Welcome to the 2012 installment of my conversation with the nation.

I would like us to continue a national discourse on the thing that, more so now than ever before, is of critical concern to us all and is the essential underpinning of a free, just and stable society, that is the due administration of justice.

Last year as we stood on the brink of our 50th anniversary of Independence, I invited you to muse with me about the kind of society we might wish to create - a just and equitable society, grounded in the notions of community and shared responsibility. During the ensuing 12 months, we in the judiciary have had the opportunity to reflect on and continue to undertake the transformational work that would enable us to discharge our role and responsibility as a central pillar of the society.

All this is set against the backdrop of imminent constitutional reform. This is not the first occasion on which I have had cause to refer to the process of reform. But the 50th anniversary of Independence is both an appropriate and a crucial juncture to return to this theme, not least because we are faced with the very daunting challenge of a deteriorating social fabric and unacceptable levels of crime. Effective Constitutional reform can only begin from an interrogation of the desires and will of the people, in other words, it is generated from the bottom up and not imposed from the top down. And the judiciary has to find a role in all of that. We know what the historical understanding of it has been, but there is a sense that it must change to meet the changing imperatives of the 21st century.

And so, in crafting a new constitutional arrangement, we must ask as the late Dr. Pat Bishop was wont to do - "what is it for?"

Permit me to quote Dr. Eric Williams as we stood on the brink of a new experiment in democracy as an independent nation:

"Democracy means more, much more, than the right to vote and one vote for every man and every woman of the prescribed age. Democracy means recognition of the rights of others...Democracy means equality of opportunity for all in education, in the public service, and in private employment. Democracy means the protection of the weak against the strong."

Implicit in the last sentence is the notion that a constitution does not merely express the will of the majority, but it also protects the weak and the minority against the tyranny of the majority. Popularism is often inimical to the human rights of minorities and the first function of the courts is to hold all of us to a higher humane standard.
And so, while the efficient disposition of cases, the reduction of backlogs etc are important and necessary tasks, we are in search of something much more fundamental and that I hope will be the legacy of this bench. It is the definition of our place in the nation in a manner that is accepted by the public who will have trust and confidence in us to be relevant, understanding of their needs and interests and able to do justice in the broader sense that we are discussing. Permit me to share a quote from the chief justice of Western Australia that I think sums it up well:

"Public confidence depends upon Judges doing our jobs well and efficiently. It also depends upon judicial officers being sensitive to the needs of the communities which we serve and upon our ability to effectively communicate to those communities, what we do and why. It depends on us being sensitive to the social context in which we perform our duties, and it requires us to perform them in a way which is relevant to the communities which we serve. If we do all that, we will enhance the public confidence of the community in the judiciary, and that is ultimately the vital protection of our independence."

For too long, we have tended to view and interpret written constitutions as instruments for the distribution and separation of powers. That is, of course one of the functions, but to what end? What is it for? The constitution is also the embodiment of a value system and a philosophy about the way in which we wish to be organized and governed. The objective of that organization cannot be the maintenance of power in the hands of a ruling clique. Instead, it is to provide a platform for the social and economic development of our people. Lest you may think that all of this is becoming a little abstract, I want to say right away that none of that can be achieved in the absence of an environment where physical security is assured - that demands effective solutions to the crime problem.

But it might be helpful to remind ourselves of the context in which our current constitutional format was spawned.

Our nation was one of several new independent commonwealth countries that were born after the dismantling of the British Empire, post world war 2. Many of the leaders were part of a new wave of scholarship that was emerging in the commonwealth. Writers like Dr. Williams and CLR James offered an alternative interpretation of history that could form a basis for charting a new and independent course. It is not surprising therefore that the language of some of the constitutions that emerged is so revolutionary for its time, broad in its sweep and ambitious in its vision as they sought to address historical inequities experienced under the colonial social and economic dispensation. Their vision of the societies they wanted to create was very different and may well have been viewed as dangerously socialist by the former masters.

So, for example, what does it mean when we say in the preamble to our constitution that the people of Trinidad and Tobago

"Respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all. That labour should not be exploited or forced by economic necessity to operate in inhumane
conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity"

In many places that promise may have largely been overridden in subsequent decades by the realities of the IMF and structural readjustments imposed by a world economic order over which we had little influence. But the question still remains whether and to what extent the original vision remains relevant and achievable.

