

**ADDRESS OF THE CHIEF JUSTICE THE HONOURABLE MR. JUSTICE
CECIL KELSICK AT THE OPENING OF THE 1984-1985 LAW TERM IN THE
HALL OF JUSTICE, RED HOUSE, PORT OF SPAIN, ON OCTOBER 3, 1984**

This will almost certainly be the last occasion on which this function will be held within this august hall, which consequent on the transfer of the Supreme Court to the new Hall of Justice should, before the opening of the 1985-1986 session, cease to be used as a court. This room has been the venue of several famous trials, civil and criminal, in which many eminent counsel have exhibited their expertise in cross-examination and in forensic appeals to bench and jury, and in which many learned judgments have been delivered.

I express my appreciation and thanks to all those persons who have contributed to this morning's function. To His Excellency Dr. Wahid Ali, the Acting President of the Republic, for gracing us with his presence at this morning's service at the Sacred Heart Church; to the distinguished guests for their presence at that service and at this assembly; to Monsignor Garfield Rochard who is unavoidably absent, for organising the service; to Father Roger Pascall for conducting that service; to Mr. Richard Pierre and the St. Mary's Choir for their lusty and harmonious renditions and accompaniments; to Pundit Mahadeo Sharma, Iman Hassan Karimullah and to the Rev. Gerald Chen for their inspiring prayers; to Father Winston Joseph for his challenging sermon and relevant message on the subject of authority; to His Grace the Most Rev. Anthony Pantin, Archbishop of Port-of-Spain, for winding up a most impressive service with his blessings; and to His Lordship Bishop Clive Abdulah for his presence.

For the smart parade of the members of the Police Force our gratitude is due to the Acting Commissioner of Police Mr. Clive Sealey, to Commanding Officer of the Guard, Ag. Senior Superintendent Clyde Bertrand and to the Officers in charge of the male and female platoons, namely Assistant Superintendent of Police Merle Bertrand (the wife of the Commanding Officer) and Assistant Superintendent of Police Mark. It is good to see that the Police Authorities pay due regard to the fundamental right enshrined in our Constitution of equality of treatment of the sexes since for the first time on parade

numerically they were equal, and by their performance both in the infantry and band sections the women have shown that they are in no way inferior to the men.

To the Commissioner of Police and his Deputy I am indebted for their many courtesies extended to me during the past year more particularly in respect to the supply of transport and emergency chauffeurs.

I acknowledge the cooperation of my brother judges and members of the staff of the Judiciary, and I pay tribute to the members of the hard pressed magistracy, labouring often under trying conditions in disposing of the vast majority of the criminal cases.

My congratulations and those of my brother judges are extended to two members of the Bar who have received national awards – to Mr. Selby Wooding, S.C. former President of the Bar Association on the honour of the Chaconia Medal (Gold) in the area of Law and Culture, and to Mr. Frank Mohan retired Senior Counsel on the award of the Humming Bird Medal (Gold) for community service.

PERSONNEL

In the Court of Appeal the term of office of Mr. Justice Hassanali, who attained the age of retirement in August 1983, was further extended from 31st December 1983 to 15th April 1984 to enable him to complete part heard cases and to deliver reserved judgments. Mr. Justice Braithwaite and I are due to retire in May and July 1985 respectively and Mr. Justice Persaud in July 1986.

The position as regards the filling of vacancies in the High Court shows some improvement. Justices Hannays and Hosein, who took up their appointments on October 1, 1983, left the hotel where they were staying in December 1983 and March 1984 respectively when the houses allocated to them had been brought into a sufficient state of repair. Unfortunately, we lost the services of Mr. Justice Hannays by his untimely death on 12th July 1984.

In fulfilment of the condition of the acceptance of the offers, made to them during the 1982 to 1983 session, to serve as Judges of the High Court Mr. Satnarine Sharma and Mr. James Davis, S.C., who were in private practice, had assigned to them the agreed residences. They took up their appointments on December 20, 1983 and September 1, 1984 respectively.

I express my personal appreciation, and that I am sure of the legal profession, to these two gentlemen as well as to Mr. Frank Misir, Q.C., who assumed office on May 1, 1984 as a Judge of the High Court, for making the personal sacrifice in abandoning their lucrative private practices to serve the nation.

