. It can be used across digital devices. And it provides the means for litigants to be present in the court irrespective of where they are in the world. It works. Perhaps more surprisingly for those with experience of public procurement in the European Union, it used established software and took only 45 days to set up.¹²

28. The advantages of enabling hearings to take place using technology ought to be obvious. If parties and witnesses are able to appear via their computers, it will be easier for them to fit their court appearances around their lives. Hitherto, we have required lives to be fitted around court appearances (however short) with the attendant travelling, wasted time, inconvenience and interruption of work or domestic activities. In many types of case, getting a witness by a link for the short time needed is obviously advantageous. This has been happening to a degree for years, but as technology improves it becomes easier and can be done for no, or negligible, cost. Even 10 years ago it was necessary to book a video-conferencing facility, often at great cost, to hear a witness from abroad or remotely. Now it can cost nothing. We should be in the business of minimising the disruption to those caught up in the justice system but whose evidence is needed in those cases that get to trial.
29. Let me pause here to consider two criticisms that have been levelled at the programme of modernisation.
30. The first is that digitalisation will pose a problem for access to justice for some. This has been referred to as the digital divide. On one level it refers to individuals who do not have access to digital technology, and will therefore find it harder to access the justice system. This is posed as a problem for our civil, family and tribunal justice systems. On another level it refers to individuals who do not have the capacity to use technology.
31. The second criticism is that hearings attended remotely by parties, lawyers or witnesses are said to undermine the quality of justice, in particular because they make it more difficult to assess evidence and lessen the impact of the video attendee. Thus, they undermine effective participation in proceedings and compromise procedural fairness. There are also concerns that

¹¹ See <<https://www.difccourts.ae/court-rules/part-53-small-claims-tribunal/>>

¹² See James Dartnell, *How DIFC Courts is holding the GCC's first virtual hearings*, CNME, 7 June 2017 <<https://www.tahawultech.com/cnme/case-studies/difc-courts-virtual-hearing/>>.

sentencing remotely might lead to tougher sentences and that video enabled hearings lessen respect for the court process itself.

32. Let me look at the first criticism. It is rare for individuals today to have no access to the internet. Mobile phones, tablets and home computers are practically ubiquitous. Figures from 2017 show that 89% of the adult population were internet users.¹³ While usage figures differ across age ranges, there is little doubt that practical access to some form of the internet is now the norm. And the reality is that many of those who find the use of technology a mystery will have relatives or friends who can assist. In Canada, only 3% of users needed assistance. To cater for those who may find difficulty, the HMCTS has entered a contract for support from a charity whose purpose is to provide such support to those who need assistance to gain access to services online. This concern should, however, be seen in an important context. Whilst compulsory use of electronic filing is a feature of high value claims in the Business and Property Courts, and might extend elsewhere, there are no plans to do away with the use of paper in the courts and tribunals for those who genuinely cannot make use of technology or get help to do so.
33. The more significant challenge for the digital divide is its second aspect. But it is a manifestation of an existing problem. It is inevitable that a small proportion of those who do not use technology are incapable of doing so. But those who are simply unable to use technology are likely to be stumped completely by filling in forms or litigating without assistance. In the courts and tribunals these people, if unable to secure legal representation, rely heavily on voluntary bodies to give assistance and will continue to do so. The main source of assistance will be provided by the HMCTS Assisted Digital service. I should add that constant refinement of the online processes themselves, in the light of user experience, is undertaken by the HMCTS to make their use as simple as possible.
34. I come back to the second criticism, that the reforms will reduce respect for the courts and reduce the quality of justice. The first critical point to understand is that where this might be a real possibility there will be no video hearing. The draft legislation which fell at the last general election, a small part of which was recently reintroduced and more, we trust, will come, would enable the wider use of video hearings governed by rules of court or practice directions. In

¹³ See ONS Internet Use 2017
<<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2017>>.

the criminal context the statute as drafted carved out some limits. The extent to which video hearings will be used in all jurisdictions will be a matter for judges to determine applying the rules and practice directions, and where necessary hearing submissions. Much of this criticism results from commentators misunderstanding what is envisaged and then subjecting the resulting Aunt Sally to attack. Where the use of video links is not appropriate, they will not be used. Post Reform, as now, trials in the Crown Court and the magistrates' court (with the possible exception of the single justice procedure) will still take place in the courtroom with all appropriate technology.

35. There are those who suggest that any participation by live-link, whatever part the person is playing in the proceedings, brings with it a risk of diminished justice because it is a lesser form of participation. The use of video links and other remote technology must, of course, be sensitive to evidence based concerns resulting from research into its effects all of which will be considered with care not only by the HMCTS, but also by the judiciary when considering the parameters of that use. But the use of remote video access to court hearings has been with us for more than a decade and I do wonder whether some are overplaying this concern.
36. Both as a barrister and judge I have had experience of hearing evidence remotely in civil and criminal trials, including in a murder trial, and hearing submissions by video link or over the telephone. For many types of hearing and witnesses there is no disadvantage. Importantly, the use of special measures in criminal trials has been with us for many years including the use of remote video evidence. The Achieving Best Evidence video recorded interview of complainants is routinely used as evidence in chief in the Crown Court with the balance of the evidence via a live video link. As a result, we have long experience, on which we can draw.
37. As to respect, confidence in the processes of courts and respect flow not simply from attending a court building. A perception of fairness, active participation, respect by the court and judge and for the participants, are fundamental underpinnings of confidence in public justice.¹⁴ The opportunities that greater use of technology, of greater ease of effective participation through video, provides, is one way in which we can enhance these factors, and, come what may, judges will ensure procedural fairness.

