

ADDRESS OF THE CHIEF JUSTICE
THE HONOURABLE MR. JUSTICE CLINTON BERNARD, T.C.
AT THE OPENING OF THE 1993-1994 LAW TERM
AT THE SAN FERNANDO SUPREME COURT
ON MONDAY, OCTOBER 4, 1993

It is with the greatest pleasure and indeed with immeasurable pride that I am more than overjoyed to welcome all of you to the first Ceremonial Opening of the Supreme Court of Trinidad and Tobago ever to take place in this beautiful and famous town in San Fernando whose sons and daughters alike, by their individual and collective efforts and by dint of sheer hard work and commitment in every field of endeavour, caused to ensure that this City be the mecca of the social and economic life of Trinidad and Tobago.

I consider, with respect, that I would not be seen on this occasion to be offending the good taste of the people of the South if I refer to a public document; for after all once something is public it no longer becomes the private domain of its author.

One of the deep South's noble and literary sons and, by extension, a product of San Fernando, namely Michael Anthony-a recipient of national honours-wrote a book entitled "The Making of Port-of-Spain 1757-1939". In it he chronicled in a most fascinating and digestive style all the important and historic events pertaining to the North of Trinidad. But besides, he had put forward for public scrutiny in an earlier novel his impressions of a certain period of his life in San Fernando during his formative years. That work is entitled "The year in San Fernando". In the introduction to it the respected literary critics Paul Edwards and Kenneth Ramchand had the following remarks to make about Anthony's insight:

“... In the Year in San Fernando Anthony is practising an art of a subtle and beautiful kind. The novel involves us in the feel of a peculiarly ‘open’ state of consciousness. This open consciousness differs from the ‘normal’ in that it fuses elements of experience which we usually see as disparate, or indeed as belonging to opposed categories like nostalgia-anticipation, town-country, pure-sordid and so on. In general, the author achieves this effect by a scrupulous adherence to the boy’s point of view in a language that appears simple on the surface but which is sensuous and at times symbolic even while sustaining the illusions of adolescent reportage.”

To my way of thinking, this is a compliment of the highest kind that could be paid to a son of the soil of whom the people of the South must be justly proud. He is a man of humble origin and a prolific writer who won acclaim in the *Sunday Times* of England for his first novel *“The Games Were Coming”*.

Writers see and understand the life-blood of a society as well as if not better than others. I do not in this context include the chameleons obviously, but those like the Naipauls, Walcott, Selvon, James, Anthony and the like, who in their own literary style see, diagnose and expose the particular society in the raw in the hope and expectation that, like a responsible community, the latter would ingest and inform itself for the better.

I have adverted to Mr. Anthony at length because, in my view, he epitomizes that for which the Southerners unobtrusively but resolutely strove—Success and Recognition. The people of the South are an example to the rest of the country. In their quest over the years they have kept foremost in their minds the well-known adage that “everyone can put to good use their own little bits of time, talent, influence, ambition and energy, and weave them into lives of beauty, goodness and rare value.”

The remarks which I had earlier expressed about Mr. Anthony apply with equal force to many other sons and daughters of the South who, as I said, over the

years and against all odds had striven so valiantly and resolutely for success in their various fields of enterprise with the not unnatural result that so many of them have become role models in our society. If I should attempt to catalogue the names of these heroes and heroines, the list would be too long. Worse still, and more importantly, any such attempt on my part would offend the taste of these distinguished sons and daughters (some of whom are present in the audience) for humility and anonymity.

Albeit, I conceive that I can and shall indeed express a view of some pertinency which in no way offends but instead is intended as a follow-up to the complimentary remarks I have just volunteered. It is this: All of us must understand and acknowledge that the North is not Trinidad and Tobago; that the South is an integral and important part of the State; that the people of the South have contributed in no small measure in all aspects of the life of this Nation; and that wherever possible all of us, and particularly those in authority, must demonstrate by our actions our respect and gratitude for this. What I have instituted today is intended to be yet another demonstration of the Judiciary's appreciation of this fact.

