ADDRESS OF THE HON, CHIEF JUSTICE, SIR ISAAC HYATALI. T.C. AT THE OPENING OF THE 1982 – 83 LAW TERM IN THE HALL OF JUSTICE, RED HOUSE, PORT-OF-SPAIN ON 4 OCTOBER, 1982

Mr. Attorney General et al:

INTRODUCTION

As I begin today my last address to you to open the 1982-83 law term my mind goes back to the first address I made in this very Hall of Justice exactly 10 years ago to inaugurate the 1972-73 law term. A reference therefore to the events of that decade becomes inevitable and I accordingly seek your indulgence to recall some of the more important ones.

Parliament was then functioning without an Opposition in the House and had been doing so since September 1971 in consequence of the curious and extraordinary fact, that at the General Elections held in that month, the ruling political party had won all of the 36 seats in the House of Representatives.

SEPTEMBER 1971

By September 1971 too, the personnel on the Bench of the Supreme Court had undergone material changes. The late Sir Hugh Wooding, our first Chief Justice of independent Trinidad and Tobago, had retired in December 1968, Sir Hugh McShine, his successor, had retired on 11 May 1971 and from that date the late Mr. Justice Clement Phillips had been acting as Chief Justice.

INDUSTRIAL COURT

At that time I was president of the Industrial Court. From April 1965 I had been assigned to that Court established under the Industrial Stabilisation Act 1965 to provide, inter alia, for an expeditious system of settling trade disputes which were then responsible for a rash of crippling strikes in both the private and public sectors of the country.

I had accepted my assignment to that Court from 1 April, 1965 on the footing that it would be for a single year, but for reasons which need not to be discussed here, I was retained in that office for some seven years altogether. By September 1971, therefore, some of my brethren in the Supreme Court and others outside of it, had formed the erroneous impression that I had surrendered or abandoned whatever claim I may have had to be considered for the office of Chief Justice.

PRIME MINISTER'S VIEW

I successfully took steps to eradicate that impression in the circles that mattered, but it was of no moment then, since the Prime Minster of the day made a public declaration soon after the general elections that a permanent appointment to the office of Chief Justice would remain outstanding. He had taken the view that he could not make a recommendation to fill the office permanently, because the Constitution required him before doing so, to consult with someone who did not exist, namely, the Leader of the Opposition in the House.

DISAGREEMENT

The Judges disagreed with the Prime Minister's view and in a joint memorandum under their hands they so informed the Governor General of the day. In addition, they expressed the opinion that the omission to fill the post of Chief Justice permanently, had serious consequences for the due administration of justice, since it tended to strike at the root of the independence and security of tenure of the Chief Justice, the Judges of the High Court and the Court of Appeal.

APPOINTMENT OF CHIEF JUSTICE

A tense situation between the Judges and the Executive ensued, but it was relieved thereafter presumably by a better legal opinion proffered to the prime Minister, advising him that he could quite properly make his recommendation, notwithstanding the absence of a leader of the Opposition in the House. The post of Chief Justice was accordingly filled on 14 July 1972 and an announcement to that effect was made by the Prime Minister in Parliament on the same date.

OTHER TENSIONS

Subsisting at that time however, were other causes of tension between the Executive and the Judiciary, the chief of them being, (1) the refusal of the then Attorney General to initiate proceedings for contempt against a newspaper and its editor, for scandalising the Judges of the Supreme Court; (2) the consternation felt from the quashing of the convictions of army officers for the offences of mutiny, on the ground that their offences had been effectively condoned; and (3) the disappointment felt by Judges, both over the salaries fixed for them with effect from 1 January 1971 and the omission to improve satisfactorily their pensions and other conditions of service.