If we say that the Constitution is our supreme Law then should we not judge the validity of any other law, our national institutions, any executive action or indeed the behavior of our leaders by the extent to which they tend to create the sort of society we envisage in the preamble? A society based on very definite notions of social and economic justice. It is my hope and ambition to see the soul of our nation reborn and given the breath of life, by the spirit of our constitution.

There is a very definite role for the judiciary in that process. It should, however, be built on the consensus of our whole population. Remember the courts are charged with interpreting the constitution. One of the major jurisprudential shifts in the post 2nd world war, post-colonial era is the rise of an international human rights jurisprudence and the explosive growth of administrative law, where the courts are increasingly called upon to pronounce on the validity of executive and even on occasion, parliamentary actions. What implications does that have for the approach to judicial interpretation and for the separation of powers? What do the words of the preamble mean for squatters’ rights, or labour law or any of a number of areas where policy considerations come into play? Accusations of judicial activism notwithstanding, it is a fact that courts in every democratic society make policy decisions every day.

In our current constitutional arrangement, it is difficult for the Parliament to be as effective a check on the executive as in Westminster because the Parliamentary majority is hard to distinguish from the Cabinet. In a system where, so far as my research has been able to reveal there has never been a formal conscience vote, who holds the conscience of the nation? What is the proper positioning of the Judiciary in assisting to maintain the balance of power? This is not a criticism of anyone nor is it a plug for the judiciary to grab for power, I am simply pointing to a structural reality that must be addressed on the basis on a national consensus as we embrace the challenges and opportunities that the next 50 years will bring.

What a new constitution would look like is far too important a question to be left only to the lawyers. That is why the dialogue with economists, historians, political scientists, religious leaders, other disciplines and with society in general is critical. We have tended to think of the Constitution as defining rights and dividing power. The challenge is to see it as a framework for a model of sustainable social and economic development.

In his recently published book Power, Politics and Performance, Dr. Winston Dookeran explored the dissonance between the logic of politics and the logic of economics and the negative implications that has had for our development in practice. An essential part of the discourse must be the logic of the law. Law, politics and economics are not mutually exclusive fields of endeavor or scholarship. They develop in tandem, in a sort of dialectical dance that is rooted in the practical reality that laws, like political or economic strategies, always serve interests.
Economic activity cannot flourish in the absence of a facilitative legal infrastructure. Similarly, any meaningful transformation that engages the resources and institutions of the broader society is by definition political activity (though not necessarily in the partisan sense).

The Constitution is not merely a tool for redress. It is a guide to current and future conduct. And so, we must ensure that equality before the law does not begin and end with resort to judicial remedy. It must find practical and demonstrable embodiment in the everyday functioning of our governance structure. Judicious exercise of legislative power so as to avoid potentially embarrassing consequences, wise prosecutorial discretion, prudent, measured and balanced executive action, and available judicial discretion exercised in accordance with overarching constitutional principles must come together in a seamless whole to make it a reality. Remove any one component, and there is the risk of destroying public trust and confidence in the administration of justice.

As we seek to consolidate the gains of our first half-century and forge a path into the future, may I suggest to the nation that meaningful Constitutional reform should remain high on the national agenda as a platform for the development of our people. It is that vision that energises the judiciary's efforts to transform and position itself as a critical support pillar. We recognize that the maintenance of public trust and confidence in the administration of justice is central to our remit. In that regard, we continue our efforts to ensure timely, fair and effective delivery of justice through various initiatives, some of which I will now highlight. I urge you to take the time to peruse our annual report for further details when it becomes available at the weekend. In our reporting structure this year we have identified four areas of focus:

DEVELOPING THE HUMAN AND ORGANISATIONAL CAPITAL

The Family Court Governance, Organisation and Staffing Project consultant's report has been finalized and discussions are on-going with the Ministry of Public Administration in respect of a wider vision for the Judiciary as a closed department in respect of its Human Resource (I will return to this in more detail later). The HR Unit has been able to fill a number of contract positions including 30 Judicial Research Assistants; 26 Assistant Court Security Officers; 24 Court Security Officers; 20 Judiciary Secretaries; 33 Court Records Officers and 15 Court Records Supervisors. However, we continue to experience challenges in filling more senior positions such as Family Court Manager; senior HR positions for training and development, industrial relations and human resource management planning as well as the JEI Director. The inability to offer realistic remuneration packages remains the main difficulty.