I hope to do the same for and in Tobago in the near future. I must remind the Tobago House of Assembly, however, that I cannot achieve the desired goals alone. I must once again, therefore, plead with it and the practising attorneys there to join with me in the crusade. It is your island and it is, with respect, your duty to do everything possible to ensure that the Judiciary functions full steam there. Tobago deserves nothing less for litigation has quadrupled over the years in that island as well.

Now, it has come as no surprise to many people that at long last a Supreme Court building, befitting the Majesty of the Law and the people of the South, has been constructed to improve and ensure the business and proper functioning of the administration of justice in this part of the land. What stood here before it,

was, in my respectful view no compliment to the City of San Fernando and the administration of justice.

It is an unfortunate trait in our society; but that this is true of us, there is no doubt. So many of our people just do not welcome compliments being paid to others. We so often ascribe this to some sinister or ulterior motive, neither of which was in the breast nor within the contemplation of its maker. Be that as it may, this is an appropriate occasion for me to seek to dispel these negative traits by what I am about to say here.

Just as it is necessary that one should criticize where, in his opinion, this is justifiable, equally so it is important for national growth and development that one should unhesitatingly pay compliment where this is due. One does not inspire an athlete by catcalls and hootings but, on the contrary, one encourages success by a pat on the back and the express wish to him that better luck would pass his way next time around. This is the norm and the way of life in all civilized societies! In keeping with all decent accepted standards, today I wish to and indeed would shower many bouquets.

Firstly, I wish on behalf of the people of the Nation to thank and publicly comment Mr. John Yearwood. Mr. Yearwood is an architect in the Ministry of Works who had the responsibility for this project. He put his heart and soul into the project. In this endeavour he was ably assisted by Mr. Clifton George, a Clerk of Works in the same Ministry. The Judiciary, and the people of the South in particular, owe both you gentlemen a deep debt of gratitude. Similar compliments are also due to Master Christie-Ann Morris-Alleyne, Registrars Omar Jokhan and Christine Kangaloo and the staff of the Furniture Division of the Ministry of Works. They are numbered among those who, in my respectful view, disprove the claim of so many that public officers are unproductive. It is unpardonable-if not idiotic-to condemn the lot for the lapses of the few.

Next, I would like to thank the Southern Assembly of Lawyers who throughout the years joined with the supported me in the crusade for an edifying structure in the South in keeping with the dignity of the Scales of Justice and the Rule of Law.

Finally, and most importantly, I thank the previous Administration for appreciating the point I had been making and for providing the financial wherewithal for this imposing structure.

Having said all this, I am mindful of the fact that the present Administration intends to continue to accord respect to the Judicial Organ of the State. In this regard, the Honourable Attorney General, Mr. Keith Sobion, who is by the Constitution the intermediary between the Judiciary and the Executive has been in regular contact with me. I have been made fully aware by him of the Government's intention to try to put into place a number of legal reforms to which I had called attention over the years, as well as its intention to proceed with the construction of a branch of the Supreme Court and Magistrates' Courts in Arima.

The situation in the Borough is for a number of reasons very disturbing. I had warned about this more than eight years ago and had proposed the construction of a Judicial Complex to house a High Court and Magistrate' Courts there. Plans were put in place and steps had been taken to offer this facility to the Borough and a contract was awarded for the work. For reasons which did not fall at the feet of anyone, the start and completion of the project did not come to pass. I am pleased to have learnt that the present Administration is bent on seeing the project through to completion.

Mr. Attorney, you and I are well aware of the fact that:

- (a) the daily list before the single Magistrate in Arima is on the average between 200 to 300 cases and, in the event, there is urgent need for at least two Magistrates there;

(b) we are renting a building to accommodate this one Magistrate for which I am told the public is paying a sizeable sum per month;

(c) in this day and age and in the context of the attendant realities of life in this country, one cannot-indeed it is unfair so to do-put upon a person from this area some of whom come all the way from Toco, the duty and burden to come all the way from there to Port-of-Spain day after day to do his civic duty namely, Jury Service, or as a witness in an action-criminal or civil-or to pursue his private claims in the High Court in Port-of-Spain.

