

**ADDRESS OF THE HON. SIR ISAAC E. HYATALI,
CHIEF JUSTICE, AT THE OPENING OF THE LAW
TERM ON THE 3RD OCTOBER, 1973**

INTRODUCTION

1. We inaugurate today the 12th year of the administration of justice by the Supreme Court of the independent Dominion of Trinidad and Tobago.

2. It was consecrated for the first time by an inter-religious service which was promised last year and now that we are filled I trust with the beauty and richness of its inspiring rituals and supplications, may I venture to express the sentiment, in which I ask you to join me, that this united approach in our pleadings to the Almighty will persuade Him to deal with us more mercifully and generously in the future.

EXPRESSION OF THANKS

3. Our warmest thanks are due to the Very Rev. Douglin, Pundit Jagdeo Maharaj and Haji S.M.S. Rahaman and last but by no means least His Grace the Archbishop of Port-of-Spain. These we now tender to them gladly and sincerely. With equal fervour we tender the same measure of thanks to the Police Service and the Defence Force and in doing so I wish on your behalf and on behalf of my colleagues to congratulate them heartily, for the excellence of their respective performances at the Church and in the precincts of the Hall of Justice.

THE PAST YEAR

4. The past year in the administration of justice has been an active one – a year in which some progress has been made – and perhaps a year which might well earn in the course of time the honour of being referred to as a noteworthy year in our legal history.

5. While crimes of serious and unparalleled dimensions were terrorising silent majorities here and abroad and while scepticism and ludicrous accusations were threatening to frustrate our best efforts to keep the administration of justice in our Courts on an even keel, we were able in spite of them to attain nearly all the goals which were projected in my address to you last year. To some of these I shall now refer.

COMMISSION OF ENQUIRY INTO MAGISTRACY, ST. GEORGE WEST

6. The Commission of Enquiry into the operations of the Magistracy St. George West under the direction of its sole Commissioner de la Bastide, J. submitted a report to His Excellency the Governor General on 9th May 1973, and I am happy to say that action on recommendations has already begun.

RESTORATION OF MAGISTRACY, ST. GEORGE WEST

7. I am happier still to report that the implementation of the interim recommendations made orally to me by de la Bastide, J., in the course of his Enquiry resulted not only in the eradication of the flourishing market in Court documents of which I spoke last year, but in a substantial improvement in the efficiency of this Magistracy and the integrity of its operations at administrative and judicial levels.
8. The credit for the swift and successful execution of the proposals which achieved these heartening results belongs to Ag. Senior Magistrate Nazruddean Khan and it is now to be hoped that constant vigilance in the future on the part of those officers whose duties require them to furnish it, will provide adequate and effective insurance against a repetition of the dishonest practices which had undermined the foundations of justice in this Magistracy.

**COMMISSION OF ENQUIRY INTO THE ADMINISTRATION OF JUSTICE INTO
MAGISTRACY**

9. de la Bastide, J .is now busily engaged in completing his next major assignment, namely, the Commission of Enquiry into the machinery and administration of justice in the magistrates' courts. In this he is assisted by Dr. Aeneas Wills and Mr. T. Malcolm Milne.

10. The terms of reference require them, inter alia, to investigate and make recommendations on the issue and control of commissions to Justices of the Peace. I look forward to the receipt of their proposals on this subject because in my view, bail bonds are and have been permitted for far too long to be a shady source of wealth to professional bailors. Moreover they constitute a privileged class of citizens in the Country since they pay no taxes on the fees which they mercilessly extract from their hapless victims. This, it is said, is at least 10% of the quantum of the bond.

11. Unfortunately and most regrettably, some of our Justices of the Peace allowed themselves to be used by these harpies to wreck the integrity of the system which was devised to ensure that bona fide bail bonds were executed by honest citizens. Consequently commissions were cancelled in a few instances and the issue of new Commissions to private persons was suspended pending the Report of this Commission of Enquiry which I expect will be submitted shortly.

COMMITTEE TO INVESTIGATE THE SUPREME COURT REGISTRY

12. The Committee which I appointed to enquire into and report on the structure, operation and administration of the Registry of the Supreme Court (which must not be confused – as one daily did – with the Registrar General's Department) handed in its Report to me on 17th September 1973.