Internally, organizational restructuring has been undertaken to establish local management teams at the magistrates’ court locations that will be more responsive and effective than an over-centralised management structure. Work continues on the development and introduction of a case management policy for the Magistrates’ Courts with appropriate training for all Magistrates.

There was intense focus this year on building capacity among court management and judicial staff.
Training was undertaken for appropriate target audiences in Fundamentals of Court Management; Planning, design and Construction of Court Facilities; Procurement; Settlement Conferencing; Use and Delivery of Oral Judgments and Dealing With Difficult Conversations among other subjects.

MODERNISING CORE AND SUPPORT PROCESSES AND INFORMATION SYSTEMS

There were several initiatives this past year that were aimed at reducing delay and improving the quality and effectiveness of our service. Of major significance are the Drug Treatment Court, preparation for the abolition of preliminary inquiries by the Administration of Justice (Indictable Proceedings) Act 2011, and the Court Annexed Mediation Pilot.

I am happy to report that the first Drug Treatment Pilot Court was launched last week. Selection criteria have been established, the multi-disciplinary court team has been trained and monitoring and evaluation mechanisms will be in place for the first intake in two weeks time. This is a significant development and represents a new philosophical approach to the handling of drug dependent, non-violent offenders. It is expected to reap significant cost savings to the penal system as well as reduce recidivism. Further details are set out in the information brochures available outside of this hall.

The ADR Pilot Project has suffered a setback due to requests from the Central Tenders Board for a revised tendering process in respect of the service provider. Nevertheless, a project consultant has been retained and significant work has been undertaken. We now have a revised implementation schedule, a monitoring and evaluation plan and by the end of this month draft principles of settlement conferencing with a process map a draft Rules of Court will be completed.

I turn now to the elimination of preliminary inquiries. In order to appreciate the magnitude of this task, one must know that over 14,000 matters are filed in the criminal courts each year that are triable on indictment only or triable either way (i.e. on indictment or summarily). While it is expected that the prosecuting authorities will choose to charge a significant number of the less serious matters summarily it is clear that any new system that is put in place will have to absorb a huge influx of new matters in addition to those already in the system for which transitional arrangements have to be made. Courtrooms, registries, and monitoring and compliance units have to be established. Procedural Rules have to be drafted from which process flows have to be designed and integrated with the case management information system. New positions have to be created and staff recruited and trained at every level from Judge and Master to counter clerk. Most of these activities are sequential. We are still in the process of identifying and outfitting suitable physical spaces, although draft criminal procedure rules are now available for comment and finalization.

It is a mammoth undertaking and it is no surprise that in other jurisdictions like New Zealand, where similar reforms were undertaken, the lag between passage of the relevant legislation and the implementation of reforms was more than a year. It has always been our position, and we so advised, that implementation could not realistically take place before the first quarter of 2013 and we in the judiciary have never discussed or contemplated partial implementation.
We have nevertheless agreed to a very ambitious timeline and start-up is now set for the beginning of January 2013. We are working assiduously towards its fulfillment, but we will start when we are ready. We must and will resist any temptation to make a premature start in the eagerness to demonstrate ‘performance’. All the ducks must be lined up or chaos will ensue right after start-up and we will simply create a fresh and intractable backlog. I wish however to acknowledge the high level of cooperation received from the several government ministries involved in this project and I am confident that if they continue to afford due attention and priority to our needs this eagerly awaited reform can be a reality early next year.

Work continues on the development of an improved Case Management and Information System for the Judiciary in conjunction with an IT platform for the sharing and processing of information among justice sector agencies. The goal is to make the services of the Court more accessible, secure, convenient and cost effective. So, for example, it should soon be possible for criminal charge information to be entered on arrest, with access to the DPP, moved electronically to the Court and from there to the Prisons with any additional information in respect of court orders or dispositions.