BASIC PRINCIPLES

It was against that background that I assumed the office of Chief Justice. In the circumstances, I felt obliged in my opening of term address on 3 October 1972, to give expression to these basic principles:

(1) that it was of the utmost importance for Judges to keep steadily in the view and for the society as a whole to accept and support without reservation the cardinal principle that the independence of the Judiciary from the Executive was indispensable to the fearless and impartial administration of justice and the preservation of the Rule of Law;

(2) that the only subordination to which a Judge was subject, was the body of legal doctrine enunciated by his brethren in the past and the laws duly enacted by Parliament;

(3) that a vital corollary to the independence of the Judiciary from the Executive was the independence of the Executive from the Judiciary and that consequently, just as it would be an impertinence for the Executive to arrogate unto itself a right to interfere with the independence of the Judiciary, so it would be an impertinence for the Judiciary to arrogate unto itself a right to interfere with the independence of the Executive; and

(4) that while the Judiciary, the Executive and the Legislature, constituted three separate and independent pillars in our democracy, their plain business and constitutional duty was not

> to wage war against each other or to undermine the foundations on which those pillars were secured, but to respect and support the independence and integrity of each other.

Throughout the course of the decade in which I served the country as Chief Justice I kept these principles in the forefront of my mind in dealing with the Executive and I am happy to say that the three Attorneys General and Ministers for Legal Affairs who served the Government between 1972 and 1981 did likewise.

FREQUENT DIALOGUE

Consequently, we never waged war against each other during that period. On the contrary, with full respect for each other's independence and integrity, we held frequent discussions with one another on the administration of justice and in the result, but more particularly during the regime of Attorney General Selwyn Richardson, a vast number of proposals for its improvement and reform were formulated and implemented. And to clear the air, let me take the opportunity of stating, that save for the period when a spirit of near rebellion was injected into the bloodstream of the Judges, by Government's rejection in December 1980, of the Salaries Review Commission's recommendations in their favour, the period under reference was marked by a relationship that was both stable and agreeable.

COURT DECISIONS

Indeed, I am bound to say as well, that in the innumerable instances in which our Courts handed down decisions against the State, the Executive acting through its Attorney General and Minister for Legal Affairs of the day, invoked these four principles not only to determine its proper reaction to them, but to preserve its respect for the independence which the Judges manifested in giving those decisions.

GUARDIANS OF THE CONSTITUTION

Moreover, the Executive never questioned in those instances the cardinal and inviolable principle that the Court was the custodian and guardian of the Constitution and that its Judges were obliged thereunder not only to prevent encroachments on or violations of the

rights of the citizen, but to redress any wrongs which he suffered thereby. In particular, the Executive, to their great credit, never sought to emulate the example of the country in which its Chief Justice was dismissed by its President for giving a decision he disliked, or of the State where three judges were kidnapped, tried and shot to death by its military officers for giving decisions they resented, or of that widely known country where a Chief Justice was murdered for deciding a case contrary to the expectation of its President.

EDITORIAL OPINION

It is noteworthy that this agreeable state of affairs in our country attracted quite recently the notice of a leading daily and that in an editorial of 17 September last its editor referred to Court decisions given against the State and commented as follows:

> "The fact that our country has been able to preserve inviolate the vital principle of the independence of the Judiciary must be a matter for national pride. For one thing it demonstrates quite impressively our maturity as an independent society, not only able to understand and appreciate the all-important value of this principle but also able to produce the quality of professionals to maintain and even enhance it."

ACTIVITIES

During the decade under review our legal calendar was filled with a variety of new and interesting events. A highly successful law conference was held at Queen's Hall in July 1973, a stimulating law seminar took place at Chagacabana in 1974 and visits to our country under the sponsorship of the Judiciary were made by the famous Master of the Rolls, the Rt. Hon. Lord Denning; Mr. Norman Skelhorn, Director of Public Prosecutions of England; Dame Rose Heilbron, a Judge of the High Court of England; Dr. T.O. Elias Chief Justice of Nigeria and now President of the International Court of Justice; Mr. Roy McMurtry, Q.C., Attorney General of Ontario, Canada; and Sir Jack Jacob, Q.C., then Senior Master and Queen's Remembrancer of the Royal Courts of Justice of England.

