

**ADDRESS OF THE HON. CHIEF JUSTICE, SIR ISAAC HYATALI, T.C. AT THE
OPENING OF THE 1981 – 1982 LAW TERM IN THE HALL OF JUSTICE, RED
HOUSE, PORT OF SPAIN, ON 5 OCTOBER, 1981.**

Mr. Attorney General et al:

On behalf of my brothers and myself I thank you for your kind response to our invitation to attend and participate in today's ceremonies to herald the opening of the 1981 – 1982 law term. For the records it may be stated, that it is the 20th Law Term of the Supreme Court of Independent Trinidad and Tobago, the 5th of the Supreme Court of the Republic of Trinidad and Tobago, and my 10th as Chief Justice of the Country.

SPECIAL THANKS

We extend a special measure of thanks to our distinguished Head of State, His Excellency President Ellis Clarke for attending and participating in our inter-religious devotions at trinity Cathedral; to Her Excellency Mrs. Ermytrude Clarke for gracing the service with her presence; to the Right Rev. Clive Abdullah, Bishop of Trinidad, for his thought-provoking sermon; to the Rev. Clyde Wilkinson, President of the Trinidad and Tobago Council of Evangelical churches, Pundit Mahadeo Sharma, President of the Sanatan Dharma Maha Sabha Pundits Parishad of Trinidad and Tobago and Imam Hassan Karimullah of the Council of Imams for their inspiring prayers and exhortations; to the Rt. Rev. Father Van Duin for invoking God's blessings on upon us; to the Very Rev. Dean Rawle Douglin for arranging the order and content of the devotional exercises and conducting them with an impressive dignity and assurance of manner; to the Commissioner of Police for the splendid display of his officers, of order, discipline and rhythm on the parade ground and at the march past; to Mr. Leo Seebaran, Permanent Secretary in the Ministry for Legal Affairs, for securing the beautification of this

section of the Red House for today's ceremonies; and finally to the faithful band of officers of the Supreme Court for the invaluable part which they played this year as they have done in preceding years, under trying conditions, to ensure the success of the law term exercises.

DALY AND LEE, JJ

Last year our law term began with a full complement of judges. There were 15 in the High Court and 7 in the Court of appeal. Two of the Judges of the High Court then were recruited from the practising Bar. They were Mr. Justice Martin Daly and Mr. Justice Trevor Lee, who, in fulfillment of an undertaking given to me by Mr. Selby Wooding, President of the Bar Association, accepted appointments as temporary judges for three months. Both of these highly respected and well-established Barristers sacrificed lucrative incomes at the Bar to serve on the Bench of the High Court with the commendable object of assisting its efforts to reduce the backlog of cases on its lists.

NO SECRETARIES FOR JUDGES

They succeeded admirably in achieving that object but they were only able to do so by employing to advantage their knowledge, skills and experience as practising members of the Bar, and by utilising, it should be specially noted, the services of their personal secretaries at their Chambers, because, incredible as it may sound, Judges of the country continue to labour under the dreadful disadvantage of not having secretaries of their own.

Officers junior to Judges in a variety of departments in the Public service are furnished with secretaries but Judges are not, for some inexplicable and incomprehensible reason which lies securely locked in the breasts of the Chief Personnel Officer and the Head of the

Organisation and Methods Department. Judges are ex consequenti, deprived of a service which is essential to the due discharge of their responsible duties, and citizens in the final result are deprived of their undoubted right to have justice dispensed in our Courts without undue delay.

EROSION OF JUDICIAL INDEPENDENCE

This serious disability imposed on judges is but one of the many ways in which the status of judges and their independence are eroded by subordinate public officers in a number of Government Departments – officers who, in almost all matters pertaining to the judges and the Courts, I regret to say, arrogate unto themselves the authority of delaying, obstructing frustrating or ignoring firm decisions of the cabinet of the country. How else can one explain the omissions to implement Executive decisions taken to furnish Judges with adequate secretarial assistance, repair the Tobago Hall of Justice, to construct the much needed addition to the Supreme Court in San Fernando, to construct the urgently needed Court in Tunapuna and San Juan, to provide furniture for the court at Point Fortin and to keep Court buildings in a state of repair and reasonably furnished?