Mr. Attorney General you and I, and I am sure all self-respecting people, must be painfully aware of the fact that that sort of arrangement is downright unfair to the inhabitants of this part of the country. The situation is certainly one that needs to be corrected with the minimum of delay. So let us get on quickly with the Arima Complex for which I am told a member of the banking fraternity had had an input and in respect of which my understanding is that it has shown no sign of reneging from its thrust to assist in this part of the country's development. This same entity has demonstrated its utmost confidence in Trinidad and Tobago by coming to the aid of the Judiciary here and in Princes Town. Without its input the imposing structures here and in Princes Town would still have been a figment of the imagination. I take this opportunity on behalf of the entire nation to thank it most sincerely for its gesture of goodwill and confidence.

I would like to interject one work of caution here. The Judicial Complex in Arima should, in accordance with the spirit and intendment of the Constitution, be reflective of this concept, namely, the separation of Powers Doctrine. In the event, only those departments which are adjuncts of the Administration of Justice should physically be associated with the Arima Complex, for example, Probation, Police, Social Services. Anything other than those departments which in themselves are links in the chain of the Administration of Justice would be

contrary to custom and convention and indeed would amount to a negation of the concept of the Separation of Powers recognized and enshrined in the Constitution.

One further observation is necessary. There have been complaints about the clogging up of the courts and all sorts of advice and suggestions have been proffered by well-meaning persons to address it. This is not by way of an excuse by any means; but it is a known fact that the problem is universal and has been the topic of debate and discussion at conventions and symposiums all over the world. Now, as a matter of fact, even without the projected legal reforms, however laudable, that are contemplated by the powers that be, it is an accepted fact also that Judicial personnel and support staff have not been allowed to keep pace with increased litigation. Litigation and legislative assignments to the Judicial Administration have increased a hundred fold. Yet, there has been no significant increase in personnel to deal with this increased volume.

As I have said before and repeat yet again, there is crying need for increase in the complement of Judicial personnel and support staff at all levels. One has got to face the fact squarely in the face. No amount of Judicial Reforms could be that effective or could achieve those desired and well-meaning goals which are necessary, and indeed, are intended for the public good and welfare, without a corresponding increase in Judicial personnel, support staff and, of course, working materials and equipment, the last two of which, incidentally, are at present either in short supply or are non-existent. I have been saying this over the last eight years. In the result, in accordance with the thinking of all concerned, I have sought funds for increase in Judicial Personnel and support staff at all levels, as well as books and equipment in 1994.

Let me say this though: It has been pointed out that the Treasury is strapped for funds. Nevertheless, let us all bear this well in mind. Firstly, it is a truism that however skilful and willing to work he may be, a shoemaker without his last

cannot build a shoe! Secondly it costs money to uphold the law. Thirdly, and most importantly, the truism of all civilized societies is, without a doubt, one that in order to uphold, maintain and preserve for posterity the Rule of Law, money is an irrelevant consideration. *Money spent on the Judiciary is money well spent.*

I propose in the near future:

- (a) to issue a brochure for the guidance of jurors at the Criminal Assizes. This has been introduced elsewhere. I propose to do the same here as the brochure would be of assistance in guiding them about their functions;

- (b) to discuss with the Honourable Attorney General and the Law Association the desirability of introducing a scheme for settling civil disputes. I have seen it in practice in the United States and it is working well there. It is one of the means adopted there to deal with the day to day burdens of the court and the resulting pile up of actions. The system is known as the “Mediation Process”;

- (c) to pursue further discussion which from the outset I had initiated with the Honourable Attorney General and the Director of Public prosecutions about the advisability of introducing into our criminal justice system here a “Plea Bargain” procedure. Recently, I had the enviable opportunity of seeing the system at work in the United States which is its home base. I feel fortified in the view that I have always entertained about the need for the introduction of this system here at least two main reasons:
 - (i) it is a channel for dealing with the pile-up in the courts;
 - (ii) it is a funnel for arresting the antics of the criminal element.

