

**RESPONSE OF SIR. GERALD WATT QC, TO THE BAR COUNCIL'S**  
**PRESS RELEASE**

1. On an appearance on Point FM on the Browne & Browne Show, I had occasion to criticize a decision of the High Court in which the Learned Trial Judge had granted an Injunctive Relief which effectively shut down operations on the construction of an airport on Barbuda, which was 80% complete, and which had been under construction for several months
2. In my criticism I cited three errors of law which I considered the Judge who granted the Injunction had made (a) failure to consider the balance of convenience (b) failure to enquire into whether the complainants could satisfy the undertaking in damages as required by law and (c) failure to hear the Attorneys for the Defendants, who presented themselves as representing the Respondents. The Learned Judge however refused to hear Counsels because she said they had not filed any Affidavits.
3. I was particularly troubled at the Court's actions or inaction with regards to (c) above, as the Judge's refusal was a serious breach of the principle of natural Justice, and dealt a serious blow to the Defendant's case. Indeed the proper and prudent thing to have been done was to at the very least to grant a short adjournment hereby allowing the Defendants to file their documents and to be heard. In the heat of the discussion I described the Judge's denial of the right to address the Court even on the law as "madness".
4. I was immediately attacked by Observer Radio, the attack being instituted and led by a Co-host of Voice of the People, who needs to be much less politically biased and inform and educate herself by more reading and research. By so doing she would put herself in a position to correct and educate the ill informed callers, calling in to Observer Radio and not allow them to mislead an unsuspecting public. Incidentally Observer at this time had only concentrated on the word "madness", and seemed to intimate that I had used the word, "because I objected

to the granting of the injunctive relief". They failed to explain the context in which the word was used, and to comprehend that the description of madness was used in respect of the failure of the Judge to give counsels present a hearing, and not to the injunctive relief or a reference to Her Ladyship or the Court.

5. In an interview on the Voice of the People, Justin Simon QC without having personally heard my statement or the context in which it was made and without speaking to Queen's Counsel several years senior to him, and in being his usual sanctimonious self, proceeded to launched a personal and unwarranted attack on me.
6. I ought not to be surprised at Simon's personal attack, and the manner in which it was personalized, after all, he was just being his vainglorious, self-righteous self, but I do take umbrage at the fact that he failed to contact me, and ascertain my side of the matter before launching his attack, as even a criminal deserves to be heard.
7. But there is worse, I am reliably informed that immediately following his precipitous attack, Simon ordered the Bar Council to write to me and indicated that if they did not do so he would. Following Simon's instruction, the Bar Council did not write to me but instead proceeded to publish a senseless, rambling, and wordy, press release, in which they quoted extensively from the Code of Ethics as contained in the Legal Profession Act, 2008, and all of this simply as a result of the unfortunate use of ONE word. It should be noted that the Bar Council never contacted me in this regard either before or after publication of the press release, obviously the principle of natural justice and fairness means nothing to the present Bar Council, and its failure to apply the above principles has been noted both by members of the legal profession and the public alike.
8. It is abundantly clear that none of the members of the Bar Council heard my statement in its entirety, and consequently were clueless as to the context in

which the criticism was made clearly they slavishly followed Observer's reporting and the dictates of the officious Simon QC.

9. Since the Bar Council's Press Release a number of lawyers, and citizens have contacted me and expressed disagreement and disgust at the action of the Bar Council, they pointed to the overbearing, and exaggerated tone and content of the press release, and the failure of the Council to contact Senior Counsel on the matter, further the attorneys in question alluded to the fact that both the Past President and Vice President two of the highest ranking officers in the Council, are known themselves to be exceedingly rude, coarse and disrespectful to fellow attorneys and are frequently rude and disrespectful in the face of the Court. The attorneys of whom I refer are Attorneys Deborah Burnett and Sherri Ann Bradshaw.
10.
  - (a) Further this organization has failed on numerous occasions to censure or even call out persons who have acted contemptuously towards the Court. Two examples that readily come to mind is that of Gisele Isaac's contemptuous attack on the Eastern Caribbean Court of Appeal, the attack was so savage that the Court was forced to issue a statement defending its position, something the court seldom ever does. It was Sir. Gerald Watt QC, who mounted a spirited defence of the Judges of the Court in several interviews particularly with Sean Bird and Cecil Wade on the program "Open Forum".
  - (b) We can all recall Hilson Baptiste a then Senior Minister of the Baldwin Spencer Administration, being angry at the loss of the Election case of 2009, while on the platform at a political meeting declaring vehemently, when referring to Madam Justice Blenman words to the effect that "had she given a decision like that in Jamaica she would never leave the Bench", "she would be a dead woman". I am advised that the sitting Bar Council at the time did speak out about it, but Justin Simon QC, Attorney