In the light of these grievous omissions, and there are others which need not be mentioned at this time what I was at pains to state at the Magistrates Workshop on 14 September 1980, assumes a special significance and needs to be repeated with fresh emphasis. This I now do.

“It is true that to enable the Court to carry out its constitutional mandate fearlessly and impartially, and in an atmosphere of complete freedom and independence, the power to appoint and remove judges reside not in the Executive but in independent hands; that judicial salaries are charged on the Consolidated Fund; and that the Executive is inhibited from altering to the prejudice of an incumbent judge his terms and conditions of service.

But the reality of the situation is that in order to exercise properly and with due despatch the judicial power of the state and to discharge its grave responsibility as guardians of the Constitution and the Bill of Rights, it is essential for the Executive to provide the Judiciary with adequate machinery and ample resources of All kinds and at all times, and to do so irrespective of the consequences which any decision of the Court has or may have on the resources or political image of the Executive.

I make this point forcefully, since it is not fully appreciated by members of the public that these provisions which are designed to secure the independence of the judiciary are no guarantee whatever that the machinery and resources which are indispensable to the proper discharge of the judicial function will be necessarily or duly supplied. Indeed, despite the valiant and indefatigable efforts of the present Attorney General, Senator Selwyn Richardson, the instances are legion where they have not been.

THE EXECUTIVE AND THE JUDICIARY

The relationship between the Executive and the Judiciary in these circumstances becomes a matter of tremendous concern to all of us. In order to govern effectively, a government must naturally direct its energies to the exploration of its natural and other resources, the development of its industry and commerce, the expansion of its export markets, the maximisation of its gross domestic product and the creation of healthy reserves for the ultimate welfare of its people.

In order to achieve these goals a fundamental requirement is the creation and maintenance of a state of peace and tranquility in society, a condition necessary to ensure to men the acquisition and enjoyment of the fruits of their labour. Rest assured that industry can only prosper when it treads in the footsteps of peace and order. Courts exist to secure and maintain this vital peace and order in society. They are the institutions to which the State must inevitably turn to keep under control the anti-social behaviour of the criminal elements and it is upon them that the people look for the speedy and just settlement of disputes, one with another, or between the State and the citizen.

The effective maintenance of peace and order in society is, therefore, not only an indispensable plank in the platform of the economic and other policies of executive government but also the primary function of the courts. Whatever then may be said of the separation of powers as a central constitutional principle and of the independence of the judiciary in its capacity as an arm of State power, it is here that Executive and State power meet, blend and assume the role of joint partners, but each

independent nevertheless, in the important business of Government.

In one sense, and indeed in an important sense, the major partner is the Executive government for it is this partner that must provide those physical and human skills and resources without which, its independence notwithstanding, the Judicature will be well nigh powerless to fulfill its tasks.

The buildings that house the courts, the chambers that are the habitations of judges all their working lives, the professional secretarial and administrative staffs supportive of the judicial function, the libraries, the machinery for recording the proceedings in courts, the judges' note books down to the very pens and pencils with which they inscribe those notes are provided by the Executive. And perhaps the most important of all, is the fact that after the sentences, judgments, decrees or orders of the Courts are passed, made or pronounced, it is with the Executive that their execution rest, even where they are against the Executive itself.

If these physical and human skills and resources are all maintained at a level corresponding to needs, and if all within the system pull their respective weights, then the proper climate for the effectual exercise of judicial power and judicial independence will have been prepared and the different but convergent objectives of the Judicial and Executive arms of State power would find a common fulfillment.

But, if, as is almost universally the case, inadequacies of all sorts bedevil and haunt the system, then the characteristic symptoms of failure of the judicial machinery namely delays in the trial and disposal of cases, mounting back logs, incarceration for inordinately long periods of the untried and unconvicted, and even unsatisfactory judgments are bound to be the natural and logical manifestations. In the result, injustice in one form or another is inflicted on the people, the seeds of social unrest begin to be sown, and the foundations are laid for lawlessness, destruction and disorder. For as it has been truly said, 'nothing rankles more in the human breast than a brooding sense of injustice. Illness, a man can put up with, but injustice makes him want to pull things down.'