13. The Committee, you will recall, consisted of Messrs. R.V. McIntosh Clarke, P.S. Ruiz and David Boucaud. Its secretary was Mr. Desmond Jacobs. Mr. Clarke's preoccupation with the responsibilities of organising his new office and Mr. Boucaud's absorption in the activities of another Committee prevented them from taking part in the deliberations and investigations of this Committee. Their places thereon were consequently taken by Messrs. Brian des Vignes and Eric McCarthy. Notwithstanding the value of their membership on this Committee, the main burden of the enquiry and the preparation of the Report fell on Mr. Ruiz.

RECOMMENDATIONS OF COMMITTEE ON SUPREME COURT REGISTRY

14. The Report contains reasonable, practical and invaluable recommendations for the improved efficiency and operation of the Registry and I have already taken steps to set machinery in motion to implement these recommendations.

THANKS TO MR. RUIZ

15. I am particularly grateful to Mr. Ruiz for the Report since I know only too well that as Registrar General, he labours daily under rather difficult conditions to maintain the balance and efficiency of his department. In offering him my warmest thanks for the Report therefore I should like to place on record as well that the sacrifices which he undoubtedly made to complete this assignment speak eloquently of his merits, reliability and conscientiousness.

COMMITTEE ON DRESS REFORM

16. The Committee headed by Scott, J. to consider and make recommendations on dress reform in the Supreme Court submitted its Report to me on 22nd January 1973. The other members of the Committee, you will recall, were Narine, J., Mr. R.C. Archibald, Q.C., Mr. E. Gaston Johnston, Q.C., Mr. George Dhanny, Mr. Selwyn Richardson and Mr. J.B. Wilson. Their Report which was prepared after they had invited comment and proposals from the public and the profession disclosed that there were among the Judges and the members of the Bar both a

strong attachment to their wigs and robes, and a great anxiety for the due maintenance and preservation of dignity and decorum in the Supreme Court to which, it will be recalled, the enquiry was solely directed.

RECONSIDERATION OF DRESS REFORM

17. These are sentiments which I respect completely but with the imminent entry into the profession of graduates from the University of the West Indies and the proposed fusion of the professions which is being constantly advocated, further thought will have to be given to the subject.

18. It may be that the time has come when we can without disrespecting the sentiments of our Judges and Barristers make it the rule in the Supreme Court that the wearing of a gown over an acceptable mode of dress shall be compulsory but that the wearing of a wig shall be entirely optional.

COURTS ARE NOT A MARKET PLACE

19. But whatever mode of dress is prescribed ultimately, it is essential in my view for Judges to insist upon proper standards of dress, conduct and speech in our Courts, to maintain with scrupulous care the dignity and solemnity of the proceedings before them and to demand and enforce due respect at all times both for the Bench and the Bar. Our Courts are not a market place and my Judges and I are firmly resolved not to allow them to degenerate into one.

THE NEW RULES OF THE SUPREME COURT

20. The Committee appointed to revise the Rules of the Supreme Court submitted as I had requested, their first interim report to me at the end of November 1972. Their final Report was submitted to me on 26th July 1973 and you will no doubt remember that I mentioned this fact at the Law Conference in July, and described it as one of the most significant events in the recent history of our Courts. I have already expressed publicly our profound gratitude to the Chairman and members of this committee for their careful, laborious, painstaking and admirable work and I now formally place on record in this address, as you will no doubt wish me to

do, our warm and sincere appreciation of the inestimable contribution they have made to the improvement of the administration of justice in the Supreme Court.

21. The members of this Committee were Malone, J., Chairman, Mr. T. Hosein, Q.C., Mr. E.H. Wells, Q.C., Mr. Martin Daly, Mr. Dennis C. Boucaud, Mr. Carlyle Bharath, Mr. David Boucaud, Mr. Michael McKay and Mr. E.A. Edoo.

PROMULGATION OF NEW RULES

22. These Rules are now in the hands of the Government Printer and but for an unlucky collapse of one of its machines I would already have placed them in the hands of the legal profession for their comments, suggestions and criticisms. I hope however to be able to do this shortly. It is my expectation that Members of the profession will appreciate that we can no longer delay the enactment of the new Rules of the Supreme Court. When therefore they are placed in your hands you will be expected to study and deal with them expeditiously and to let us have your comments within a prescribed time.