Thanks are also due to three private practitioners who at a short notice responded favourably to my invitation to act as Master of the High Court during the illness of Master Gopiesingh. They are Mr. Roger Hamel-Smith, Mr. Clem Razack and Mr. Basdeo Persad Maharaj.

The Judiciary is also obligated to Master Conrad Douglin for continuing to serve with his quiet efficiency and for postponing his leave prior to his retirement on January 12, 1985. Miss Occah Seapaul, Deputy Director of Public Prosecutions, has been appointed to act in a temporary supernumerary post of Master with effect from October 1, 1984 from which date Mr. Douglin ceased to hear any new matters and will concentrate on completing part heard cases and delivering reserved judgments.

Mr. Carlton Best, another private practitioner, re-entered the judicial and legal service on 26th September 1983. He did so as Administrative Secretary, with the prospect held out to him by me, that the office would be upgraded, my application for which was turned down by the Salaries Review Commission. During his short spell in that office Mr. Best was of invaluable help to me. The post of Deputy Registrar of the Supreme Court, which prior to the last re-organisation had been in the same grade as Administrative Secretary, became vacant with the resignation of Mr. Wesley Gopaul. The claim of Mr. Best to that

post could not be resisted and he was appointed to the office with effect from 1st December 1983. The post of Administrative Secretary has since again remained vacant.

Bereft of this assistance, the demands on my time both in and out of the office have been most exacting. This has been at the expense of my legal duties in preparing for the hearing of appeals, the writing of reserved judgments, and the devoting of my attention to matters of policy; and also to the detriment of my physical and mental recreation. The Chief Justice is also expected to attend many social functions at some of which he is invited to speak.

The situation has been aggravated by the added responsibilities attaching to the post of Chairman of the Council of Legal Education the acceptance of which by the Chief Justice of Trinidad and Tobago has, I think, proved to have been a wise decision.

The time is opportune for the appointment of a senior official as Court Administrator, more particularly with the imminent transfer of all divisions of the Supreme Court to the extensive Hall of Justice with its sophisticated equipment. There is also need for a separate Registrar to be assigned to the Court of Appeal. Furthermore, I advocate as a start, the recruitment of at least two (2) talented graduands from the Law School as Law Clerks to conduct research for each division of the Court of Appeal. This service has been successful in the Supreme Courts of the United States, of Ontario and of many Latin American countries, in which courts each Judge is allocated at least one clerk. It saves the time of the Judges, thus enabling more cases to be disposed of and it provides invaluable training for the young lawyer.

CONDITIONS OF SERVICE OF JUDGES

In my initial address last year I adverted to the vacancies in the Judiciary of the Supreme Court, and to the shortcomings in specified related amenities afforded to the judges as affecting their life and livelihood in and out of the courts and the recruitment of new judges. In this connection I would like to commend the two daily newspapers for their supporting editorials.

The productivity of a judge, as of any functionary, is to an appreciable extent conditioned by his state of mind which be satisfied, at ease and freed from external anxieties, if it is to function with clarity and independence and to achieve the optimum results.

The conditions of service provided by law are designed to ensure this end. A house of the prescribed standard must imply its maintenance in a state of good and substantial repair. So too must there be provided and maintained a work place, be it his chambers or his court, in which he can operate in a reasonable degree of physical comfort.

I am fully aware of the financial constraints in which the Government is operating, but surely it is not unreasonable to expect that the modest cost involved in this exercise in relation to the overall budgetary expenditure of the country should be accorded a high priority and that there should be a sense of urgency in attending to requests for remedying any defects in these conditions.

Since little progress was being achieved in attending to my representations in respect of a number of matters, I made a personal approach, as Head of the Judiciary, to the Head of Government who gave me a sympathetic hearing, and action has since been taken to right some of the wrongs. My thanks are due to the Honourable the Attorney General for his personal interest and assistance in this regard.

There have been promises of allocation of additional residences and for the more expeditious repair of these and of two other residences now under my control.

I turn to court accommodation. In th Court of Appeal one of the recently appointed judges was unable to use his chambers since his appointment in April due to the non-performance of the air conditioning apparatus and to the otherwise unfit condition of the room.