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The stark reality then is that by reason of the total dependence on the Executive for its material and human resources the constitutional independence of the judicial arm is susceptible of erosion by indirect but nevertheless effective means.

So that the individual judge, the one insulated in his own highmindedness and personal integrity, may nevertheless be successfully hampered and impeded in all his judicial efforts, whilst another of frailer mettle may be driven

I grasp this opportunity today, which is the last I am going to have from this forum, of drawing these sentiments once more to the attention of the Executive and to plead with those who compose it to take all such steps as are necessary to ensure, that the persons who act in its name and on its behalf, hC"lour at all times both the letter and the spirit of the now famous declaration of the late Prime Minister in his Budget Speech of 5 December 1980 in which he emphasized the need for the country not only to respect the independence, role and status of the Judiciary in the society, but to keep steadily in view that Judges ‘constitute the symbol of the assurances contained in our democratic republican constitution of the human rights, fundamental freedoms, constitutional guarantees for the society as a whole and all individuals, whatever their race or colour or creed or station in life”, and that in that symbolic role they stand apart from all groups in the society.

JACELON, ALEXANDER, WOODING, SOLOMON AND LALLA, JJ.

Following the return of Daly and Lee, JJ. to the Bar, the High Court had the advantage of being served successively for like periods of three months by five other highly respected and well-established members of the Bar. They were Mr. Justice Anthony Jacelon, Mr. Justice Alan Alexander, Mr. Justice Selby Wooding, Mr. Justice Frank Solomon and Mr. Justice Kenneth Lalla, all of whom like Daly and Lee, JJ. employed the services of their personal secretaries from

their Chambers to discharge their judicial duties. All these secretaries, it should be noted, were paid their salaries by the Judges under reference and received no remuneration whatsoever from Government.

It is with great pleasure and much satisfaction that I tender to them my warmest thanks for their services and place on record the enormous debt of gratitude which the Supreme Court in particular and the country in general owe them. Their appointment to the Bench for the periods under reference was not only a highly successful innovation in the administration of justice, but one which achieved the object of reducing appreciably the arrears on the civil list and identifying members of the Bar who were capable of adding lustre to the Bench and enhancing its quality. The great disappointment however, from my point of view, was that none of these worthy gentlemen expressed any interest in being considered for permanent appointments to the Bench.

RECOMMENDATIONS OF THE SALARIES REVIEW COMMISSION

Sorely disappointed as I was, I understood and appreciated their lack of interest, for they had during their short service on the Bench witnessed with dismay the treatment to which the recommendations of the Salaries Review Commission were subjected and their rejection by the Executive for reasons which were by the common consent and agreement of the Judges unconvincing, illogical and unfair - a conclusion in which we were fortified both by a strong public opinion as reflected in the news media, and by an editorial in "The Lawyer" of March 1981 - a law Journal of the Trinidad and Tobago Bar Association - which commented, inter alia, as follows:

- (i) That the various exercises undergone [a reference to comments made on the Report of Salaries Review Commission by the Advisory Committee to the Minister of Finance and Mr. Hylton Cupid, the Chief Personnel Officer] have denied the Salaries Review

Commission its full constitutional authority.

(ii.) that the rejection of retroactivity has amounted to a serious breach of faith between the executive and the judiciary.

....

(iii) that, despite the allowance given, the take-home pay for judges as outlined above will mean a Judiciary underpaid both:

- i. in the light of the economic conditions prevailing in Trinidad and Tobago; and
- ii. in the light of making judicial office a final goal to which the cream of the legal profession might aspire.

(iv) that discontent on the Bench as elsewhere (as recognized and appreciated by the Advisory Committee) can only have 'serious adverse effects on the society at large should their morale be undermined to the point of withdrawal of their services or lack of diligence in the performance of their duties'.
At judicial level, the Bar is witnessing both phenomena at the present time.

In the result, the question of Judges' salaries and other conditions of service demands to be reopened; the fundamental considerations that were at the heart of the Report of the Salaries Review Commission, at least as it related to the Judiciary, should be treated less summarily. Greater heed should be given to the submissions of the Judges of the Supreme Court - submissions which found favour with the Salaries Review Commission and occasioned its far from extravagant recommendations.

