

**ADDRESS OF THE HON. SIR ISAAC E. HYATALI, CHIEF
JUSTICE AT THE OPENING OF THE 14TH LAW TERM ON
3RD OCTOBER, 1975**

THE 14TH LAW TERM

We open today the 14th law term of the Supreme Court of Trinidad and Tobago. It has been preceded for the third time by an inter-religious service and I trust that I echo the sentiments of all that this year's devotions at the Trinity Cathedral under the suave and dignified direction of the Very Rev. Dean Rawle Douglin was both inspiring and impressive. I consider it fitting to place on record that it was made noteworthy both by the stirring exhortations of Rev. Leonard Rocke of the Tranquillity Methodist Church, and the participation in the devotions of His Lordship the Bishop of Trinidad, the Rt. Rev. Clive Abdullah, His Grace the Archbishop of Port-of-Spain, the Most Rev. Anthony Pantin, the Chairman of the Council of Evangelical Churches, the Rev. Allan Parkes, the Chief Representative of the Hindu Religion, Pundit Simbhoonath Capildeo, the Chief Representative of the Muslim Religion, Haji Sheikh M.S. Rahaman, the Chancellor of the Anglican Diocese, Mr Henry Hudson-Phillips, Q.C., the Commander of the Defence Force, Brigadier Joffre Serrette and a Solicitor of good standing and report, Mr. Emmanuel Annisette. To them I tender our warmest thanks.

THE GUARDS OF HONOUR

A like measure of thanks are due to the Commander of the Trinidad and Tobago Regiment, Lt. Col. Henry Christopher, his officers and men for providing the Guard of Honour this year at the Cathedral; and to the Commissioner of Police, Mr. C.A. May, and his officers for providing the Guard of Honour at the Court. Their splendid performances underlined the importance and grandeur of the occasion and we are most grateful for the vital role which they have played in making this ceremony not only a success but an experience to remember.

ABSENCE OF STATISTICS FROM 1972-1974

It became my privilege for the first time to address you from this Bench as Chief Justice on 3 October 1972. I did not follow then, the practice of my predecessors to record and analyse the work done by Judges of the High Court and Court of Appeal during the previous year.

This course was dictated by my own considered opinion that it was far better to project plans and programmes for improvements and reforms in the administration and processes of justice than to parade figures reflecting the energy and dedication of Judges.

NO ABSENCE OF PERFORMANCE

Recent events and pronouncements however lead me to believe that there lurks in the minds of some of our citizens a feeling that the absence of statistics in my previous addresses must be taken as reflecting an absence of judicial performance. This is most regrettable for let me assure you at once that there is nothing further from the truth.

THE JUDGE AND THE PRESS

His Honour H.C. Leon, formerly one of Her Majesty's Judges of the County Courts of England writing under the name of Henry Cecil, spoke with authority and accuracy in the book – The English Judge – when he stated –

“It is right that a Judge's conduct should be subject to public and private criticism, but it is not always remembered that no Judge may reply to such criticism. If something which is said is misreported, he may refer to the matter in open Court, but that is all he may do and when people write to the press complaining about his conduct he does not write a letter of explanation. There is no law to prevent him from doing this, but it is traditional that he should not, and tradition plays a very high part in the English judicial system. I think that Lord Maugham, when Lord Chancellor, is the only Judge to have broken the tradition this century and he was criticised for doing so.”

AVOIDING PUBLIC CONTROVERSY

Let it be noted that this tradition is one which is sacred to all judges of this Country as well. So to those of you who have wondered in the past why Judges take notice of and punish contempts by the news media, but take no heed of matters falling short of it, the answer is that in the former case the affront is not to the Judge personally but to the authority and dignity of the Court itself; whereas in the latter case tradition enjoins Judges, and rightly so, from involving themselves in any public controversy with anyone, and least of all, the news media. It is an unseemly thing for Judges to do and they therefore avoid it.