The information and communication technology reform initiative was greatly enhanced by a visit to the New Jersey State Courts by a team comprising representatives from the judiciary and the Ministries of National Security, Justice, Legal Affairs and the Attorney General to see an integrated system in operation and exchange ideas with their counterparts.

MODERNISING THE PHYSICAL INFRASTRUCTURE

Suitable physical infrastructure remains one of our biggest challenges as caseloads grow and reforms such as the abolition of preliminary inquiries demand extra space for courtrooms, registries and the like. Much of our building plant is aging and we have had to relocate several departments in an effort to rationalize the use of space in the Supreme Court Buildings. There is inevitably some disruption of workflow when strategic functions are spread across rented accommodation in different geographical locations. Additionally, since refurbishment and expansion works are often managed by special state enterprises such as NIPDEC or MTS, any turnover or shortage in their staffing negatively impacts our work programs. This has been the case in respect of the San Fernando and Rio Claro Magistrates’ Courts for which occupation of the completed buildings is now respectively scheduled for September and December of 2013. Pending construction of the Carlsen Field Judicial Complex, for which I am advised sod-turning is imminent, minor refurbishment works are beginning before month end on the Chaguanas Magistrates’ Court. Design of the San Fernando Family Court is expected to be complete by December 2012 and it is hoped that construction can begin next year. Relieving the pressure in the Arima magisterial district remains a priority.

The pressure at the Hall of Justice has been relieved somewhat by the relocation of the IT Unit to 102 St Vincent Street. The offices of the JEI, and the Court Executive Administrator and Deputies are soon to be moved to the Seecharran building. Court Reporting, Security, EAP and Court Planning are to be moved to Kings' Court.
Oh and how could I forget? Finally we now have a functional access ramp and wheelchair lift for the Hall of Justice.

Ladies and Gentlemen It may be beginning to dawn on you by now that although the external face of the judiciary may not have changed as quickly as some might wish, there is a tremendous amount of necessary preparatory work that is taking place and our staff is stretched to the limit as the highest standards of service must be maintained while changes are being effected. I ask for your patience. It also places in context the plea for reform that I will make in a few minutes. I hope it falls on fertile ground.

MANAGING CUSTOMER AND STAKEHOLDER RELATIONSHIPS

The first two installments of our distinguished jurist lecture series were successfully delivered in September of 2011 and July of this year. The lectures are intended to raise public awareness on matters of general interest pertaining to the law, jurisprudence and governance. The format is a public lecture followed the next day by a panel discussion led by the guest lecturer and other members drawn from the bench, bar and civil society. The events are broadcast via electronic media. In September Sir Shridath Ramphal spoke on the topic "Creating a Regional Jurisprudence" and in July The Hon. Mr. Justice Adrian Saunders of the CCJ spoke on "The Role of the Court of Appeal in Developing and Preserving an Independent and Just Society".

In conjunction with our corporate branding process, for which a contract has been awarded, production of a six part video series will shortly be concluded to support customer and public understanding of the judiciary, its role and importance in the society, and how it discharges its functions.

Some of you may recall the vision and ambitious transformation program that I set out at the beginning of my tenure as Chief Justice. Progress has been slower than I had hoped owing to several external constraints, some of which I will refer to shortly. It is probably safe to say though that we are in the middle part of the transformation process with very significant tangible and permanent improvements realizable in the next 18 months or so.

In the meantime, however, we continue to make modest gains in some areas while experiencing the effects of all the challenges outlined as is reflected in the overall performance of the courts, which I will now briefly outline.

COURT PERFORMANCE

High Court Civil

There was an increase of 6% in filings last year from 4935 to 5228. Total number of matters determined was 5439, up from 4707. This means that our disposition to filings ratio has crept back up to just above 1.0. Encouragingly, the average age of matters in the system is still acceptable with 72% of the matters determined having been filed less than 2 years before determination. We are not complacent however and we expect that statistic to improve with the appropriate use of ADR mechanisms.
HIGH COURT CRIMINAL