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WORKSHOPS AND EXCHANGE

Apart from these visits, Magistrates, representatives of the legal profession and of the Supreme Court participated in two extremely successful magistrates' workshops organised with my blessings and support by Mr. Roland Crawford, our indefatigable Chief Magistrate. Further, the Supreme Court took part in a Judicial Exchange with the United Kingdom, which gave our Judges the opportunity to exchange views and experiences and to sit in Court with the Rt. Hon. Lord Diplock, Senior Law Lord of the House of Lords and of the Privy Council; Kilner-Brown, J. and Milmo, J. of the High Court of England and Wales; and the Rt. Hon. Lord Wylie, President of the Court of Session of Scotland. Their visit to this country in pursuance of that Exchange was prededed by visits to the United Kingdom and Scotland by Corbin, J.A. and Bernard, J. where they had similar opportunities and privileges.

THE COMMONWEALTH MAGISTRATES' CONFERENCE

And finally, we had the great honour of hosting the recently concluded Sixth Commonwealth Magistrates' Conference in which 35 Commonwealth countries were represented. The theme of the Conference was "The Judiciary and Justice" and it was opened on Sunday 11 September at the Convention Centre, Chaguaramas, by His Excellency, President Ellis Clarke.

On the opening day participants therein had the advantage of listening to an excellent address from President Clarke, three brilliant keynote addresses at the Working Sessions thereafter by Lord Diplock, Mr. Roy McMurtry, Q.C. and Mr. Justice Y. Chandrachud, Chief Justice of India, and of taking part in lively and stimulating discussions at sessions presided over by distinguished jurists of the Commonwealth.

Mr. Roland Crawford, our Chief Magistrate, played a leading role in organising and directing the Conference at this end, and in this, he was ably assisted by Mrs. Jean

George, the Host Country Co-ordinator, and other members of the Working Committee. In recognition of his sterling services Mr. Crawford was made an Hon. Life Member of the Commonwealth Magistrates' Association. It would be useful to mention at this juncture, in parenthesis that although his retirement from the Magisterial Bench has become due, he has been given special permission to continue in office at most until 31 December 1982 to wind up the affairs of the Conference.

The Conference was undoubtedly an unqualified success and was so described by leading officials and delegates thereto. Our country benefited enormously from it and Mr. Crawford, Mrs. George, and all the other members of the Working Committees deserve our warmest congratulations. All these activities and events had the financial support and full cooperation of the Government and for this, the Judiciary is most grateful. They also received accurate and ample coverage in the two dailies and I take this opportunity of placing on record in this address my warmest thanks to the Editors thereof.

THE JUDGES

So far as the Judges themselves are concerned the period in question saw the following improvements in their emoluments and terms of service: the salaries per month of Judges of the High Court moved from $2500 in 1971 to $6500 in 1981; those of the Court of Appeal moved from $2800 in 1971 to $7500 in 1981; and that of the Chief Justice moved from $3200 in 1971 to $9000 in 1981.

In addition, with effect from 1981, each Judge became entitled to a tax free personal allowance of $2000 per month and a subsistence allowance of $40 per day when on duty in San Fernando or Tobago.

Moreover, legislation was enacted in 1976 to provide pensions for the widows of Judges, and while these fell short of our expectations they are nevertheless a distinct improvement on those provided for under the Widows and Orphans Pensions Ordinance.

THE MAGISTRATES

In relation to Magistrates, Senior Magistrates and the Chief Magistrate, it would suffice to state that with effect from 1 January 1981 they were regraded and placed in salary scales which recognised at long last their true status, importance and value as judicial officers in the country, and simultaneously therewith, their jurisdiction was increased not only to reflect their new status, but to relieve the overburdened High Court of cases that could well and conveniently be tried by them as Judges of the Petty Civil Court.