If this is not done, the Judiciary, which is the essential cornerstone of the democratic system, will be jeopardised. Once it has been seriously impaired, there is no turning back. The people of Trinidad and Tobago must decide whether it will safeguard this institution - not by cossetting or pampering it, but affording it conditions of service under which it can perform efficiently and productively."

The rejection of the report of the Salaries Review Commission, as is now well known, stirred up a spirit of near rebellion among the judges of the Supreme Court and fomented a crisis which was only contained by the timely intervention of His Excellency the President. That crisis

however, though contained, lies astir nevertheless beneath a seemingly static surface and it is to be hoped that it will not bubble into the open for Judges are still expecting replies to their representations made to the powers that be through the President on February 2, 1981. I say no more at this stage since events and developments since then intervened suddenly and unexpectedly and may have prevented His Excellency from obtaining the replies and concessions necessary to redress the complaints and grievances contained in the representations under reference.

VACANCIES

Unlike last year, when the law term began with a full complement of Judges, our term opens today with three vacancies on the High Court Bench and two in the Court of Appeal. In the Judicial and Legal Service the number of vacancies is considerable: 20 out of 34 are vacant in the Solicitor General's Department; 10 out of 18 in the Department of Public Prosecutions; 6 out of 13 in the Department of the Chief Parliamentary Counsel; 12 out of 16 in the Chief State solicitor's Department. Ten vacancies exist in the magistracy, 6 in the registry of the Supreme Court, while the post of Administrative Secretary to the Chief Justice has been vacant for more than two years. In the whole of the Judicial and Legal service including these Departments I have mentioned there are now 89 vacancies existing with little prospect of filling them. The picture presented by these figures is a dismal one and is, in my considered view, disastrous for the administration of justice and the rule of law in the country. I took the trouble last year to highlight the large number of vacancies then and I do so again this year in the earnest hope that meaningful and appropriate measures would be speedily introduced to remove the obstacles which render it impossible for the Judicial and Legal Service Commission to attract suitable

candidates with the requisite legal qualifications and experience to fill this vast and forbidding number of vacancies.

COURT STATISTICS

The statistics supplied to me by the Registry reveal that in Port-of Spain for the period October 1980 to July 1981, the total number of matters filed was 5113, out of which 4268 were actions, 805 were Matrimonial Petitions and Applications, 8 were Admiralty cases and 32 were Bankruptcy Petitions.

531 actions were set down on the General List but not listed while 442 were listed and remained pending. The total number of matters placed on the lists for hearing during that period in the Civil, Matrimonial, Motions and Chamber Courts was 9563 out of which 3373 were determined leaving 6190 matters undisposed of. Judgment summonses before the Registrar numbered 702 out of which 104 were determined leaving 598 undisposed of.

In San Fernando for the same period 2211 matters were filed out of which 1771 were actions and 440 were Matrimonial Petitions. 238 matters were set down on the General List but not listed while 250 actions were listed and remained pending. 4720 matters were placed on the lists for hearing in the Civil, Matrimonial and Chamber Courts, out of which 1379 were determined leaving 3341 matters undisposed of. Judgment summonses before the Registrar numbered 824 out of which 289 were determined leaving 535 undisposed of.

On the criminal side in Port-of-Spain 60 cases were filed, 548 listed and 104 determined leaving 444 undisposed of. The Gaol Delivery as at 31 July 1981 showed that 120 prisoners are awaiting trial at the Assizes in Port-of-Spain and 59 in San Fernando. Awaiting the processing

and hearing of their appeals are 41 prisoners convicted at the Assizes and 39 convicted by Magistrates.

In the Court of Appeal 122 appeals are ready for hearing. All but 13 of them are listed for determination in October.

Twenty-One judgments are reserved in the High Court in Port-of-Spain, 3 in San Fernando and 3 in the Court of Appeal.

TOBAGO

I had no statistics to present last year in respect of Tobago nor do I have any this year. This is understandable however since the Registry there is manned by a single clerk without legal qualifications and who is forced to work in an office which is cramped, unsuitable and inconvenient. He is an excellent officer who gives of his best but he faces numerous difficulties. Our repeated requests for alterations to provide better accommodation in the Court building to serve his needs and those of the public in Tobago have not been met and I am unable to say when or if they will be. In the meanwhile, the Court continues to leak heavily when it rains and in the result the ceilings, walls and our law books have suffered and continue to suffer substantial damage. The Registry there is sorely in need of a qualified Registrar and supporting staff but our requests in that behalf have met with no response. The Attorney General himself has to my certain knowledge made valiant attempts to get these rather unsatisfactory conditions affecting the administration of justice in Tobago eliminated but so far they have been in vain.