With regard to the mal functioning of that, and other air conditioning units in the Court of Appeal and at the Red House, savings have been identified for carrying out the necessary works as well as structural alterations and repairs to the San Fernando Court, including the conversion of the Registrar's office into another Court. Strenuous efforts, so far not wholly successful, have been made by the Ministry concerned to persuade the workmen to effect this maintenance before the opening of term. Meanwhile for financial reasons action has been shelved on the major extension of the San Fernando Court and the provision of temporary quarters for its civil division while such work is in progress.

The top floor of NIPDEC House, which was earmarked for additional judges chambers, has not been vacated. With the expectation of the early occupation of the new Hall of Justice, it has been agreed that where necessary the judges will continue for the next few months to share chambers.

On 13th June, 1984, I made formal application for use of the V.I.P. Room by judges and their wives and that they should be supplied with diplomatic passports. On 17th August, I was officially informed that with immediate effect the V.I.P. Lounge at Piarco was to be made available to judges of the Supreme Court of Trinidad and Tobago for use during their travel to and from Trinidad and Tobago for use during their travel to and from Trinidad and Tobago. No response has yet been received to the other request.

Still outstanding, inter alia, are the representations for (i) an increase in judges' housing allowance in lieu of quarters. The present allowance is fixed at the same figure as that for magistrates who are eligible only for Grade 1 quarters and not for fully furnished super grade quarters as are the judges of the Supreme Court; (ii) repairs to judges' houses and other matters relative to the residence of the Chief Justice; (iii) increased pensions for judges and their spouses; (iv) medical treatment not available in Trinidad and Tobago.

I would suggest that serious consideration be given to the provision by Parliament of a separate budget for the Judiciary, more particularly in respect of a vote for maintenance and repairs. This course would eliminate the time consuming exercise by senior

functionaries including the Heads of Government and of the Judiciary and Ministers in attending to these relative trivia.

COURT STATISTICS

The following is a comparative summary of the Court statistics in the High Court for the sessions 1982-3 and 1983-4:

Civil	Port- of- Spain		San Fernando		Tobago	
	1982-3	1983-4	1982-3	1983-4	1982-3	1983-4
Matters filed and listed for hearing	4681	5903	1860	2651	181	100
Actions set down on general list but not listed for hearing (from April 1981 to July 1983)	1261	1475	219	860	-	-
Actions listed and pending	456	435	426	386	-	-
Actions (including motions and summons)						
(1) listed	12728	7216	6339	5521	121	261
(2) determined Criminal Matters	3499	3891	1766	1984	62	131
(1) listed	300	284	134	78	-	16
(2) determined	33	58	22	32	-	5
Reserved judgments	-	22	3	-	-	-

In the Court of Appeal the position in the last term was as follows:

(a)	Civil Appeals (from superior courts)	<u>1983-4</u>
	disposed of including motions but not summonses	99
	Judgments reserved	14
	Appeals filed	27 (only 1 ready for trial)
(b)	Petty Civil Appeals – disposed of	4

There were 17 appeals entered in which no records were filed.

(c) Magisterial

	Disposed of	Outstanding
Port-of-Spain	276	45
San Fernando	130	10
Tobago	7	7

(d)	Criminal Appeals	
	(from High Court)	25
		25
		(none ready for trial)

It is apparent from this table that the arrears show no sign of abatement, but rather are on the increase.

In the new Hall of Justice the number of court rooms and of judges chambers will for some years exceed the requirement of the permanent judges. This will make it possible for the selection of additional temporary judges to assist in disposing of the mounting backlog of cases.

I repeat my recommendation for the re-insertion in our Constitution of the provision which permitted the appointment as temporary Judges of persons who have passed the prescribed retiring age.

In addition to, or as an alternative for, the above measure the Judicial and Legal Service Commission may be invited to reconsider the propriety of enlisting the services of private practitioners on a short term basis.

LAW SEMINARS AND CONFERENCES

The law is not a static discipline. It is influenced by changes in social and economic conditions and by technological advances. Lawyers should take time off from the daily routine of the office and the courts to review the state of the law, its inadequacies, its procedure and practice and to deliberate with other lawyers their reform and improvement.

I make mention of two seminars which I attended and for which the sponsors must be lauded. The first on 12th November 1983 was by the Bar Association and the Law Society and the theme was New Dimensions for Family Law. The other was by the Legal Aid and Advisory Authority on the topic Justice for All which took place on 14th April, 1984 as part of their campaign to familiarise the public with the activities of the Authority.