General at the time did not feel able to admonish the Minister; neither as Attorney General did he apologize to the Judge, either publicly or privately.

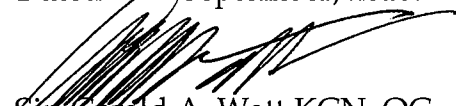
11. The honest members of the Bar, past and sitting members of the Bench can attest to the fact that Sir. Gerald Watt QC, for several years publicly advocated in the face of the Court during special sittings and in other public fora for better pay and conditions for Judges of the High Court and Court of Appeal, indeed I took over this mantle from the late Cosmos Phillip QC. I also persistently advocated for the age of retiring Judges both High Court and Court of Appeal to be increased as it was ludicrous to be retiring Judges with experience at the early ages of 60 and 62 years. I would like to believe that my voice and others prevailed and the age of retirement was increased, and in my view ought to be even further increased.
12. On the 11<sup>th</sup> September 2018, the Court of Appeal heard the Appeal against the order of Her Ladyship Roselyn Wilkinson granting Injunctive Relief. As expected the Appeal was allowed, and the injunction discharged. The Court stated as follows inter alia "The Court is in no doubt that the denial of the right of Counsel to address the Judge even on the law constituted a serious breach of natural justice and fairness". The right to be heard is rooted in the doctrine of fairness and the Court is satisfied that this breach of this important right by itself, is sufficient to negate the order of the Judge to grant the Interim Injunction. "We are of the view that the right to be heard is such a sacrosanct right and more so given the context of this matter"  
"We find that it would have been consistent with fairness for the Judge to have granted a short adjournment in this matter not having done so that, and having denied the Appellants the right to be heard constituted material unfairness to the Appellants and dealt a severe blow to natural justice.
13. The upshot of all this is that the Court of Appeal has heard the matter, the appeal has been upheld, and the injunction set aside, at the hearing the Court Zeroed in

on the issue of the failure of the Trial Judge to give the Respondents a hearing. In its decision the Court of Appeal declared inter alia that the Judge's refuse to hear the other side as "a serious breach of natural justice and fairness which dealt a severe blow to natural justice".

14. Notwithstanding the brouhaha caused by Observer, Simon, and the Bar Council, it turns out that my criticism of a part of the Judge's order was legally correct, and indeed I used very similar words and reasoning except for the word "madness". No right thinking person therefore could agree that the over the top reaction of Observer, Simon and the Bar Council could be justified, and while, I accept that I could and should have used a word other than "madness", my criticism of the decision could not be said to have been unreasonable, harsh or disrespectful.
15. Further it is necessary and desirable that attorneys and particularly Senior Queen's Counsels and leading Juniors, criticize decisions of the Court when necessary, juniors cannot be expected so to do. Indeed, respectful and intellectual criticism of Court's decisions verbally and by way of legal writings can only inure to the benefit of our Jurisprudence. I would have thought that Simon etal would have understood this and not decided to "kill the messenger".
16. I do not propose to offer any advice to Simon QC after all if he can throw a lifetime friend and his political party (once it had lost office) under the bus, I can hardly expect better, but I will suggest the following to the Antigua and Barbuda Bar Association. The Bar Council as presently constituted is far too political, its President, Vice President and immediate Past President and certain members are known to be ardent supporters of the U.P.P, further the membership consists of very Junior Attorneys, easily influenced by the officers. It is therefore imperative that more senior and mature members of the Bar take up the senior positions in the Bar Council, failing which I fear the Council will remain irrelevant, and continue to be considered by many "as a useless lot".

Nuff said

Dated 19 September, 2018.



Sir. Gerald A. Watt KCN, QC