MASTERS OF THE SUPREME COURT

The Supreme Court of Judicature (Amendment) Act 1980 which was enacted on 20 March 1980 created the posts of two Masters. The terms and conditions of service of the office of Master as recommended by the Salaries Review Commission were not laid in Parliament until 4 September 1981. Following his acceptance Mr. Conrad Douglin, who had received valuable training in England last year in the offices of Sir Jack Jacob, Senior Master of the Supreme Court of London, and in other Registries in England, was appointed to one of the posts with effect from 1 October 1981. The post of Registrar of the Supreme Court thereupon became vacant and Mr. Clifford Chambers was appointed Registrar with effect from that date.

Efforts are being made to attract a practising lawyer to fill the second post of master. If our efforts succeed the person selected will have the opportunity of being trained in England as Master Douglin was and it is devoutly to be hoped that notwithstanding the difficulties in attracting practising lawyers to serve the country in one capacity or another, this post of Master which will offer many stimulating challenges to the right lawyer will be filled before long.

THE MAGISTRATES

After languishing for years in the backwaters of the judicial hierarchy of this country and being subjected to the control, direction and discipline of the executive authority for many a year, Magistrates of the country were placed under the complete control, direction and discipline of the Judicial and Legal Service Commission by the Judicial and Legal Service Act of 1977, and subsequently elevated to the pedestal to which they rightly belonged by the recommendations of the Salaries Review Commission of 1980.

Happily, the Government accepted the pedestal on which they were recommended to be placed but unhappily, and most disappointingly for the Magistrates, it rejected the proposal that

they should be so placed with effect from 1977. That rejection was another example of curious reasoning by the powers that be since the pith and substance of what the Salaries review Commission did in their case was to upgrade their offices to the point at which they justly belonged at least from 1977 if not before. Moreover the mobility of officers in the Judicial and Legal service at which the recommendations of the Salaries Review Commission were rightly and wisely aimed and which was essential to the successful operation of that Service received an unfortunate setback by the rejection of the proposals which were designed to achieve that object.

DISSATISFACTION

These rejections have been fomented dissatisfaction and disenchantment of one kind or another among the magistrates and like members of the higher judiciary who have no process of collective bargaining or appeal open to them, they have made representation to the Government through the kind offices of His Excellency the President.

It is the earnest hope of both members of the lower and higher judiciary that the vulnerable position in which they find themselves by reason of having no process of collective bargaining or appeal open to them, will not be employed to perpetuate the "obvious in equitable treatment" they have received or deny them the benefits which the principles of "equity and good industrial relations practice" clearly support. This point has been made to his Excellency the President and Magistrates now await the outcome of the representations which he was kind enough to submit on their behalf to the Executive.

IMPROPER INTERFERENCE WITH JUDICIAL FUNCTION

While on the subject of Magistrates I should like to digress from what I have been

discussing to refer to press reports which indicated that Mr. Lionel Bridgeman, a magistrate, had complained of being improperly approached by a high official in the magistracy to pollute the streams of justice in the court over which he presided. The complaint was published in the press before it reached the Judicial and Legal Service Commission and quite naturally the publication excited tremendous public concern and anxiety. In order to allay them the Judicial and Legal Service Commission has authorized me to state publicly in the special circumstances of the case that Mr. Bridgeman's allegations were directed against the Chief Magistrate, Mr. Roland Crawford, who has categorically denied them. In the result the Judicial and Legal Service Commission has appointed Mr. Justice Ulric Cross to enquire into these allegations after hearing the parties and their witnesses and to report his findings thereon to the Commission.

OUTSTANDING JUDGMENTS OF MR. SONNY MAHARAJ,

A FORMER JUDGE OF THE HIGH COURT.