PRESENT RULES OUTMODED

23. I am constrained to follow this course because the present Rules have not only remained almost untouched for the last 27 years but have become outmoded and anachronistic in many respects.

They reflect adversely on the machinery of justice and are responsible for many a delay in the final resolution of actions in the High Court.

24. It is therefore essential for us to proceed with a sense of urgency in removing this clog in the wheels of justice and in the efforts which I am making to do so I hope I can count on your undivided co-operation and assistance.

THE LAW CONFERENCE

25. The Law Conference which I proposed to you for the Easter Vacation in my address in October last was held instead during the last week in July and coincided more appropriately I believe with the end of the last term. His Excellency the Governor General Sir Ellis Clarke opened the Conference and actually took the chair at one of its sessions. For this we were most grateful. Indeed it would be unpardonable if I did not state here that the general consensus of the Conference was that his address in opening the Conference as well as his contribution as Chairman of the Panel on Law Reform and Legal Education clearly demonstrated that he was still the outstanding lawyer we knew him to be and that his translation to the diplomatic world had not dulled his incisive legal mind nor impaired his histrionic gifts.
26. I trust that you will agree that it was a useful, stimulating and successful Conference and that its Chairman, Rees, J., its vice-Chairman, Mr. H. Hudson-Phillips, Q.C., its Secretary Mr. Selwyn Richardson, its Asst. Secretary Mr. Surendranath Capildeo, Mr. Ivor Blackman representative of the Attorney General's Chambers, Mr. Errol Matthews my Administrative Secretary and the other members Mr. Frank Misir, Q.C., Mr. C.A. Kelsick, Q.C., Mr. Errol Roopnarine, Mr. Nazruddeen Khan, Mr. Ronald Lopez, Mr. Stephen Norman, Mr. George Dhanny, Mr. Hendrickson Seunath, Mr. R.V. McIntosh Clarke, Mr. Gerald Furness-Smith and Mr. A.E.L. Roberts deserve, if I may repeat here what I have already stated previously, to be warmly congratulated for its success.
27. The entire Record of the Conference is now being edited and prepared for printing with the assistance and under the guidance of Dr. F. Ramsahoye, the Deputy Director of Legal Education at the University of the West Indies. It is hoped that it will be ready for circulation to members of the legal profession and other interested parties before the end of the year.

28. Those who did not attend or thought it fit to ignore the Conference will not be disappointed to learn, I hope, that the Conference revealed without doubt that there was an abundance of talent and enthusiasm among junior members of the profession; that they were serious young men determined to make their contribution to the improvement of the machinery of justice in the Country; they were anxious to promote and assist actively in reforming our laws to meet the needs of our changing society; that they were yearning for unity and direction within their ranks; and that notwithstanding their attempt to restore in the eyes of the nation the true image of the profession to which they proudly belong, their efforts to do so were being repeatedly frustrated by seniors in the profession, a good many of whom it will be remembered, distinguished themselves either by their absence from or their miserly participation in the Conference.

29. Let me here and now assure the junior members of the profession to whom we are all indebted for making the Conference the success that it was that I am prepared to recognise them not merely as the genuine voice of the legal profession but that they can rely on me in my capacity as Chief Justice to co-operate with and assist them to achieve the worthy goals to which they commendably aspire and to which they are most ardently wedded.

30. At the end of the Conference it was the unanimous feeling of the participants that its great benefits should be allowed to perish. They therefore resolved to secure these benefits by constituting the Law Conference Committee a general Standing Committee for these purposes:-

- (a) to organise future conferences, national, regional and international; and
- (b) to consult with and receive reports from Standing Committees on the following subjects:
 - (a) Legal Aid and Advice
 - (b) Law Reform and Legislation

- (c) Rules of the Supreme Court
- (d) Criminal Law and Procedure
- (e) Fundamental Rights and Freedoms
- (f) Discipline and Ethics of the Legal Profession
- (g) The Publication of a Law Journal
- (h) Law Reporting
- (i) Fusion of the Professions and
- (j) The organisation of Memorial Lectures to honour distinguished members of the legal profession.