¹⁴ Tom Tyler & Justin Sevier, *How do the courts create popular legitimacy?: the role of establishing the truth, punishing justly, and/or acting through just procedures*, (2013) Albany Law Review 1095 <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=5984&context=fss_papers>

Reform after 2023

38. The current modernisation programme is intended to ensure that our courts and tribunals are better able to deliver justice for individuals and for society as a whole and move with the times. It has approaching five years left to run. There is a concern that once the current programme is delivered it will be seen in Government as “job done”. That would bring the risk that our courts and tribunals will be stuck in the aspice of 2023 when technology will still be advancing at a pace. That can be avoided by HMCTS developing systems that are not monoliths but are capable of adaptation and development in the future. That is the plan. But it will also require a continued commitment of resources to keep pace with change which should to be embraced.
39. Modernisation will not stop in 2023. It is not an event but a continuing process. Too often in the past that point, whilst appreciated by the far-sighted, was not acted on by Government, which is why there is now so much to be done in a relatively short time.
40. My references to the Canadian experience perhaps give away my admiration for what has been achieved in providing a simple and effective technology-based process which enhances the rule of law and provides wider access to justice. Its design enables it to receive constant feedback. It is able to collate and analyse data relating to its operation. Those data can then be, and are, used to refine the system and solve problems immediately¹⁵, rather than saving them up for 10 years and a major reform project. I very much hope that any digital systems designed to support our courts and tribunals can learn from that experience.
41. Our current modernisation programme must lay the groundwork for a properly co-ordinated approach to continuing development in the future. It should be capable of being responsive and nimble. It should be capable of swift refinement and development when circumstances dictate and be able to take advantage of further technological advances.
42. In the civil sphere, our justice system will move further in the direction indicated by the Civil Justice Council’s Online Dispute Resolution Working Party. As technology continues to develop we will undoubtedly see a version of the Council’s three stage approach to the case

¹⁵ Tanja Rosteck, Happy First Birthday, Strata Solution Explorer!, and Solution Explorer Quarterly Update: 2017 Q4, <<https://civilresolutionbc.ca/happy-first-birthday-strata-solution-explorer/>>; <https://civilresolutionbc.ca/solution-explorer-quarterly-update-2017-q4/>> cited in Sir Ernest Ryder SPT ibid.

management process implemented. We will see online evaluation, followed by online facilitation and its use of assisted negotiation and mediation, before an online adjudication stage. In the future, the trial process in many civil and tribunal claims, and not just interlocutory hearings, will be conducted entirely online or via video hearing.

43. There will inevitably be increased use of predictive analytics in the promotion of preventive dispute resolution and in the promotion of settlement. It is an approach some law firms are already using to help in advising their clients.¹⁶ The ability of computers to analyse vast quantities of material to enable accurate predictions in many areas of human activity is one of the most exciting developments of the age. Artificial intelligence is being used, for example, in medical diagnosis. In our legal world, work is being done to show how artificial intelligence can predict outcomes in the Supreme Court of the United States and the European Court of Human Rights. It will be helpful in shaping trial or appeal strategies, settlement processes such as Early Neutral Evaluation or forms of evaluative mediation. The success rates of the predictions are high.¹⁷ No doubt as technology advances they will become higher. I do not believe that we will see lawyers and judges being replaced by algorithms. But I do see algorithms and artificial intelligence being used to provide at least preliminary legal advice in a broad range of circumstances, and in time leading to a reduction in the proportion of disputes that call for resolution at a final hearing in court. But that is a long way off.

44. It is important, however, that we do not lose sight of what is going on in the world around us and of the rapid advance of technology. I have little doubt that within a few years high quality simultaneous translation will be available and see the end of interpreters. I am still in awe of instant translation when I search online and encounter something of interest in a foreign language. The result is not yet perfect, but not bad. Yet these are the technological equivalent of the steam-engine. It is artificial intelligence that is the transformative technology of our age. Its use will provide deep moral, social, economic and legal questions but we should not shut our eyes to its development. I have been fortunate recently to have Professor Susskind as

¹⁶ See, for instance, M. Cross, *Insurance firm signs up academics to predict case outcomes*, Law Gazette, 13 February 2018 <<https://www.lawgazette.co.uk/practice/insurance-firm-signs-up-academics-to-predict-case-outcomes/5064781.article>> and see, <http://parisinnovationreview.com/articles-en/predictive-justice-when-algorithms-pervade-the-law>

¹⁷ See Aletras et al, *Predicting judicial decisions of the European Court of Human Rights: a Natural Language Processing perspective*, (2016), PeerJ Comput. Sci., DOI 10.7717/peerj-cs.93 <<https://peerj.com/articles/cs-93.pdf>>; Katz et al , *A general approach for predicting the behavior of the Supreme Court of the United States*, 2017 PLoS ONE 12(4) <<http://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0174698&type=printable>>.

a tutor in these matters and he has agreed to chair a small group, including far-sighted judges, to think about the future beyond the current modernisation process. I have no doubt that Sir Henry Brooke would have approved but at the same time he would have encouraged me to be radical – as indeed he did when we last chatted a few weeks before his untimely death.

45. But for the moment the task in which we are engaged with the HMCTS and Government is more modest but nonetheless important. It is to bring our systems up to date and to take advantage of widely available technology. In doing so the result will be a more efficient and user-friendly justice system in all its areas of activity coupled with a significant widening of access to justice. Both those objectives should be welcomed with open arms.

46. Thank you very much.