Mrs. Justice Jean Permanand attended the Convention of the International Federation of Women Lawyers in Australia from August 26 to 31, 1984. Some indication of the high respect paid to Judges of the Supreme Court in other countries may be gathered from the courtesies extended to Mrs. Justice Permanand. In Australia she sat with the Chief Judge of the Chancery Division, Mr. Justice Hailsham, and in India in the Supreme Court with Acting Chief Justice Bhavati. She and her husband were the guests at tea of the Prime Minister, Mrs. Gandhi.

Also worthy of mention is the Sensitisation Symposium on the Use and Abuse of Drugs and its crime related offences. This was held on 26th September, 1984 (with the assistance among others of the Ministry of Health and Environment) for top level leaders, administrators and educators and under the promotion of a devoted set of citizens drawn from several disciplines under the appellation of the National Committee on the Use and Abuse of Drugs.

I have been invited to open two legal seminars later this month. The first is scheduled for October 12 and 13 and is arranged by the Royal Bank of Trinidad and Tobago Limited. The subject is Recent Developments in the Law Relating to Banking. The date of the second, which is a two day International Seminar organised by the Bar Association at the Hilton Hotel, is 24th October, 1984. The topic is the Law and Civil Liberties of the Caribbean at which participants from other Caribbean territories, including the French island of Guadeloupe, are expected to participate. I hope that full support will be given to this effort by members of the Judiciary and of the Bar.

The exchange of ideas between members of our legal profession, and of our neighbouring counterparts not belonging to the Commonwealth whose system is based on the civil law, can be of mutual benefit to the lawyers in our respective countries and to the improvement of our legal systems.

In furtherance of this cultural exchange as part of the events to celebrate the 200th birthday of the liberator Simon Bolivar, the Venezuelan Government hosted a meeting of the Presidents and Chief Justices of the Supreme Courts of Latin America, Spain, Portugal and the Caribbean in Caracas from October 25 – 28, 1983 at which there was a sharing of information concerning the structure and operation of our legal systems.

By a generous donation that Government also made possible the conducting of a seminar in Barbados from December 13 to 17, 1983, under the auspices of the Organisation of American States, the Law Faculty of the University of the West Indies and the Government of Barbados on a Comparison of the Laws and Legal Systems of the

Commonwealth Caribbean States and other members of the O.A.S. Constructive papers were read by academics, judges and practising lawyers.

The Chief Justice of Jamaica and I took part in these parleys as guests.

From March 5 to 10, 1984, I attended the Third International Conference of Appellate Judges and the following meeting of Commonwealth Chief Justices in New Delhi where there was a useful sharing of experiences and ideas.

From September 8 – 14, 1985 there will be convened the 7th Commonwealth Magistrates Convention in Nicosia, Cyprus, the theme of which is the Criminal Process – From Arrest to Sentence. The success of the last Convention in Trinidad and Tobago will readily be recalled.

LAW ASSOCIATIONS

During the year I have had discussions with the Association of Tobago Lawyers and the Southern Assembly of Lawyers pertaining to matters of local concern to them.

I have agreed that the sittings of the High Court in Tobago should as from next year be altered from February, April, June, September and November to January, March, May, July and October. The justification for and the feasibility of providing an additional magistrate will be investigated, and action will be initiated to increase the jurisdiction of the Master of the High Court (which is now less than that of a Registrar) and for a resident judicial officer to grant interim injunctions and to sign orders of the Court.

The Southern Assembly made representations concerning additional accommodation for the Courts in San Fernando to which reference is made elsewhere in this address.

The Law Librarians in the Caribbean have recently formed an Association (CALL) and I was privileged to install the first officers at a function on May 4, 1984.

The Association will be concerned, inter alia, with the direct distribution of legal information within the region, regional policies and problems and ways in which greater law library cooperation can be obtained and treatment of unreported cases. The first President is the Senior Law Librarian at the Hugh Wooding Law School. A conference of the Association is scheduled from 5th to 8th November, 1984 in Jamaica.

LAW REFORM

The Law Commission continues to be actively engaged in the statutory revision and reform of the law. The assignment of Mr. F.O.C. Harris, the United Nations Consultant, has been terminated and he has been succeeded by Mr. Deo Bhagoutie, Director of Law Revision.