OTHER FIELDS OF PROGRESS

The progress made in other fields are, in my respectful view, impressive. The new Rules of the Supreme Court were introduced in 1976 to replace after a lapse of 30 years the Rules of the Supreme Court of 1946; legislation was passed to provide for a Judicial and Legal Service under which both Magistrates and Legal Officers were freed completely from Executive Control and influence; and the Supreme Court of Judicature was amended to provide (a) for an increase in the number of Judges of the High Court to 15 and of the Court of Appeal to 7; (b) for sittings of the Court of Appeal to be held in San Fernando and Tobago; and (c) for the creation of two posts of Masters of the Supreme Court, which are now filled by Master Conrad Douglin and Master Lloyd Gopiesingh.

NEW LAWS

A Legal Aid and Advice Act was enacted which was described in 1977 at the World Peace Through Law Conference in the Phillipines and at the Commonwealth Law Conference in Scotland as the best in and a model for the Caribbean Commonwealth; the revised laws of the country were introduced to replace the old after a lapse of 30 years; an invaluable White Paper on Law Reform was presented to and accepted by Parliament; and sweeping reforms were effected in the laws of the country by the enactment of the Law Revision (Miscellaneous Amendment) Acts and, inter alia, of laws affecting land, landlord and tenant, Condominiums, Trustees, Succession, Limitation, Status of Children, Family Law, Matrimonial Causes and Evidence.

COURT BUILDINGS

The decade under reference also witnessed the completion of the magnificent Tobago Hall of Justice, its subsequent mutilation and restoration to its original beauty; the laying of the foundation stone and the commencement of the construction of a new Hall of Justice in Port of Spain in October 1979 to house , inter alia, 20 trial courts and two divisions of the Court of Appeal, the construction and inauguration of a new Magistrates Court in Mayaro to replace its shabby and delapidated predecessor; the completion of, and commencement of sittings in, a new Magistrates Court at Point Fortin; and the implementation of plans to construct Magistrates Courts in St. James, Tunapuna and San Juan. To these must be added the Hugh Wooding Law School at St. Augustine which is nearing completion, the execution of necessary repairs to the Hall of Justice and Judges Chambers in the Red House, and the provision of accommodation for the Civil Courts at NIPDEC House, the whole of which is about to be released to the Supreme Court.

TURBULENT ERA

There were certainly other events, notable and notorious perhaps, in the administration of justice which could be mentioned with advantage but time will not permit me to do so. It will suffice for me to say that the last ten years in the Supreme Court were the most active and yet the most turbulent in its history and I venture to suggest that it may well be the case that none of my predecessors, even it one goes back to the era before I started my practice at the Bar in 1947, was faced with so much as a quarter of the problems – legal, constitutional, administrative and otherwise, with which it was my lot as Chief Justice to contend. These problems are well-known to the legal profession and my brothers on the Bench and I need not dwell on them today.

CRUCIAL CHALLENGE

The crucial challenge for me during that period was to keep my brother Judges together and the Supreme Court in one piece; and the fact that we are still hanging together and have not been hanged separately, and that the Supreme Court continues to be kept in one piece, even though it is scattered geographically in three different locations in the city,

would seem to suggest, and I say it in all humility, that that crucial challenge was met successfully.

EXPENDITURE ON JUSTICE

From this brief review of the main events and activities I have outlined thus far, one incontestable fact emerges, and it is that the expenditure on the administration of justice over the decade under review has been considerable indeed. It has, to my knowledge, provoked envious comparisons with expenditure in other areas of Government activities, but be that as it may, it is only fair to say that this enormous expenditure on Justice is expressive of a welcome recognition by the Government of the robust and unswerving attachment of our people to the Rule of Law, and also, of Government desire to project itself as a model state to its Caribbean and South American neighbours in the field of maintaining and promoting respect for the independence of the Judiciary and the fundamental rights and freedoms of the citizen. May this long continue to be so.