APPOINTMENT OF MEMBERS TO STANDING COMMITTEES

31. The General Standing Committee met the day following the end of the Conference and appointed the Chairman, Vice-Chairman, and members of each standing committee. Further, each of them was invested with power to co-opt such other members of the profession as were willing to serve thereon. These appointments have already been notified and fresh notices will be sent out once more if this is shown to be necessary. There is therefore no need for me to state them here. But I should now like to appeal to other members of the profession to come forward and offer their services, to get involved actively in one or more of these standing committees and to do so not merely in the interest and for the sake of their own self-respect, but of the legal profession and the due administration of justice.

32. Let me say one final word about the Conference. At a meeting of the standing committee on Memorial Lectures held on 28th July 1973 it was agreed that the first lecture should be dedicated to the memory of that great criminal lawyer and revered President of the Bar Association for over 30 years, the late Sir Gaston Johnston, Q.C.

33. It was further agreed that Lord Denning, the widely respected and distinguished Master of the Rolls of England, should be requested to deliver this lecture. Lord Denning, as is well known, is a great champion of fundamental rights and freedoms, a great law reformer, and an ardent subscriber to the principle that the law was made for man and not man for the law. I am happy to announce that Lord Denning has kindly agreed to deliver the first of our memorial lectures on a subject to be announced later and that he and Lady Denning are expected to spend about 5 days with us from 1st January 1974.

34. I should like to express to His Excellency the British High Commissioner in Trinidad and Tobago, Mr. Diggines, our appreciation for offering to sponsor the visit here of a distinguished English Jurist and our warmest thanks for promoting in collaboration with Mr. C. Greatorex of the Foreign Office the successful conclusion of the arrangements to make Lord Denning's visit to the Country possible. I feel sure that it will prove to be one of the most memorable and significant events in our legal history.

THE RED HOUSE

35. Members of the legal profession will be pleased to learn that my efforts to secure more room in the Red House for the Judiciary have borne some fruit. I had hoped to be in a position to inform you today that the Attorney General had already surrendered to me the upstairs portion of the Red House which he and his officers occupy but for reasons over which neither he nor the Department of Works had any control, the completion of the downstairs portion of the Red House to which he is to move had been delayed. It is my confident expectation however that we shall be able to get vacant possession of the upstairs section of the Red House referred to by the end of the current month.

36. It is my intention to use this section of the Red House to provide, so far as is possible, a better chamber Court, a proper robing room for Barristers, a common room for members of the legal profession, appropriate chambers for some four

judges and a separate matrimonial section to meet the demand likely to be created by the enormous flow of cases which is expected to follow the proclamation of the Matrimonial Proceedings and Property Act 1971. The Rules required to be made thereunder have already been settled and printed and I am informed that the amendments that have been found to be necessary to this Act as well as consequential amendments to other related statutes are ready for presentation to Parliament. It may be said therefore with some assurance that the proclamation of the Act is imminent.

COURT OF APPEAL SITTINGS IN SAN FERNANDO AND TOBAGO

37. In consequence of representations made to me in reference to sittings of the Court of Appeal in Port-of-Spain and elsewhere I discussed the matter with my brother Judges and an overwhelming majority of them favoured the proposal that sittings of the Court of Appeal should be extended to San Fernando.

38. Representations were accordingly made to the Hon. Attorney General to procure an amendment to the Act to permit sittings of the Court in Port-of-Spain and elsewhere and I am advised that an appropriate amendment to that effect will soon be presented to Parliament for its approval. This amendment will enable the Court to sit not only in San Fernando but also in Tobago if the state of business warrants it and I trust that this enactment will now remove the grievance which lawyers and litigants in these areas of the Country have been nursing for many a year.

ERECTION OF COURT IN TOBAGO

39. After much discussion and debate over the site at which the new court house should be erected in Tobago, I have been advised that approval has now been given for its construction by a firm of private architects and contractors at the site on which the Court stood before it was destroyed by fire. This news is most heartening as I am of the view that the present ad hoc arrangements for sittings of

the Magistrate's Court and the Supreme Court at the Blue Haven Hotel are not satisfactory and should be discontinued as early as possible.