The performance in this area reflects a complex combination of external factors and highlights the urgent need for the reform of the Criminal Justice process. Trials have now become impossibly convoluted with a multiplicity of applications at a preliminary stage and later on during the course of a trial. Voir Dires and amendments to the Evidence Law relating to bad character and other admissibility issues occupy an inordinate length of time and clearly demonstrate the need for new case management strategies. This past year, most of the more experienced judges were each engaged in at least one trial lasting 3 - 4 months. In addition, because of the chronic shortage of experienced attorneys at the criminal defence bar, once there are one or two large multiple-accused trials in progress, it is difficult to keep the work of the other criminal courts going. Many of the applications now being given lengthy hearings can, in my view, be dealt with in a more summary manner even on paper, rather than by extensive oral submissions. This will require the introduction of Criminal Procedural Rules and a change in the litigation culture. As a first step I have convened a meeting of the judges for later this week and we shall be engaging the bar in a continuing cooperative effort to ensure that justice is delivered in a manner that is both fair and timely. Only 64 indictments were disposed of last year as a result of these constraints. Draft Criminal Procedure rules will be circulated for comment before the end of the month. They are a necessary complement to the Indictable Offences (Preliminary Inquiries) Act 2011.

MAGISTRACY

Filings were up significantly from 104,155 to 116,903. That increase of approximately 12,000 is almost entirely accounted for by an increase in traffic matters from 38,168 to 50,694. We have to deal with minor traffic matters differently. I can only reiterate the plea I have made on previous occasions that a more efficient way of dealing with ticketable offences be devised. Dispositions were down in every category with the overall total dropping from 86,759 to 81,953. You may recall that on previous occasions I have indicated that the Courts were heavily burdened. I am firmly of the view, however that better training in criminal case management techniques and the removal of the preliminary inquiries will result in an improved disposition to filing ratio.

MATRIMONIAL

2840 new divorce cases were filed last year while 1828 Decrees Nisi and 2461 Decrees Absolute were granted.

PROBATE

3921 Probate applications were filed and 2809 disposed of.

COURT OF APPEAL

The Court of Appeal disposed of 195 High Court Civil Appeals last year up slightly from 192 in 2010-2011. Disposition of criminal appeals from the High Court was down slightly from 24 to 21. So far as Magisterial Appeals are concerned, 159 were disposed of which is below the six-
year average of 198. In summary, 482 matters were filed and 385 disposed of. A backlog is beginning to build and a judge will be elevated to the Court of Appeal next month to assist with the workload.

The statistics confirm what I have been saying for some time, which is that we are being challenged to keep pace with the workload. I am confident that the several interventions that are underway or planned will go a considerable way towards alleviating the difficulties but I am persuaded that the root of the problem goes deeper and it is to that consideration that I now turn for the next several minutes.

Fellow citizens, our golden anniversary is an appropriate time to take stock and to ask the hard questions about our culture, the way we do business and whether we can truthfully say that we have maximized our undoubted potential for the development and well being of our people. For me, honestly, the answer is that we have not and so as we position ourselves for the next 50 years [and that must be our planning horizon, not the 10% of that time that we are accustomed to] it cannot be business as usual. I have alluded earlier to external challenges. We have a governance problem in this country. It comes back to where I started and the question of what constitutions, laws and regulations are for. Are they instruments of control or tools for development?

No business or institution can develop successfully without effective and efficient control of its finances and its human resource base. The judiciary has neither. If we do not confront these challenges it will adversely impact our ability to fulfill the commitment we have made to the citizenry to ensure the timely delivery of fair justice. Even more troubling, we stand to lose the very substantial gains that have been achieved over the years. The Judiciary, with a staff complement of 2032, 1302 of which are substantive employees and 730 of which are contract employees, is dependent upon the Public Service mechanisms for the filling of posts, for the provision of terms and conditions and for disciplinary procedures. The Office of the CPO, with resource limitations in its Contracts Section and its Benefits Unit is required, I am informed, to provide Terms and Conditions for the over 11,000 contract employees in the Public Service. It is no wonder that the matter of outstanding terms and conditions for Judiciary employees remains a matter of grave concern and a limiting factor for our development and performance. Of the 730 contract positions 227 are vacant and while there are several acting or temporary appointments we only have permanent appointees to 517 of the 1302 establishment posts.

While we are aware of the challenges faced by the CPO and her staff and while we continue to work with them toward a solution, the fact is that contract staff in the Judiciary frequently work without Terms and Conditions sometimes until the term of their contract has ended. This has unfortunate consequences for their ability to secure loans in the banking sector or even to access certain benefits that should accompany their positions such as car loans.