It was in that context I believe that the famous declaration in relation to the Judiciary was made by the late Prime Minister in His Budget Speech of 1980 and, it is a matter for much satisfaction to Judges, that these sentiments have received renewed emphasis from his successor.

ABUSE OF POWER

Eternal vigilance, the price of liberty, must continue nevertheless to be our constant watchword, for in recent times, numerous allegations of the abuse of power and authority by those invested with them under the law, have surfaced to our dismay; but happily, we can take comfort from the fact that if they are well grounded, it is that very same robust and unswerving attachment of our people to the Rule of Law that will ensure that the proven authors of such abuses are brought to justice, given their just desserts and punished adequately for their misdeeds. It is hardly necessary for me to say that the Judiciary as is expected of it under the Constitution, will do its duty courageously and

unawed in that regard bearing always in mind the famous dictum of Cummings, J.A. Jaundoo v Attorney General of Guyana (1968) 12 W.I.R. 221,261 that –

> "No doubt… the Constitution casts upon the Court a heavy responsibility on a difficult task but this does not justify judicial abdication. 'Fear must not lend wings to our feet'."

COURT STATISTICS

The cases on the lists of the High Court for the current term may aptly be described as voluminous. The Court statistics supplied to me show that between 1 October 1981 and 31 July 1982, 5253 matters were filed in Port of Spain, 1585 in San Fernando and 87 in Tobago, total, 6925.

At present in Port of Spain, 405 actions are listed and pending, while 779 have been set down on the general list but not yet listed. In San Fernando, 759 actions are listed and pending while 254 have been set down on the general list but not yet listed.

In Port-of-Spain, during the year under review, the cases listed and determined were as follows:

	Listed	**Determined**
Civil Actions	1128	176
Divorces	1100	764
Chamber Court matters before a Judge	5808	1408
Chamber Court matters before the Master	2425	850

In San Fernando the figures are as follows:

	Listed	**Determined**
Civil Actions	332	75
Divorces	667	413
Chamber Court matters before a Judge	1576	795
Chamber Court matters before the Master	526	176

In Tobago the figures are as follows:

	Listed	**Determined**
Civil Actions and Divorces	291	112
	Listed	**Determined**
In Port-of-Spain at the Assizes	332	52
In San Fernando at the Assizes	173	52
In Tobago at the Assizes	22	10

CRIMINAL CASES

The Gaol Delivery at the end of the last term on 30 July last showed that there were 215 persons in custody awaiting trial at the Assizes and 66 persons in custody awaiting the hearing of their appeals. Of those awaiting trial, 10 of them absconded and 6 are at the mental hospital. The figures supplied by the Office of the Director of Public Prosecutions covering the period October 1, 1981 to July 31, 1982 show the following:

	Port- of -Spain	San Fernando	Tobago	Total
Committals for trial	77	84	6	167
Committals for Murder	46	24	-	70
Cases pending at the Assizes	760	370	10	1140
Bench Warrants for persons who were on bail but failed to appear for their trials	228	61	3	292

WORKLOAD IN HIGH COURT

The workload of the High Court for the current term is as great as it has ever been in the past, if not greater, and what is worse, it has to be tackled by a Judiciary that is seriously understaffed. At the moment there are four vacancies on the Bench of the High Court and the prospects of filling them with our own nationals or nationals of Caribbean Commonwealth countries possessed of the necessary erudition, experience, capacity for hard work and integrity, the sine qua non of the Bench, are far from encouraging.

Those at the practising Bar who qualify in my view, and there are at least a dozen of them in our country, are not attracted to the Bench largely because, I think they do not have the will or the courage at the moment, to sacrifice their lucrative incomes at the Bar to serve the country at salaries and on terms of service which they consider unsatisfactory.