How then should Judges react to the mendax infamia of the press or of others who coin false facts and motives which do not amount to contempt? The answer was provided more than two centuries ago by one of the most distinguished Judges and teachers of the law in England, Lord Mansfield when in the celebrated Wilkes case (1763) 19 How. St. Tr. 112 he expressed his feelings, more in sorrow than in anger, I suspect, in these words:

“I will do my duty unawed. What am I to fear? That mendax infamia from the press which daily coins false facts and false motives? The lies of calumny carry no terror to me. I trust that my temper of mind and the colour and conduct of my life have given me a suit of armour against those arrows.”

There is no doubt that this answer is as valid today as it was then. Indeed, this is the stand which all Judges, bred in the lofty tradition of the Common Law, take. This is the stand which Judges of the Supreme Court of Trinidad and Tobago take and, Deo Volente, we shall continue to do so.

THE STATISTICS – COURT OF APPEAL

I began by stating my reasons why in all my opening-of-term addresses from 1972, I sought to project plans and programmes for the improvement of the processes and administration of justice and bypassed statistics reflecting the performance of the Judiciary. Those reasons may have been valid then, but the fact is, that for three years in succession no such statistics have been given. It would seem therefore that a progress report for the triennium last past is called for. I shall proceed to do so in the hope that they will attract your enlightened interest and sober judgment. I will begin with the Court of Appeal.

For the year 1972 - 650 appeals were on the list for hearing.
620 were heard and determined.

For the year 1973 - 709 appeals were on the list for hearing.
601 were heard and determined.

For the year 1974 - 591 appeals were on the list for hearing.
534 were heard and determined.

THE STATISTICS – THE HIGH COURT

I pass on to the High Court. Excluding some 2500 judgment summonses completed during the triennium under review cases determined during that period were as follows:

In Port-of-Spain:

	<u>1972</u>	<u>1973</u>	<u>1974</u>
Civil	213	188	223
Matrimonial	250	304	347
Motions	73	76	114
Chambers	913	1384	1889
Criminal	153	198	2771
	<hr/> 1602 <hr/>	<hr/> 2150 <hr/>	<hr/> 2771 <hr/>

In San Fernando:

	<u>1972</u>	<u>1973</u>	<u>1974</u>
Civil	133	85	71
Matrimonial	140	124	128
Motions	49	47	35
Chambers	544	547	627
Criminal	73	120	128
	<u>939</u>	<u>923</u>	<u>729</u>

In Tobago

	<u>1972</u>	<u>1973</u>	<u>1974</u>
Civil	7	31	24
Matrimonial		5	6
Motions		5	1
Chambers		11	21
Criminal	4	2	10
	<u>11</u>	<u>54</u>	<u>62</u>

The figures for the whole Country therefore are as follows:

	<u>1972</u>	<u>1973</u>	<u>1974</u>
Port-of-Spain	1602	2150	2771
San Fernando	939	923	729
Tobago	11	54	62
	<hr/> 2552	<hr/> 3127	<hr/> 3562
	<hr/>	<hr/>	<hr/>

INCREASE IN PRODUCTIVITY

This then is the work performance of the entire ten Judges of the High Court for the triennium 1972 – 1974. They show an increase in productivity (if I may use economic jargon) of some 20% in 1973 over 1972, and approximately 40% in 1974 over 1972. The grand total for the triennium is 9241. Judgments have been delivered in all these cases except 18. One judge has 5 reserved, another has 6, another has 3, two have 4 each and one has 1. The other five judges have no judgments outstanding.

JANUARY – JULY 1975 – THE HIGH COURT

I also have the figures from January – July 1975 (which again excludes Judgment Summonses) and I might as well give these even though they are for seven months only. At the moment it appears as if the total for this year will surpass 1974. The figures thus far are as follows:

Port-of-Spain	2622
San Fernando	1112
Tobago	26

making a grand total 3760 cases. Judgments have been delivered in all these cases except 7.