A first supplement, which updated the revised laws of the Republic of Trinidad and Tobago as at the end of 1980, is now available and its sale awaits the fixing of the selling price by Cabinet. A second supplement updating the laws to the end of 1982 is in the course of preparation.

Among the statutory reforms passed in the last term were the Misrepresentation and Trade Description Act and the Blood Test (Evidence of Paternity) Regulations. Bills published relate to Copyright and allied subjects, Consumer Protection and Safety, Unfair Contracts and Rehabilitation of Offenders.

The long awaited Bill for Fusion of the Legal Profession, with its Schedule setting out a Code of Conduct for practitioners, is with the Government Printer and should shortly be published for public comment.

Other matters in preparation relate to the defences of provocation and diminished responsibility, sexual offences and a Family Court.

The proclamation of the Land Reform legislation passed in 1981 awaits the computerisation and microfilming of the relevant records with a view to the establishment of a Central Land Registry.

A meeting should take place shortly between the Attorney General, the Chairman of the Law Commission and myself with a view to the preparation and publication of Reports of local cases to supplement the West Indian Reports. Complementary to this exercise I would suggest that a periodical Digest of the recent cases and legislation be instituted with the collaboration of practising members of the profession.

I propose to initiate discussion with the legal profession on topics which would not prejudice or compromise the discharge of the judicial function. One such matter is the raising of the monetary limit in respect of appeals to the Judicial Committee to take account of inflation which has taken place since these limits were fixed.

The Legal Aid and Advisory Authority has expanded its activities and consequently it has been reorganised and the staff increased. The limits of qualifying income and capital have been raised so that more citizens are eligible for legal aid. Aid is to be extended to appellants in all criminal appeals to the Judicial Committee. A public education programme has been embarked upon. Part time branches of the Authority have been established in San Fernando and Tobago.

There is to be collaboration between the work of the Authority and that of the legal aid clinic at the Hugh Wooding Law School. Students will be involved in the preparation of cases legally aided by the Authority and as apprentices to the lawyers engaged to argue those cases.

THE COUNCIL OF LEGAL EDUCATION

As Chairman of the Council of Legal Education, I have had a busy year. There were meetings of the Executive Committee in Jamaica and St. Kitts in January and March. A function to honour the retiring Director of Legal Education, Mr. H. Aubrey Fraser, was

held in Kingston on September 13. The annual meeting of the Council was convened at Ocho Rios from September 14 to 15. I returned to Jamaica for the annual presentation of Law Graduates of the Norman Manley School on September 22 which was followed by a dinner dance sponsored by the staff and students at which Mr. and Mrs. Fraser were honoured.

The presentation of Graduates at the Hugh Wooding Law School was held on September 29 and on the previous evening there was a concourse at the school at which speeches laudatory of Mr. Fraser were delivered and a presentation made to him by the students.

As a tribute to the contribution of Mr. Fraser to Legal Education in the West Indies, the Council decided to name the main lecture halls in each School after Mr. Fraser and to have his photograph hung up on the inner walls of those halls. The Judiciary and the legal profession of Trinidad and Tobago add our expressions of gratitude to Mr. Fraser for his pioneering activities in establishing and developing to a high standard these institutions of professional legal training in the Caribbean.

Contemporaneously with his retirement the Council have succeeded in obtaining the signatures of the participating Governments and of the Universities of the West Indies and Guyana to the Supplemental Agreement amending the Agreement establishing the Council of Legal Education.

The Supplemental Agreement will effect two major reforms. Each School will become virtually autonomous, with the substitution of Principals for the Director and Deputy Director of Legal Education. In addition, admission to practise will be extended to nationals who are qualified to practise will be extended to nationals who are qualified to practise in another common law jurisdiction that is approved by the Council. They, and nationals who are qualified to practise in England but who commence their course of legal training leading to that qualification after 1st January, 1985, will be entitled to practise provided they complete to the satisfaction of the Council a six months course of training.

It is hopefully expected that the Selection Committee will appoint the two Principals shortly and that the legislation implementing the amending Agreement will be enacted in the participating territories with the object that the new arrangements will come into operation in January 1985.

It simply remains for Trinidad and Tobago to honour the intention of the Principal Agreement by enacting and bringing to force before that date the Act to fuse the legal profession.

It gives me great pleasure now formally to declare open the 1984-1985 Law Term.