ANOTHER ASPECT OF JUDICIAL INDEPENDENCE

I have already referred in my address to the independence of the judiciary as it relates to Judges and the Executive. That however is but one aspect of Judicial independence. Another vital aspect of it derives from the strength, integrity and high calibre of the Bench itself and the absolute relevance which these qualities bear to the proper preservation and guardianship of our Constitution, and the due administration of justice.

In this connexion one recalls the trite observation of Professor S.A. de Smith in his article on “Fundamental Rights in the New Commonwealth” at p. 215 of (1961) 10 1C.L.Q. that -

> "Unless the quality and status of the Judiciary are commensurate with its responsibilities, the spirit of the Constitution will escape into emptiness."

DUTY OF HIGH CALIBRE LAWYERS

In my respectful opinion, and I express it with all the emphasis and conviction I can command, lawyers of high calibre and integrity in our society have an inescapable duty to serve it by accepting high judicial office even though inevitable sacrifices result; and further, that those who fail to do so are contributing by their neglect to the decay of the Judiciary, the escape of the spirit of our Constitution into emptiness, and the ultimate degeneration of the Rule of Law in our country.

EDITORIAL OF 21 SEPTEMBER 1982

A leading daily in its editorial on 21 September last expressed strong views on this subject and as I agree with them entirely I quote the relevant portion of it and gratefully adopt the vivid message which it conveys to the legal profession and the powers that be:

> "It appears that professionalisation has been suffering because of an over-emphasis on financial gains. And it strikes deeply at the very heart of the independence of the judiciary to hear that 'senior and competent' members of the Bar are not prepared to sit as judges. We have written at length on the question of judges' salaries, support staff, and other physical facilities.
>
> But surely, if the argument by lawyers is that 'a judge's salary is not attractive enough', then for them it will always not be enough. It is well known all over the democratic world, that judges' salaries do not compare well with the income by competent lawyers.
> . It is indeed sad that becoming a judge is not seen here as a clear opportunity to preserve the very democracy which affords lawyers the right to practise as they do in this country.
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> We have commended the government for its financial assistance in bringing off the Commonwealth Magistrates Conference here. We are prepared to commend them even more if they give serious and immediate attention to the need for improved facilities for our judges. The situation with the higher judiciary is perhaps much more serious than many people appear to think. And its no use talking about the independence of the judiciary, or about the

> protection of individual rights, when there is a shortage of persons to maintain such independence and rights. And, in the public interest, we expect some early solution by all those concerned."

The third aspect of judicial independence is one on which I have spoken at length both at the Commonwealth Law Conference in Nigeria, the last Magistrates' Workshop at Chaguaramas and my opening of term address last year. It is therefore unnecessary for me to say anything further on it on this occasion.

THE COMMON LAW IN TRINIDAD AND TOBAGO

In his eloquent address recently, at the Graduation Exercises of the Hugh Wooding Law School, Mr. Attorney General spoke, inter alia, on Fusion of the Legal Profession and the future development of the common law in our society. On the latter question he expressed these views:

> "In the Caribbean our neighbours are not the countries of Europe. [a reference to England's association with European countries]. They are the islands of the Caribbean. As to the common law which we inherited is, in England, being injected with European law, we must of necessity look to our Caribbean neighbours, to fellow-members of the Caribbean community, to enrich and develop our own jurisprudence. No longer can we slavishly follow the laws of England."

I fully endorse these views and I invite members of the legal profession to do likewise. But I would suggest that the process of moulding the common law to our hearts' desire needs to be accelerated now and this could well be done by an Act of Parliament which ordains that the common law shall continue to apply in appropriate cases but "subject to such qualifications as local circumstances render necessary."