THE WHOLE PICTURE

From my analysis of the records in previous years it would appear that in compiling the work done in the High Court, only the cases on the general list in the Civil Courts and the Criminal cases at the Assizes were taken into account. I saw no justification whatever for excluding the uncontested matrimonial causes, the motions, and the matters in chambers, as it is well known that considerable judicial time is expended on these matters. Consequently in the figures I have given all these matters. Consequently in the figures I have given all these cases and matters have been included.

SUPERB PERFORMANCE

This completes the whole picture. I dare say it is an attractive one and I have no hesitation in certifying that this is, indeed, an excellent record of performance, of dedication to duty, of the diligent discharge of onerous responsibilities by the Judges of the High Court of this Country. These figures speak eloquently for themselves and it is with a sense of admiration and a feeling of pride that I now congratulate the Judges of the High Court, most heartily, for their superb performance.

EXPRESSION OF THANKS

It would be invidious in this context to mention the Court of Appeal of which I am the President but I do want to express to my brothers in the High Court and to my brothers in the Court of Appeal my warmest thanks for their courageous devotion to duty, the cooperation which they have given me at all times, and the fearless manner in which they have discharged their judicial functions.

STATE OF THE LISTS

Let me now say a word about the general state of the lists. I shall introduce it by quoting from what I said last year because some of us are notorious for having short memories. In any event I think they will bear repetition. I said –

THE CIVIL LIST

I turn now to the state of the Civil List. The Criminal List and the Court of Appeal List give no cause for concern but the Civil List does. Because of the concentration we were obliged to make for the last two years to dispose of the alarming arrears in the criminal lists, the civil list inevitably suffered from some neglect, and now gives cause for much concern. The position has become aggravated by two developments – (a) the new jurisdiction given by the Matrimonial Causes Act 1971 which became effective earlier this year; and, (b) the incredible rate at which actions are being filed in the Supreme Court.

THE ARREARS

Between January to June this year as many as 1834 civil actions were filed in the Registry at Port-of-Spain and 671 in the sub-Registry at San Fernando. This roughly, is an average of 415 per month or 40 per day over a five day week. In addition to this, 466 matrimonial causes were filed during that period in Port-of-Spain and 146 in San Fernando. The arrears in respect of matters ready for trial are considerable – 761 actions and 383 matrimonial causes in Port-of-Spain; and 365 actions and 118 matrimonial causes in San Fernando.

To dispose of this overwhelming number of cases with the expedition normally expected, is impossible. A radical re-organisation is called for. The establishment of the County Courts will relieve the civil lists considerably but not sufficiently enough to avoid the charge that delayed justice is actually a denial of it.

Pending the introduction of the Rules of the Supreme Court when it is hoped that the method of dealing with cases on the lists will in fact be radically re-organised three expedients have been devised to improve the situation.

THREE CIVIL COURTS

The first is that three Civil Courts will sit regularly in Port-of-Spain until further notice. The second is that Judges in the Civil Courts will sit for three successive months at a time and not for one month only as in the past. The main purpose of this new

“arrangement is to enable each Judge to dispose of a greater number of cases per month than he is able to, under the present system. Under it he will be able to plan and organise his work far more effectively, and in particular he will no longer be compelled to postpone cases during the last week of every month to clear the way for his assumption of duty in a Criminal Court. This re-organisation will have its corresponding effects on Judges allocated to the Criminal Courts but I feel certain that the increased burdens that will descend on all Judges in the result will be accepted as unavoidable and will be borne by them with equanimity.

The third expedient is one that will not be popular with those members of the Bar who monopolise the lists in the Court. It concerns adjournments. There are far too many young Barristers of merit and promise who are finding it more and more difficult to get briefs at the Bar. Adjournments therefore will have to be strictly controlled and for this purpose I commend for the adoption by my brothers in the High Court here, the words of Ungeod-Thomas, J. of the High Court, in England. In making a plea to Seniors at the Bar to give the young barristers a chance, he said –

‘Barristers should not have cases adjourned just to suit their own convenience. If counsel can’t take a case, it is his duty to return the brief and the solicitor’s duty to see that other counsel are briefed instead. There are plenty of counsel available – and indeed it is the way young counsel get their opportunities and have their chance to develop. It was intolerable when counsel sought to adjourn the hearing of a case so as to keep it for himself. I do not look with any sympathy on an application for an adjournment in circumstances of this kind.’”