THE MAYARO COURT

40. A temporary alternative site has now been selected for sittings of the Magistrate's Court at Mayaro and steps are now being taken to adapt it to the needs and requirements of a Court house. It was found necessary to do this because the present structure has become totally unsuitable and inadequate for use as a Court. The Minister of Works, the Acting Chief Magistrate, the Acting Senior Magistrate of the District and I visited the Court on 21st September last and it was agreed that approval should now be sought for the construction of a new Court house on the present site but at some distance away from the main road and in the area of the District Medical Officer's Quarters.

THE WOODBROOK COURT

41. The sum of \$50,000.00 was allocated to repair and furnish the Woodbrook Police Station for the purposes of holding sittings of a Magistrate Court there but when the work began it was discovered that the building was in too dilapidated a condition to withstand repairs.

42. A plan was then drawn up for the erection of a new building to house two Courts but the cost of doing so was estimated at some \$180,000.00. It was decided to draw up fresh plans to reduce this cost and to seek approval for the erection of the new building. We are now awaiting further developments.

OTHER COURTS

43. With respect to the erection of a new Magistrate's Court in Tunapuna and the establishment of Magistrates' Courts at San Juan and St. James I have come to the conclusion that our plans should now be revised because Cabinet agreed in principle last Thursday to the establishment of 4 County Courts in the Country. This agreement is cause for profound satisfaction since we can now confidently

plan the much needed reorganisation of our judicial system. Details will now have to be worked out in consultation with the legal profession and members of the Judiciary in the upper and lower branches. As soon as they are settled I shall of course take the steps necessary to procure their implementation. Great savings would result if our plans involved the employment of suitable magistrates' courts for sittings of the County Courts, and it is for this reason I stated that plans for the magistrates' courts in Tunapuna, San Juan and St. James would have to be revised.

LEGAL AID

44. There is further cause for equal if not greater satisfaction and this stems from a decision of Cabinet last Thursday to agree in principle to the allocation of a specific sum annually to assist in meeting the cost of establishing and operating a better legal aid system in civil proceedings. Equal access to the courts by both the rich and the poor and on equal terms, so far as this is reasonably possible, is an obligation which must be honoured by our Country since it subscribes to the principle of equality before the law and has solemnly proclaimed its respect for the principles of social justice. The legal profession for many a year has been dragging its feet in promoting and providing a better system of legal aid and while they continue to debate and consider the question the frustrations of the poor man unable to pay the fees of the lawyer to pursue his cause in the courts, continue to mount.

45. The Government's agreement in principle to provide a fund to meet the cost of establishing a better legal aid system in the Country is a development of the utmost significance to the cause of equal justice and it will, I trust, stimulate lawyers to come forward and honour their own professional obligations to the poor of the poor of the Country; for unless they are willing to contribute to the scheme by making their services available under the terms and conditions of the scheme, the establishment of a reasonably good system will elude us.

46. The Committee set up by the General Standing Committee of the Law Conference to deal with this subject will no doubt proceed to consider the question of legal aid forthwith in the light of Government's decision and let us hope that they will be able to come up expeditiously with reasonable and practical proposals for the establishment of a proper system of legal aid in our society.

LAW REPORTING

47. Some months ago I gave details of a new system of law reporting which I wanted to introduce in the Country. The scheme involved the reporting of suitable decisions in the magistrates' courts, the Rent Boards, the Appeal Board, the Industrial Court, the High Court and the Court of Appeal, the publication of awards of damages in negligence cases here and elsewhere in the Caribbean and sentences in Criminal Courts. To introduce the series successfully however it was necessary to obtain authority for the Government Printer to publish these reports at a nominal cost at first and ultimately at an economic price when they had become established.

48. The intention was to introduce a loose leaf system of reporting to facilitate easy binding at the end of prescribed periods. I am now pleased to announce that the Government agreed last Thursday to authorise the Government Printer to publish these edited reports as requested and to state that the Editorial Board appointed by the General Standing Committee of the Law Conference will now be at liberty to proceed to organise and institute a law reporting service along the lines I have indicated.

THE DISCIPLINE OF BARRISTERS

49. The Discipline of Barristers practising their profession here attracted my attention very soon after I assumed my office because I was confronted then with a large pile of unattended complaints from members of the public against Barristers. I gave the members of the Bar an opportunity to put their house in order so that they like other professional bodies would assume the responsibility of disciplining

their members but that opportunity was not taken. It was in these circumstances that I pressed for the amendment of the law to confer authority on the Rules Committee to make regulations under s.77 to establish a statutory body to discipline members of the Bar and in the event this was done on 30th July 1973 by Act No. 19 of 1973.