THE COMMON LAW IN KENYA

The wording of that proviso appeared in an Order of Council providing for the jurisdiction to be exercised in the Kenya Protectorate as it then was. Its meaning and effect were considered in Nyali Ltd. v Attorney General (1956) 1 Q.B.1 and Denning, L.J., as he then was, took the opportunity to define the duty of the Judge in moulding the common law in the Protectorate. In the course thereof the learned Lord Justice expressed

views at p. 16 ib, which fortify the points made by Mr. Attorney on our new role in the Caribbean. They were to this effect:

> "The next proviso provides, however, that the common law is to apply 'subject to such qualifications as local circumstances render necessary.' This wise provision should, I think, be liberally construed. It is a recognition that the common law cannot be applied in a foreign land without considerable qualification. Just as with an English oak, so with the English common law. You cannot transplant it to the African continent and expect it to retain the tough character which it has in England. It will flourish indeed, but it needs careful tending. So with the common law. It has many principles of manifest justice and good sense which can be applied with advantage to peoples of every race and colour all the world over: but it has also many refinements, subtleties and technicalities which are not suited to other folk. These off-shoots must be cut away.
>
> In these far-off lands the people must have a law which they understand and which they will respect. The common law cannot fulfil this role except with considerable qualifications. The task of making these qualifications is entrusted to the judges of these lands. It is a great task which calls for all their wisdom."

FUSION

On the question of fusion I agree entirely with Mr. Attorney that the stage has been reached where fusion is inevitable. Also, I support wholeheartedly the intervention of Government at this stage to introduce the legislation to give effect to it. In my opinion, the circumstances now prevailing in the legal profession imposed on Government a clear and urgent obligation to intervene in the matter in the interests of the community and I heartily congratulate the Attorney General for securing the agreement of the Government to do so.

DIFFERENCES BETWEEN BARRISTERS AND SOLICITORS

There was a time in the distant past when I had some reservations about fusion, but to use a judicial cliché, the position appears to me now as it did not appear to me then. To all the arguments already made in favour of fusion and with which I agree, I would only remind those members of the community at large who may still perchance, have misgivings in the matter, that in Tobago Barristers practice as Solicitors; and that in Trinidad Barristers do the same, except that they are not entitled to write letters, file writs and to make probate and administration applications. This is a situation that has long existed so that the pith and substance of what is being proposed in reference to fusion, is

that Solicitors should have the right to appear in the Supreme Court and be accorded all the present rights and privileges of Barristers, and that Barristers should now have the right to write letters, file writs and make probate and administration applications. This analysis, might at first blush, appear to be an over-simplification of the case in favour of fusion but when closely examined it will be discovered that the differences between the practice in the two branches are really negligible. Moreover, the entry now into the profession of the nationally trained lawyer who is entitled to practise either as a Solicitor or a Barrister and to change from one to the other as often as he wishes, renders the present separation archaic and absurd.

COURT OF APPEAL

At the beginning of the last term, the state of the list in the Court of Appeal at the beginning of this term, gives no cause for concern. There are altogether sixty-four appeals on the list already for hearing in Port-of-Spain, San Fernando and Tobago and it is suggested that all or most of them will be disposed of during the current month.

What gives serious cause for concern however, is the rapid depletion which has taken place in the membership of the Court over rapid depletion which has taken place in the membership of the Court over the past six years, by the retirements of five Judges in the persons of Rees, Phillips, Scott, Cross and Corbin, JJ.A and the consequent loss to the Court of their wide experience, knowledge and expertise.

VACANCIES

There are now two vacancies in this Court and by the end of the year there will be three. By then there will be a pressing need to strengthen the Court with talented, experienced and impeccable personnel, but to draw any such personnel from the High Court at this time will enlarge the vacancies therein to a number that will prove intolerable in present circumstances.

CRITERIA FOR APPOINTMENTS

Fortunately, the work load in the Court of Appeal at present is such that we could carry on reasonably well for a few months with the present complement of five Justices of Appeal, but by the end of the year that number will be reduced to four and we may well

be unable then to do so comfortably. Efforts will continue to be made by the Judicial and Legal Service Commission to find a reasonable and satisfactory solution to the problem, but in filling vacancies it must continue to keep steadily in view the axiom that –

> "the success of any system depends more upon the quality of the people who operate it than upon the quality of the system itself"

and also the fundamental principle that –

> "in the administration of the law the most important consideration is that those appointed to judicial office should be eminently suitable to dispense justice. [For] if the right person is not chosen in the first place, no amount of training, supervision or remedial action will produce a satisfactory result."