Press reports have also created the impression and no doubt prompted members of the public and layers alike into thinking that Mr. Sonny Maharaj, a former judge, had given reasons in some 31 actions tried before him. The facts however are, that Mr. Justice Maharaj, as he then was, gave me notice early in 1980 he intended to leave the judiciary at the end of that year and advised me that he had about 31 judgments outstanding. To enable him complete these judgments and deliver them before he left, I arranged to relieve him entirely of heavy work in the Courts and called upon him instead to do light duties, as it were, from time to time during that year. I was advised when he left the judiciary in 1981 and this has been confirmed by the Registrar, that Mr. Maharaj had delivered all his outstanding judgments and given reasons in all the cases he heard except two – Dindial v Caroni Ltd. and Pinky Ragbir v Trinidad Lease

Operators Ltd. The Clerk to the Judges is continuing his valiant efforts to obtain the reasons for Mr. Maharaj's judgment in the first case but as to the second judgment was never delivered notwithstanding several reminders to him to do so before he retired from the Judiciary. The Registrar has now supplied me with an official report and I propose to bring the matter to the attention of the Judicial and Legal Service Commission for such action as may be though fit.

VISIT OF SIR JACK JACOB

1982 promises to be a notable year in the history of the legal profession for at least two reasons. Firstly, it will begin in January next with a visit to this country by Sir Jack Jacob, former Senior Master of the Supreme Court of England and Queen's Remembrancer, who it will be recalled had to cancel his visit in January last because of the sudden illness of Lady Jacob. You will all be delighted to know that she is now restored to good health and has been given the green light to travel. As mentioned to you last year, Sir Jack will be a guest of the Supreme Court of Trinidad and Tobago for a period of at least two weeks, during which he will fulfill a number of important engagements. Apart from delivering a lecture to the legal profession on "The Role of the Lawyer in Society" he will examine and recommend such reforms as may be necessary to improve (1) the practice and procedure in the civil courts; (2) the structure and organisation of the civil courts; (3) the organisation of the Registry of the Supreme Court and the methods employed to service the needs of the public and the civil courts; and (4) the machinery of the civil courts in general.

COMMONWEALTH MAGISTRATES CONFERENCE

Secondly, Sir Jack's visit will be followed by the Commonwealth Magistrate's

Conference which with the kind approval and support of the Government, will be held in Port-of-Spain from 12 - 18 September 1982 under the auspices of the Commonwealth Magistrates Association of which the President of the Federal Court of Malaysia, Tun Mohamed Suffian is the President, The Lord Denning, Master of the Rolls and Sir Thomas Skyrme of the Lord Chancellor's Office are the Hon. Vice Presidents, Mr. Roland Crawford, our Chief Magistrate, one of sic Vice Presidents and Mr. O. K. Williams of the United Kingdom, the Secretary. Many Judges and Chief Justices are Associate members of the Association and notwithstanding what the name of the Conference would appear to imply many distinguished judges and jurists who are not magistrates are expected to attend and participate in the Conference. Among those expected are Lord Hailsham the Lord Chancellor of England, Lord Diplock Senior Law Lord of the House of Lords and of the Privy Council, Lord Denning, M.R. of England and Wales, Chief Justice Bora Laskin of the Supreme Court of Canada, Chief Justice Chandrachud of the Supreme Court of India and Chief Justice Gibbs of the High Court of Australia.

This Conference is likely to be the most important legal event to take place in Trinidad and Tobago and it may well prove to be the most significant in the legal profession to meet, hear and discourse with eminent and distinguished jurists and judges of the lower and higher judiciaries from 48 Commonwealth Countries scattered throughout the length and breadth of the world and, what is most important, to make new friends and form lasting and rewarding professional relationships with them.

It is with great pleasure therefore that I invite the legal profession to join with the Judiciary in extending a warm and cordial welcome to the visitors to our shores in September, and to co-operate fully with the Chief Magistrate and his standing Committees under my general direction to ensure the complete success of this Conference.