50. I have not yet appointed any one to that body however because it is my intention before doing so to ask the Rules Committee to enlarge the membership of nine provided for in the old Rules which have now been validated and to agree to other amendments which I consider necessary. This I hope to do shortly. Following this the appointments will be made and duly announced thereafter.

51. There are quite a few other matters on which I would have liked to comment but time will not permit me to do so. I will therefore come to my last but most important subject and this has to do with the future of the Judicial Committee of the Privy Council.

THE NEW MODEL PRIVY COUNCIL

52. It is well known I believe that there has been much agitation in the commonwealth countries of the Caribbean in recent times for the establishment of a Caribbean Court of Appeal to replace the final jurisdiction of the Privy Council in appeals from these countries. In fact there are strong voices which advocate the abolition of appeals to the Privy Council irrespective of whether or not a final Court is established in the Caribbean to take its place.

53. In my view, the establishment of a Caribbean Court of Appeal is a considerable distance away and it may well be that its establishment in the foreseeable future is somewhat remote. I am therefore proposing for the consideration of the Judiciary and the legal profession here and in other Caribbean countries that pending the establishment of the proposed Caribbean Court of Appeal, the Judicial Committee should be –

- (a) expanded to include within its ranks distinguished judges and jurists of Caribbean countries and possibly elsewhere in the Commonwealth; and
- (b) converted into an itinerant court sitting at appointed times in at least three centres in the Caribbean.

54. The proposal I make however should be made subject to the following conditions:

- (a) The judicial service rendered by the Privy Council should no longer be free. The countries from which an appeal lies to the Privy Council should pay an appropriate proportion of the expenses necessary to render this judicial service; and
- (b) Appeals should be heard by not less than three or five judges, at least two of whom (if it is a Court of three judges) or three of whom (if it is a Court of five judges) should be selected from among judges or jurists or both from Caribbean countries and/or territories.

55. The intention of this proposal is to seek to establish what I might describe as a new model Privy Council – a transitional final Court if you like – in which the experience and wisdom of distinguished British Judges will be married to those of distinguished Judges and Jurists of the Caribbean countries for the purpose of providing a respected and impartial court of merit, authority and distinction in an area which not only has a rich common law background but which is seeking to win wider recognition of the merits of its judicial officers and jurists in territories outside and beyond the Caribbean.

56. If this proposal receives the support of the legal profession and the Judiciary here and elsewhere than it seems to me that the support of Governments here and elsewhere will not be difficult to obtain. And if that is obtained then I believe, and I have good reason to so believe, the British Government will receive the proposal with much sympathy and understanding.

57. Will you therefore, members of the legal profession, let me have your considered views on this proposal? Will the Overseas Commonwealth Caribbean Bar Associations let me have their considered views thereon as well? I will take steps to secure the views of the Judiciary in the Caribbean territories and when we have got them all in we can then determine the steps, if any, which we should take to pursue the matter further.

CONCLUSION

58. Finally, let me thank you on behalf of my judicial brethren and myself for the support, cooperation and assistance you have given to us over the past year. Without them the due performance of our duties would not have been possible. We shall need them in the future in equal if not greater measure as we face the challenges of the changing times and the problems that will inevitably accompany them.

59. It is my confident hope that as the Almighty continues to fulfil himself in many ways in our country, we the Judges of the Supreme Court will continue to retain – the courage to express fearlessly our judicial and legal convictions; the strength to hold the scales evenly between all parties who seek justice at our hands; and the will at all times and in all circumstances to strive, to seek, to find and not to yield.

60. May I express a like hope on behalf of all judicial officers in the Country and conclude firstly by extending to members of the legal profession our best wishes for a successful, stimulating, and prosperous year of practice; and secondly tendering our congratulations and best wishes and best wishes to the new Attorney General and Minister for Legal Affairs, the Hon. Basil Pitt. He assumes his new office at a difficult period in our history but we all should like to assure him that we hold him in high esteem and that we shall extend to him without reservation our goodwill and our co-operation in all matters pertaining to the due administration of justice.