EXCUSES FOR ADJOURNMENTS

Notwithstanding the efforts made to tighten up on adjournments and to get on with the hearing of cases, repeated and persistent applications are made for adjournments on the ground that the parties are not ready to go on, that counsel are not ready, that briefs have not been delivered by solicitors and so on; and instances have occurred when in order to ascertain the reliability of the excuses given, the Judge probes into them, only to discover to his horror that they are, to use a kind word, spurious. When once a Judge has that kind of experience with a practitioner what possible reliance can he place thereafter on any excuses made in the future even if they are genuine?

COOPERATION OF PRACTITIONERS

But this is by the way. The point I wish to make is, that our Courts will never be able to accelerate even further, the rate at which cases are disposed of at the present moment, unless and until it gets competent assistance and the ready cooperation of practitioners. This, I regret to say, from what my Judges advise, has not always been forthcoming. Is it not ironical then, to say the least, to hear from the very practitioners at fault, that delayed justice is a denial of it?

LIMITED NUMBER OF CIVIL LAWYERS

And yet I am bound to say that there are practitioners who do their utmost at all times not only to cooperate with the Court but to give it competent and invaluable assistance. Unfortunately, in the Civil Courts, such practitioners are, like angels' faces, few and far between. The number of practitioners who practise in the Civil Courts are limited. This fact prompted one of my experienced Judges to ask when we were discussing ways and means of expediting the hearing of cases – is it fair to the client to call upon a junior who is not very experienced in the Civil Courts to do a case of some complexity and length if his senior is unavailable? Is it fair to the Judge that in a case of such complexity and length he should not have the assistance of competent and experienced counsel?

COOPERATION INDISPENSABLE

These are difficult questions to answer. They become even more difficult if it is a case of some antiquity. However that may be, I am satisfied that they drive home the point that if Judges are to make better inroads into the mounting arrears on the civil side the cooperation of all practitioners, senior and junior is indispensable.

COUNTY COURTS

Ever since I assumed my office I have been concerning myself with the mounting arrears in the civil lists. The fact is that the enormous rate at which sections are filed, exceeds by leaps and bounds the rate at which they are determined. It is a serious situation. It was for this reason I pressed for and I am continuing to press for the establishment of County Courts, a suggestion which was first put forward some 20 years ago, and died a natural death soon afterwards.

I am therefore happy to be able to report that I am advised that the Bill to introduce it has been approved by Government and is due to be published shortly for public comment. The legislation provides for the establishment of four Courts. When established they will, mercifully, relieve the lists in the High Court appreciably, and assist in the final result, to narrow substantially, the period between the filing of a case and its determination by the Court. The establishment of this Court is now a matter of great urgency and I trust that practitioners will not only appreciate this but will cooperate with us fully in getting it off the ground within, as I hope, the next three months.

THE RED HOUSE

The Red House continues to present problems of accommodation for the administration of justice. It is true we have travelled some distance in getting some improvements effected but much of the work is outstanding after almost two years. The pigeon nuisance continues to present an enormous health hazard, the library is choked up and bursting at the seams, the robing room for Barristers is incomplete and there are a number of lesser things still to be completed.

COMMON ROOM FOR LAWYERS

Representations have been made to me by individual members of the Bar and very recently by the newly constituted Bar Council for accommodation in the Red House for use by lawyers as a common room. It is a reasonable request and I am in complete sympathy with it. But it has been impossible to consider it because of the lack of space. Indeed my decision early this year to recommend the appointment of two additional Judges had to be abandoned because there was no place for them to sit. Abandoned, too, for the same reason was the idea which crossed my mind of inviting silks from the Bar to sit on the Bench for short periods from time to time to assist in reducing the arrears. As to whether anyone of them would want even as much as to dream of accepting my invitation at the present salaries paid to Judges, is another matter, but I must confess that at least I had hoped to appeal to their sense of duty to their profession and to the Country to obtain their services for brief periods as temporary Judges.