THE HON. ATTORNEY GENERAL, SENATOR SELWYN RICHARDSON

Mr. Attorney, it is now an open secret that you have made a firm and irrevocable decision to return to your practice at the Bar and not to offer yourself for political honours at the forthcoming general elections or for any political office thereafter. I feel obliged in the circumstances to say a few words about the Ministry for Legal Affairs which you have directed and led for the last five years. It was in my opening of term address on 4 October 1976 that I referred to your appointment as Attorney General and revealed to members of the profession that you had yielded with considerable reluctance to the call to serve the country in that capacity and that your reluctance was born out of a consciousness that you were too young and inexperienced in the legal profession to fill such a high office and that it would be unwise for you to interrupt your developing prospects at the Bar and the rewarding income that they had begun to bestow upon you.

You have now filled that high office for five years and are leaving behind a record of achievements which, in my view, will not be easy for any successor of yours to equal let alone surpass. Being human and having only your experience as a junior member of the Bar to draw upon, you made errors along the way for which you were criticised but you always had the good sense to learn from your mistakes, and the strength of character to pick yourself when you fall, brush yourself off and start all over again with renewed enthusiasm.

It was these qualities in your character more than any others which sustained you during your term of office and enabled you to achieve for the administration of justice in our country improvements and benefits which can justifiably be described as substantial and indeed which were long overdue prior to your appointment as Attorney General.

These achievements can be placed in two main categories. Foremost in the first category are the construction in the block North of Woodford Square of what is going to be a magnificent Hall of Justice for which Judges and the legal profession had been clamouring for well nigh three decades; the completion of the Tobago Hall of Justice which had prior to your assumption of office lain in limbo for months for reasons which are better left unsaid on this occasion; the restoration and beautification of the Red House, its compound and its gardens; and the completion of the Magistrates Courts at Mayaro and Point Fortin.

Foremost in the second category are the revision of the laws of the country after 30 odd years; Parliament's acceptance of your excellent White paper on law reform, the re-organization of the Ministry for Legal Affairs in four main divisions under the Solicitor General, the Director of Public Prosecutions, the Chief Parliamentary Counsel and the Chief State Solicitor respectively; the re-organization of the Registrar General's Department, the much needed repair effected to its offices and the restoration of its priceless records; the new status and recognition accorded to the Law Officers and Magistrates by the enactment of the Judicial Legal Service Act of 1977; and the sweeping reforms effected in the laws of the country by the enactment in 1981, inter alia, of (1) The Land Law and Conveyancing Act; (2) The Landlord and Tenant Act; (3) The Land Registration Act; (4) The Condominiums Act; (5) The Trustee Act (6) The Succession Act (7) The Limitation Act (8) The Land Tenants (Security of Tenure) Act; (9) The status of Children Act; and (10) The Family Law Act.

Great breaths of common sense and much sweat and toil on the part of a dedicated group of legal experts, hand-picked by you from abroad and in this country, were employed to blow away the cobwebs and remove the barnacles that had settled upon the body of our laws. It is now left to be seen whether what has been done will be adequate to meet the needs of our rapidly

changing and developing society and indeed whether it will eventually merit the praise showered upon you by the late Prime Minister, Dr. Eric Williams, in his last speech in Parliament. Only time and the dispassionate judgment of lawyers and Judges in the future and not the clamour of popular prejudice or uniformed opinion will determine that.

For my part I should like to express my gratitude for all of you have done for the administration of justice in five short years and to endorse the sentiments expressed in an editorial in one of the dailies on 12 July 1979 that as an Attorney General you were –

“one individual ... who [was] not prepared to be just another player on the world’s stage merely to do [your] bit, return to your shell and let fate and circumstance bury your memory in the sands of time.”

The editorial went on to say that you showed unbridled enthusiasm in your job, attacked both crime and criminals mercilessly, sometimes over-reaching yourself in your thoroughness for which you might be forgiven.

I feel confident that you will be and equally confident that on your return to the Bar success and prosperity will not elude you. We wish you the best of luck.

BAR ASSOCIATION’S DECISION ON RETIRED JUDGES

I had no intention of referring in my address today to the question I had raised about the propriety of a former judge of the High Court practicing in the Courts of the country on which I had sought the views of the Bar Association and the Law Society, mainly because the disciplinary committee of the Bar was requested to consider the question and has been able to do so yet.

However of a letter I received on Friday 2 October last from the President of the Bar Association informing me of the decision taken at a meeting of the Association on that day, and

the contents of a new item in one of the dailies on the following day under banner headlines persuaded me to change my mind and make a few observations.