The most recent directive from the CPO's office that returning contract employees, who have performed satisfactorily and would have a reasonable expectation of at least maintaining previous compensation levels, should be paid basic salary only and no allowances as the Interim Package pending CPO's final recommendation is frankly, inexplicable and bound to place financial hardship on contract employees whose approved Terms and Conditions previously contained Duty and Transport Allowances.
These issues have had a crippling effect on our much touted Family Court since we have lost trained and experienced staff both at every level, whose functions were critical to the caring, customer-focused and modern service delivery culture at the Court. In some cases, these former employees cited the extraordinary delays in the determination of Terms and Conditions and other HR related issues as critical factors that forced them to seek other employment. In the Family Court, we have also experienced difficulty in attracting suitable candidates to numerous vacant positions due to the inadequacy of remuneration packages and uncertainty about the timely resolution of HR issues. It is with regret that I tell you that we are in danger of losing even more of our experienced staff in the near future. These circumstances exist not only in the Family Court but also in other administrative support units and departments across the Supreme Court and the Magistracy.

Our inability as an organisation to attract and retain the level of staff needed to function in our highly specialised environment is also affected by the lack of control over staff in our organisation. In the case of our contract employees, our salaries are out of sync with relevant comparators not only with the private sector but even in some instances with contract posts in Ministries and State enterprises. We feel embarrassed when qualified and experienced candidates who are interviewed for vacancies are told the salary that is likely to be attached to the post in question, and they respond with incredulity. I can relate to that personally by the way because that is my experience when I tell my contemporaries how much I make (but more on that later).

The reality is that it has become nearly impossible to secure and retain talent at the level and in the numbers required to successfully run this organisation now, far less to take it into the next 50 years. The willingness of my senior staff in particular to forgo more lucrative and less stressful opportunities speaks volumes for their commitment to country and to the ideal of justice. It should not be abused.

Even aside from the matter of delayed and inadequate terms and conditions for contract staff, is the vexing issue of the procedure for seeking and obtaining Cabinet approval for employment and further employment of persons on contract. Here again, our ability to engage suitably qualified and competent persons is hampered. Where an employee on contract has come to the end of his term, the organisation has benefitted from his/her period of engagement and there has been an indication of interest in further employment, the procedure that now calls for approval from PMCD before submission of a request to Cabinet has added yet another source of delay. Quite frankly, it is unclear to me why such re-employment should even require Cabinet approval at all, if the Judiciary has determined through its performance appraisal process that the contract employee member has performed creditably and wishes to re-engage his/her services. It strikes me as completely unnecessary where the creation of the post was originally approved by Cabinet and recruitment was fair and transparent. To add a further step, by requiring that Notes to Cabinet for further employment of persons be submitted first to PMCD and then to the Cabinet, is very frustrating and frankly inconsistent with the notion of judicial independence.

Our experience now is that, despite the early preparation of these Cabinet Notes, delay at PMCD, results in the breaking of service between contracts. This affects the contract employee's eligibility to access Maternity Leave and to benefit from an additional 5 days of vacation leave to which they would be entitled in the 7th year of employment on contract in the particular post. In
circumstances in which so much of the work of this organisation, at its more strategic levels, is quite specialised, when contract officers who have, over the course of the contract, learnt critical details about process and procedure and acquainted themselves with needs of the organisation in their areas of specialisation, and we are prevented in some cases, not only from immediately offering them further employment but also even re-advertising the post in a timely manner, we face the possibility of vacancies in vital posts over a number of months. Vacancies, ladies and gentlemen, that have the potential to stop us in our tracks and adversely affect our delivery of services.

It is by no means the first time that the ability of the Judiciary to control not only its financial but also its human resources, has been mooted by a Chief Justice. Nor is it the first time that it has been mooted by me. Our frustration is more acute when, with regard to substantive posts in the organisation, the Judiciary has no control over the coming and going of Public Service staff, even at the most senior levels. Thus, highly experienced and sometimes critical persons who have had the benefit of training and experience within the Judiciary are suddenly plucked from their posts and sent to Ministries and Departments, without consideration of the impact on our organization.