It is for these reasons that I take the view that it is better to leave vacant posts on the Bench of the Supreme Court unfilled than to fill them with unsuitable members of the legal profession.

CONGRATULATIONS – ATTORNEY GENERAL

Mr Attorney, this is your first appearance before us in this Court as constituted, since you were appointed Attorney General and Minister for Legal Affairs of our country, and on behalf of my brother Judges and myself, I should like to say to you that your elevation to this high office has given us much pleasure and that we wish you every success in the discharge of your functions. I trust that the principles to which I have referred and which have pervaded and guided the relationship between the Attorney General and the Chief Justice in the past will continue to illuminate our respective paths, and that the great promise, hopes and expectations which your appointment hold out to the legal profession, the Magistrates, the Judges, the administration of justice and the people in general, will be adequately fulfilled during your term of office. Above all, it is my own ardent hope that the great financial sacrifice which you have undoubtedly made to serve the country in your present office will provide a strong incentive to, and inject an irresistible urge in other brilliant lawyers of your calibre to do likewise. We offer you our warmest congratulations and best wishes.

CONGRATULATIONS – HOSEIN ET AL

Our sincere congratulations are also extended to Mr. Tajmool Hosein, Q.C., on the award to him of our country's highest honour, the Trinity Cross, for his contribution in the sphere of law and public service; to the widow of the late Mr. Justice Besson on the award to him posthumously, of the Chaconia Medal (Gold) for his contribution in the sphere of law; to the widow of the late Mr. Cecil Bramble, former Vice President of the Industrial Court on the award to him of the Chaconia Medal (Gold) for his contribution in the sphere of law; to Mr. Eric Pollonais, Solicitor, on the award to him of the Chaconia Medal (gold) for his contribution in the sphere of law and public service and Mr. E.B. Annisette on the award to him of the Chaconia Medal (Gold) for his contribution in the sphere of law and public service.

EXPRESSION OF THANKS

Next, I should like to express my warmest and most sincere thanks to my brothers on the Bench for their cooperation, support and goodwill over the past ten years; to the Presidents and members of the Bar and of the Law Society for the assistance and cooperation extended to me and my brother Judges in discharging our judicial functions; to the Chief Magistrate, the Senior Magistrates and Magistrates for their vast contribution to the administration of justice in our land; to the Registrar and the staff of the High Court and the Court of Appeal for their willing and devoted services; to the Commissioner of Police and his men for supplying the Honour Guard and treating us with a fine display; to all our specially invited guests who have supported us year after year at our devotions, among whom we specially mention His Grace Archbishop Anthony Pantin, His Lordship Bishop Clive Abdulah, the Very Rev. Dean Rawle Douglin, Rev. Fr. Garfield Rochard, Imam Hassan Karimullah, the representative of the Muslim Religion, Pundit Mahadeo Sharma, the representative of the Hindu Religion, Rev. Clyde Wilkinson, representative of the Council of Evangelical Churches; and last but by no means least, the Rt. Rev. Adelbert Van Duin, who honoured us by preaching an inspiring sermon at the service held to mark the 1972-73 law term (my first as Chief Justice) and who was kind enough to repeat the performance with another inspiring one at the service today to mark the opening of the current law term (my last as Chief Justice).

CONCLUSION

I now declare open, the 1982-83 law term, adjourn the sittings of all the Courts to 5 October 1983 and employing the words of the Judges' prayer, my brothers and I pray that –

the spirit of discernment
the spirit of uprightness and
the spirit of understanding

will descent and remain upon us all throughout the term as we seek to perform our respective duties and functions to advance the cause of justice in our land.