The question on which I sought the views of the Bar Association and the Law Society, after outlining the relevant facts and circumstances surrounding the retirement of Mr. Justice Maharaj, (as he then was) from the Bench of the High Court, was whether in the light of those facts and circumstances it was contrary to the ethics and/or traditions of the legal profession and also of the judiciary for a former judge of the Supreme Court to practise in the Courts of the country of which he has been a judge.

The reasoned and considered opinion of the Bar Council, the executive body duly elected by members of the Bar Association, was transmitted to me under cover of a letter dated June 25 1981 in which the question put was answered as follows:

“The Bar Council is of the view that it is contrary to the ethics of the Legal Profession and the Judiciary for a retired judge of the Supreme Court of Trinidad and Tobago to practise before the Supreme Court of Trinidad and Tobago.”

I considered it significant that that answer was in complete harmony with a principle enunciated by the Bar Council of England and Wales to this effect:

“The Bar Council does not approve as a matter of principle of former judges in England and Wales returning to practise at the Bar in any capacity.”

Even more significant was the fact that that principle was declared to be an example of the application of paragraph 59 of the Code of Conduct for Barristers which stipulates that

“A Barrister may not accept a brief or instructions in any case where by reason of his connection with the Court or a member thereof the impartial administration of justice might appear to be prejudiced.”

See the Code of Conduct for the Bar of England and Wales of July 1980 issued by the Senate of the Inns of Court and the Bar pp. 6, 42.

The meeting of the Bar Association on 2 October last however, considered not the question I had addressed to it but a motion in these terms:

“Be it resolved that the Association considers it neither unethical nor immoral for a Barrister who has served as a judge to return to practise his profession at the Bar without any restrictions whatsoever.”

I am informed that only 23 members of the Bar were present at that meeting, 13 whom voted for the motion and 8 against it. It was accordingly carried. With the utmost respect I must point out that while the Bar Council considered and answered my question positively and unequivocally the motion which the Association passed was not a proper or satisfactory answer, to the question I addressed to it.

However that may be, it is evident that by necessary implication the views of 13 members of the Bar which must be taken in the circumstances as the views of the Association itself, is in violent conflict with the views of its own elected executive, the Bar Council.

A number of inferences may be drawn from this conflict especially by those who have followed closely the fortunes of the Bar Association over the last 15 years. But what is certain is, that this conflict has produced, to say the least, a comical situation if not a ludicrous one and that the image of the Bar cannot be said to have been enhanced by it. Indeed this conflict gives pointed emphasis to the urgent need for the enactment of the Legal Profession Act which was published for comment in 1975 I believe, deferred for two years and unfortunately forgotten there under the authority of that Act a binding code for the whole of the legal profession may be enacted and effect given, if I may say so with respect to some of the invaluable suggestions made recently in the Senate by a highly respected and distinguished member of the Bar, Mr. Michael de la Bastide.

It is a matter for considerable regret, in my view, that the Legal Profession Act was not

enacted during the regime of the present Attorney General. He would have done the legal profession a service of inestimable value if he had got it included in the new and attractive volumes of the Laws of Trinidad and Tobago and moreover he would have earned the sincere gratitude of citizens of the country for that achievement. For my part I am convinced that the unity, future and fortunes of the legal profession have now become heavily dependent on its passage into law and the sooner it is done the better.

The question is where do we go from here? I can only hope that out of deference to the Chief Justice, the Association would earnestly consider the specific question put to it and answer it unequivocally and that the Disciplinary Committee of the Bar would do the same early.

The Law Society's reply is also outstanding and I take the opportunity not only of reminding its officers of it, but of pointing out to them that the vital role which solicitors play in selecting and briefing Barristers to appear in the Courts of the country gives them a special and substantial interest in the question I have raised to persuade the Society to consider it soberly and answer it wisely.

When all these answers have been given, the course to pursue would become, I believe, a little clearer.

I now have much pleasure in opening the law term, in acknowledging with much gratitude the co-operation and assistance my brothers and I have received from the responsible and dedicated members of the Bar and the Law Society over the last term and to invite you once more to join with us on the Bench to promote the cause of justice in our land, to give each man his due and to do so with the spirit of discernment, the spirit of uprightness and the spirit of understanding.