REQUEST FOR THE WHOLE OF THE RED HOUSE

Having regard to our pressing and immediate needs I have asked that the whole of the Red House be made available to the Judiciary but there are problems in the way of acceding to this request at the present time. It will only be resolved if it is decided to house Parliament elsewhere. What has been most disappointing is that lawyers have made no effort to strengthen the pleas I have been making for the removal of the intolerable and dangerous nuisance in the centre of the Red House and the efforts I have been pursuing to get the outstanding work completed. Nor have they promoted my efforts in other directions which are well known and need not be spelt out here.

ESTABLISHMENT OF CENTRAL AUTHORITY FOR THE COURTS

The Red House however is not the only problem. Courts all over the Country are in a delapidated state and need urgent repairs. What is urgently required in my view, is the establishment of a Central Authority invested with powers to deal exclusively with the repairs and maintenance of all Courts in the Country and the provision of proper and adequate facilities where they are lacking. The present system leaves us to the mercy of bureaucrats who have repeatedly shown by their attitudes to our reasonable requests in

the past that the repair and maintenance of the Courts and the provision of adequate amenities and facilities in them are matters of no concern or interest to them whatsoever. Those officials remind me of what was said in a paper submitted to the Third Commonwealth Conference in Australia in 1965:

“The price of liberty is eternal vigilance but the cost of justice is astronomical especially in developing countries where heavy-footed officials are such as to produce bureaucratic elephantitis.”

As an interim measure however I urge that an immediate survey of Court buildings all over the Country be undertaken and an early assessment made of what is needed to restore them. This should be undertaken by a competent and experienced group of technicians. The works recommended to be done should then be placed in the hands of private enterprise for speedy execution. I trust that Mr. Attorney will find it possible to support these proposals and recommend them for acceptance. ⁽¹⁾

ATTORNEY GENERAL'S REPORT

Let me now proceed to look at the brighter side of the picture. I am indebted to the Honourable Attorney General for providing me with a summary of things accomplished and those about to be implemented through the instrumentality of his Ministry. They deal with the Legal Aid Bill, the Law Reform Miscellaneous Provisions Bill, the Law of Conveyancing and Real Property, the Council of Legal Education Act and the County Courts. They relieve me of expressing views on these subjects at the present time. The Attorney General's summary follows:

“The term just ended has seen the first steps taken towards enactment of legislation which will not only improve the machinery for the administration of justice, but will bring the content of the law administered by the Courts into greater conformity with the needs of our changing society. It is reasonable to expect that well before the end of the term just begun, this legislation will be force.

⁽¹⁾ *See the Report of the Royal Commission on Assizes and Quarter Sessions 1966-69 (Chairman – Lord Beeching) Presented to Parliament 1969 Cond 4153 (87 ½ p)*

Very recently Cabinet approval was given for the publication of the draft Legal Aid Bill. This draft was appended to a comprehensive report on Legal Aid, and was the fruit of the labour of a Committee headed by Braithwaite, J... The legislation will make the fundamental rights enshrined in the Constitution more meaningful in the lives of many of our citizens, seeing that lack of funds for legal representation and advice will cease to be a hindrance to the less prosperous and the impecunious who may be involved in litigation.

Even before this legislation is enacted, the coming into operation of the new Rules of the Supreme Court will provide some relief, as the provisions which they contain for aid to poor persons, who are parties to litigation in the Supreme Court are more realistic than the corresponding provisions in the 1946 Rules, which contained maximum income qualifications for aid, which have become outdated and impractical, considering the reduction in the value of money over the years.