I suspect, perhaps wrongly, that many are expecting me today to talk about crime and such other things like bail for example. My answer to the hopefuls is that since 1986 I had been speaking and writing about all these things to the point

that I had become in the proverbial sense “a thorn in people’s side”. I hate to disappoint the hopefuls but I can assure them that I have no intention of satisfying their expectations. I would content myself in the fact that others higher than me have alluded to the escalation in crime and of the need for arresting this scourge. To say more than that I agree with those views, far more to say that they are in accord with those which I have expressed on other occasions would, far from being accepted as indicative of my sympathy with them, be likely to be construed by some as being offensive to good taste and protocol.

I am pleased to announce for general information that Mr. Shafeyei Shah and Mr. Melville Baird have since been appointed Judges of the High Court. Mr. Aldric Benjamin has been appointed Director of Public Prosecutions. He had been acting in this position continuously over the last three years. Mrs. Christie-Ann Morris-Alleyne has been appointed Master of the Supreme Court. And, more importantly, Mr. Justice Hosein and one of the female members of the High Court, Mrs. Justice Permanand, have been elevated to the Court of Appeal. On behalf of the Judiciary and the people of Trinidad and Tobago I extend to them all sincere congratulations.

I must now close. But before I do so, I crave your indulgence to repeat some remarks which the Rt. Hon. Vincent Massey, a former Governor General of Canada once made in a speech, the theme of which was focused on “Law and Liberty”. This is what he said in the course of that speech:

“... Our fathers... expressed very clearly their conviction that only an impressive building would be a fitting place for the sittings of a court of justice. Today in this, as in so many other matters, we tend to confuse the simple with the mean and we wrongly identify dignity with pomposity. It is, I think, a sound instinct of the legal profession to maintain in all strictness their ancient forms, not only in legal language and procedure, but in the apparently less essential details of custom and ceremonial. In our ‘practical’ age, impatient of delay, we are inclined to dismiss these things as useless trappings. In our minds we contrast them unfavourably with the much respected white garb and mask of the surgeon. These we think

of as functional. May I suggest that there is here a distinction but not a contrast. The Judge's robes, the lawyer's gown, the stately ceremony of the court, are functional-in a special sense. To those who take part in the ceremonial they should serve, and I believe they do serve, as a constant and solemn reminder of the duties and obligations of the profession. To those who observe the ceremonial they serve as an ocular demonstration or may I be modern and say as a 'visual aid'. They suggest to the bystander the majesty if not the full meaning of the Law. We cannot dispense with these things. We cannot dispense with any means of maintaining and preserving the rule of law which is the very ground of our Liberty".

I happened to come across this citation in one of the speeches of one of our respected and revered Chief Justices, Sir Hugh Wooding. I entertain no inhibitions in repeating them here for his research and citation, even though pertinent then, are still apposite now. In his vein of thinking I would add this: it is about time that all of us alike become alive and think seriously, responsibly and positively. After all is said and done, we are building a society not for today but for our children of tomorrow. Far too many take our Institutions for granted. Those who unfortunately do so would, for obvious reasons, be the wiser if they spare a moment to reflect and think again.

I would add that I have been to many parts of the hemisphere including the Caribbean and I have not encountered anything like that which passes for the way-of-life here. I have in the past described this nation as a "Banana Republic" and will continue so to do until we rid ourselves of this panacea and mental aberration of negativity and individualism and our penchant for unvarnished pettiness and an unremorseful and boundless fanaticism for character smearing. This habit is but an ill-wind that bears no good fruit but only leads to chaos and discord in, and eventually tragic consequences for, our society. For the sake of our children and our children's children we must, I repeat think again. A word to the wise, in my view, is sufficient.

Finally, I take this opportunity to thank the Inter-Religious Organization, Sheik Ul Islam Maulana Siddiq Ahmad Nasir, for his thoughtful homily, Fr. Pierre, the Church Choir, the Soloists of the Southernaires Choir and all those who together with them contributed to make the ceremony at the church so soul-searching and inspiring.

I now formally declare the Opening of the New Law Term. The sitting is adjourned to Tuesday, 5th October 1993