In such cases, we are denied even the opportunity to make the necessary arrangements to handover to a replacement (assuming that any arrangements for a replacement have been made). That replacement must then be trained in the specialised work of a Court. I do not dwell now, on the discourtesy rendered in these circumstances but focus on the effect that this has on our ability to offer the service that our customers expect and deserve. We do need to consider whether it is not time for the Judiciary to become a 'closed department'.

As we look toward the next 50 years, as we work even now to transform ourselves into the organisation that we can be, it is critical that the Judiciary exercise more control over its most critical resource.......its people.

I raise the flag now because at the end of the day I am accountable to the people of Trinidad and Tobago for the performance of the judiciary. It is difficult to take responsibility for outcomes when one does not control the inputs. We must fix it before things fall apart. I am simply trying to bring us face to face with reality.

I know that the Hon Minister of Public Administration, who has inherited a dire situation, and her executive team have shown a keen appreciation of our current challenges and what lies ahead and more importantly a willingness to work with us. Even now a joint working group is addressing the staffing and governance structures in the organisation. But we are also conscious that many of the issues I raise are of concern right across the Public Service, hence my call for systemic reform. I fear that if a sense of urgency with regard to structural reform does not pervade every area of governance and government the solutions will be too long in coming. An unprecedented level of creativity and willingness to explore all options is required, as is a sense of urgency.

And while we are exploring options, may I offer one. It may be that at this time, the core and administrative support posts of the Department of Court Administration, both permanent and
contract, should be incorporated as part of a permanent Judicial and Legal Service and the remit of the Judicial and Legal Service Commission extended to include such administrative positions with the attendant power of appointment and discipline.

It may be as well that for those posts that continue to be contract posts due to the more temporary nature of the required function, the CPO should after engaging in an examination of the relevant compensation studies of the organisation, prescribe broad limits and guidelines for terms and conditions and thereafter allow the Judiciary or an enhanced Commission to set same for individual positions, while retaining the power of audit. This model is not without precedent in other Commonwealth jurisdictions and would be entirely consistent with the Latimer House Principles governing Judicial Independence and Accountability and the relationship between the Judicial and Executive Arms of the state to which, in an earlier incarnation, the Honourable Prime Minister subscribed on our behalf.

I indicated before, some of the issues I have raised are not exclusive to the Judiciary and I am aware that Cabinet, in an attempt to address the challenges facing contract employees, has approved the standardization of some job descriptions and designations as well as salaries so as to provide more flexibility. I look forward to seeing the extent to which this will assist in addressing some aspects of our current problems but I suspect that a more radical solution will be required, at least to address our particular concerns.

We continue, however, to work with our partners, especially in the Ministry of Public Administration to find a way forward.

I cannot leave this topic however without some reference to the plight of those of us whose terms and conditions are prescribed by the Salaries Review Commission. We continue to operate on 1985 basic salaries. It is true that after my appeal last year, the SRC has been asked to report and has embarked on that process. In response to an invitation for submissions we undertook a comprehensive compensation review exercise with the assistance of a compensation consultant. After presenting our submissions we have now been informed that the SRC is embarking on a similar exercise with its own consultant and we have been invited to send a representative to be a part of their review committee. While we are happy to cooperate it strikes me that some duplication of effort could have been avoided if that was always the intention. Here we are one year later, now undertaking a comprehensive review of the several hundred posts affected. It seems likely that it will be another year or so before a final package is arrived at. The last review brought us up to 2008 so we will be playing catch-up 5 years later when the value of any back pay we receive would have been decimated by inflation. In the meantime we have to face HiLo and PriceSmart at 2012 prices.

We can't go on like that. The state has a responsibility to treat with us on the basis of fairness and good industrial relations practice. Also, it is internationally accepted that allowing judicial pay to be eroded over time by inaction raises issues of judicial independence as well. At the very least, looking forward, the Constitution should be amended to require the SRC to review salaries at specified regular intervals. How is the JLSC to recruit masters and judges with the ready experience and skill sets to run the new Criminal Procedure regime with unrealistic salary packages? A fair and realistic approach would be to make some immediate interim award that
would reflect the likely minimum increase and would serve as an incentive as well as to address flagging morale. [and I don't mean 5%]. I repeat, we can't go on like that!