There is the draft of a Miscellaneous Provisions Bill prepared by the Law Commission, which seeks to update the law on compensation for injuries as well as family law and takes into account recommendations of the Law Conference and pronouncements from the judicial bench with regard to various aspects, in which these laws stood in need of amendment. The Bill aims at sweeping away the archaic rule of common employment by which a master is not responsible for negligent harm done by one of his servants to a fellow servant engaged in common employment with him. It will also remove the limitations on commencement of proceedings and on quantum of compensation in compensation for injury cases. In addition, the rule which caused compensation to be reduced by taking into account certain benefits received by claimants, such as insurance and payments by friendly societies, is recommended for abolition.

The family law provisions in the Miscellaneous Provisions Bill cover several aspects of the subject. The ancient austere rule which precluded children born of an adulterous union from legitimation by the subsequent marriage of their parents is to disappear from the Legitimation Ordinance if and when this Bill is enacted into law. The Bill also seeks to update family law by providing for applications to be made for custody of a legitimate child by its father, so that he would no longer have to resort to habeas corpus proceedings for this purpose. Among other family law provisions in the Bill, are those for removal of the monetary

limit which now precludes Magistrates from ordering more than \$10.00 per week for wives in maintenance cases.

The law of conveyancing and real property has also received attention from the Law Commission, and the enactment of legislation modernising this law, by reducing the statutory minimum period for the investigation of title to land back to a good root of title, from forty and thirty years, can now be expected soon. The legislation is also to provide, among other things, for the removal of doubts as to the validity of deeds and other documents executed in Trinidad and Tobago by attorneys of local corporations. Some of the proposals relating to the law of property and conveyancing originated from the Sellier Committee.

“During the past fortnight, the law of the country has been amended to take full cognizance of the new system of training Caribbean lawyers. The Council of Legal Education now has legal status in Trinidad and Tobago, and provision has been made for those qualified under this system to enter the legal profession. It gives cause for satisfaction that the day has arrived when the first products of this new system, having received academic and practical training in the Caribbean, are ready to enter the profession.

In connection with the contemplated legislation referred to, thanks are due to the Law Commission and staff, to the Chief Parliamentary Counsel and Staff, to the Sellier Committee, to the Braithwaite Committee on Legal Aid, and to the General Standing Committee of the First Law Conference. For their report on the Legal Profession, thanks are also due to the de la Bastide Committee.

With the first group of lawyers fresh from the Hugh Wooding Law School ready to take their places in the profession, with Legal Aid under a Legal Aid Act about to become a reality, and with County Courts expected to begin to function before the end of the term, there is every reason for looking forward to an exciting and successful year for the law in Trinidad and Tobago.”

I have taken up more of your time than I have in the past but before I conclude I must deal with two matters. One relates to dress and the other to the new Rules of the Supreme Court.

DRESS

In the report of the Committee (headed by Scott, J.) on dress reform which I appointed in October 1972 and which reported on 22 January 1973 they recommended as follows:

- (i) That no change in dress should be introduced or allowed in the Supreme Court for Judges, Barristers, Solicitors and other Officers of the Court.
- (ii) That male jurors should wear coats and ties;
- (iii) That female jurors and witnesses should be allowed to attend court without headwear;
- (iv) That (a) members of the press, (b) witnesses, and (c) other persons should be allowed to attend Court with dress which, in the opinion of the presiding Judge, is permissible, having regard to the dignity and respect due to the Court.

These recommendations were duly accepted and published for general information soon after the Report was submitted.

In consequence of further representations made to me by the Law students at the Law School on a form of dress appropriate for the holders of the Legal Education Certificate, I referred the question to the Scott Committee and they reported back to me on 25 September 1975. They recommend for the Supreme Court that there should be no change in the form of dress for the graduates of the Wooding Law School save and except that they be exempted from wearing wigs; and for the Magistrates Courts and other Tribunals; that there should be no change from the present position.

In the final analysis, the proper mode of dress in the Supreme Court is a matter for the Judges, and in the Magistrates Court, a matter for the Magistrates.

It was my intention to recommend to the Judges of the Supreme Court and the Magistrates that the Committee's recommendation be accepted. In relation to the Supreme Court however I propose to recommend further that the wearing of wigs be made optional in every case. An announcement will be made shortly on these two points.

NEW RULES OF THE SUPREME COURT

The Rules Committee took a decision some four months ago to introduce the new Rules of the Supreme Court on 1 October 1975. This decision was taken on the understanding that they would be ready for distribution to the legal profession well before the 1 October. Unfortunately, difficulties at the Printing Office and in getting supplies, continue to haunt us and in the result it has not been possible yet to make these Rules available. A further postponement of its introduction will, I fear, have to be made. A representation has been made to me by one of our silks to defer the introduction of those Rules to the opening of the January term 1976. The Rules Committee have agreed to this and I now formally announce that this will be the case.

On their eventual introduction in January 1976, we will have taken a long step forward from 1946 – a matter of 29 years. It is my fond hope that they will play a vital role in expediting the hearing and determination of actions in the Supreme Court. This is one of their fundamental purposes and both the Judges and the legal profession should breathe a long sigh of relief when they become effective.

THE MAGISTRATES

I have not been able in this survey to mention the sustained and dedicated work of the Magistrates of our Country. Under the direction and guidance of the present Chief Magistrate, Mr. Roderick Roopchand, commendable improvements have been made in the general administration of the Courts and in the reduction of arrears. Many problems still dog them and half the time they are due either to the unwillingness or unreasonable refusal of the bureaucrat to bestir himself for the courts of the Country and those who preside over them to administer justice.

Recent signs and changes have projected a glimmering ray of hope and I trust it will develop soon into a vast expanse of sunshine. And so with apologies to them for not dealing with their work and problems in this review I ask them to accept my sincere

thanks both for their exertions during the past year and the cooperation which they have always so willingly given to their Chief Magistrate and to me.

TIME OF CHALLENGE

And now to conclude. We continue to live in times when the Rule of Law, and the Institutions of law are both under serious challenge. And while it is more pronounced abroad than it is in our homeland we must ever be vigilant to ensure that they are preserved from irreparable harm. It must never be forgotten that the fundamental rights and freedoms guaranteed to us are the rights and freedoms of an ordered and civilised society. As Montesquieu said many years ago and it is still as valid today as when he said it –

“Liberty is the right to do what the law allows and if a citizen would do what they forbid it would no longer be liberty because others would have the same powers.”

If the challenge made to the Rule of Law and the institutions of the law is to be successfully resisted then all of us, Judges, magistrates, and lawyers alike must work together not only to ensure the impartial and fearless dispensation of justice but to project an image to the public that will win their confidence and respect. A lot of people speak about law and order; and a great many people speak about justice. But one thing is certain - you cannot have either until you have both. ^(a)

^(a) *Ramsay Clarke*

THE YEAR AHEAD

The year ahead is likely to tax our energies and our patience, our skills and our judgment to the utmost. On behalf of my brothers and myself I invite you all once more as we open the term to join hands with us to promote the ideal of justice and to ensure that each man is given his due. My brothers and I thank the members of the legal profession for their cooperation in the past and look forward to receiving it in even greater measure during the term.

CONGRATULATIONS

I now declare the term duly opened and adjourn the sittings of the Courts to Monday 6 October 1975. But, before we rise allow me on your behalf and on behalf of my brothers to offer our sincere congratulations and best wishes to Lady Justice Elizabeth Bourne now Mrs. Justice Elizabeth Holland on her recent marriage and to wish her and her husband many happy and prosperous years together. Our congratulations also are extended to Mr. Henry Hudson Phillips, Q.C. Chancellor of the Anglican Diocese for being honoured on last Independence Day with the Chaconia Medal (Gold). It is a well merited honour for his public service to this Country and I am sure you will all want to join with us on the Bench in wishing him many long years of health and vigour to enjoy the honour bestowed on him. With the expression of these sentiments we associate Mrs. Henry Hudson Phillips and would ask that he be good enough to convey them to her.