I have taken considerable time to lay out our concerns because if, on perusing our statistics you find that our performance has been modest, my duty of accountability requires me to supply context. Given the staffing and other constraints, much has been accomplished. I want to express my gratitude to all the hardworking members of the judiciary family who have held fast to the vision and accomplished so much with so little. I do accept that we can and must do better but we need continued support and a fundamental change in the way we operate.

I look forward to continuing productive dialogue with all relevant agencies in the spirit of mutual cooperation that has generally pervaded our interactions in recent times.

TRANSITIONS

It is customary, towards the end of the opening address to acknowledge significant movements or transitions that are imminent or that took place during the previous 12 months. There are several this year and time permits me only to mention a few. After making a sterling contribution to the local bench, Justice Carmona will be leaving us this year to take up a position on the International Criminal Court. He is the second person from this country to have achieved that honour. We are proud of his accomplishment not just because he deserves it but because it confirms international recognition of the high quality of jurists we can and do produce. We congratulate him and wish him and his family God-speed and thank him for his service.

In December of this year Justice of Appeal Mr. Justice Stollmeyer will retire after 15 years on the bench. Always equally ready with anecdote or advice, he will be sorely missed, not least for his practical approach to knotty problems. We thank him as well for his service to the country.

Of course we also said au revoir to Justice Ventour who is still to produce his birth certificate to convince me that he is 65. He brought many years of valuable experience, maturity and a most affable disposition to the bench and we are the poorer for his absence. Like the others, we wish him richest blessings in all his endeavours.

After a full working lifetime with the judiciary our Registrar Ms. Evelyn Petersen also elected to take early retirement. I would like to publicly acknowledge and thank her for her contribution over the years. We wish her a long and productive second half of her life. We congratulate her replacement Ms. Marissa Robertson on her elevation to the post.

Of course our ranks were strengthened by the addition of justices Frank Seepersad and Maria Wilson, both of whom have had distinguished careers at the bar. They have been elevated at a relatively youthful age and we look forward to long and equally distinguished careers on the bench.

Then there is Justice of Appeal Kangaloo. Words cannot describe the sense of devastation and grief felt personally and institutionally owing to the tragic accident in which he was seriously injured. It has truly not been the same without him but we take comfort and encouragement from
the fact that he has been making slow but steady progress. The good news is that he appears to have retained his intellectual faculties and we look forward to welcoming him home for Christmas and back to the bench in due course. His space is still here! In the meantime we continue to lift him and his family and loved ones in prayer as there is still a long journey ahead.

THANKS

Before I close I must thank all those who have made this 50th anniversary opening of Court a success. First and foremost my deepest gratitude is owed to His Excellency the President for granting us the privilege, not only of his presence, but also his words of wisdom and inspiration. So far as I am aware the head of state addressing the assembly at the opening of the law term is without precedent, but it is a good precedent to set and appropriate in the land-mark year of our golden jubilee. Thank you Your Excellency!

Our thanks go out as always to the Dean Colin Sampson of the Cathedral Church of the Holy Trinity for continuing the tradition of being our gracious host on this occasion. We look forward to it every year and appreciate it very much.

To the Prime Minister, members of Cabinet, members of Parliament, members of the diplomatic corps and all other specially invited guests, your presence is what marks this occasion as a special one. We know that your time is important and you could easily find a valid excuse to be elsewhere. We are grateful that you chose to come.

Thank you as well to the Chief of Defence Staff for providing the Guard of Honour, Ms. Joy Caesar and the Southernaires Choir and to our soloist Mr. Mangatal. And last but by no means least, to all the MTS and judiciary staff who pitched in (especially the Court Protocol and Information Department and Mrs. Gittens) thank you, thank, you thank you!

Ladies and gentlemen, I have the honour to lead an extraordinarily talented and committed bench. Despite what may have sounded at times like a gloomy prognosis I am very optimistic about the future of the judiciary and the foundation that has been laid by my predecessors for the next 50 years. We understand what we have to do. I look forward to the evolution of a national consensus on what we are to become as a people. If together we aspire, then together we shall achieve.

Thank you so much for your patience and the courtesy of your listening ear. May God Bless our nation.

This Court now stands adjourned.