



EASTERN  
CARIBBEAN  
SUPREME COURT

# *Special Sitting*

*Friday 23 March 2007*



*To honour His Lordship  
The Hon. Justice of Appeal  
Michael Gordon, Q.C.*

*On His Retirement From Service  
as a  
Justice of Appeal  
of the Eastern Caribbean Supreme Court*

**ADDRESSES FROM THE BAR**

Mr. Kenneth Monplaisir  
**Representative of the Inner Bar**

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Miss Charmain Gardner  
**Representative of the Officer of the  
Director of Public Prosecutions**

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Ms. Jennifer Remy  
**President of the Bar of Saint Lucia**

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Ms. Mary Juliana Charles  
**Representative of the Utter Bar**

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Mrs. Georgis Taylor-Alexander  
**Representative Attorney General Chambers**

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Mr. Justin Simon, QC  
**Attorney General of Antigua and Barbuda**

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Mrs. Cynthia Combie-Martyr  
**Representative of the Utter Bar**

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**ADDRESSES FROM THE BENCH**

His Lordship  
The Honourable Brian Alleyne, SC  
Chief Justice [Acting]

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His Lordship  
The Honourable Denys Barrow, SC  
Justice of Appeal

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His Lordship  
The Honourable Hugh A. Rawlins  
Justice of Appeal

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His Lordship  
The Honourable Albert Redhead  
High Court Judge [Acting]

**RESPONSE**

His Lordship  
The Honourable Michael Gordon, QC  
Justice of Appeal

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Justice Gordon's retirement I understand is due to the statutory age limit. It is unfortunate that the Constitution of the court places an early retirement age on the, the Judges. I suppose that at the time that these age limits were pronounced, persons in their 60's, were ready for retirement and looked as if they were going to retire or thought that they were ready for retirement. Justice Gordon belongs to the new era where in one's 60's there is energy and a sense of continuity far from a look of having it, having to be retired at last. This statutory barrier insofar as the courts are concerned take away from the Bench Judges whose experiences are immeasurable and who add no doubt to the quality of the judgments.

In our jurisdiction, I've always felt that the Court of Appeal has a special responsibility, in that, it is equivalent to a final judgment since relatively few cases go to the Privy Council. Justice Gordon has measured up to this responsibility and has earned the reputation of working diligently and giving judgments of substance and quality. I have not been aware of too many, I concur, in his judgment. This is not surprising as Justice Gordon has brought to the Bench his experiences of a long and successful encounter at the Bar.

Justice Gordon follows in the footsteps of a family whose history of legal personalities are well known. His father, Sir Garnet Gordon, was an eminent Queen's Counsel, and I believe, the first to be so appointed in Saint Lucia. His uncle, Sir Keith Gordon, even the young ones know him or knew him, practiced law in his 90's, and was a member of the Court of Appeal in his early days.

I was honestly surprised when Justice Michael Gordon decided to give up private practice to take up an appointment on the Bench. Justice Gordon gave me the impression that he loved the advocacy of an attorney-at-law and even engage in briefs at criminal assizes long after senior lawyers with the exception of our leading

criminal lawyer here, Kenneth Foster, Queen's Counsel, had left the scene, but Justice Gordon has a way of concealing his intentions. He does this by an apparent nonchalant manner founded on a good sense of humour. He knows what he wants and sets about it in a suave and purposeful way. Whatever he decides on, he does it wholeheartedly and well. I remember he was a good golfer, but seem to abandon it for sailing where his enthusiasm so extended itself that he took a decision to purchase a boat. You wouldn't believe it, but he took time off to sail in the first Saint Lucian yacht across the Atlantic in the ARC race.

Justice of Appeal Gordon, I am talking to you directly with respect, Sir, I wish you continued good health and contentment in your retirement. I did not expect for one moment that you would retire in the sense of staying away from work. Knowing you as I do with a disposition for change, you will probably seek an outlet with the variation on the judicial theme. I predict this, because you often told me that you like being on the Bench and it has been an interesting experience. May I be permitted to state that for us too, it has been an interesting experience with you on the Bench. We thank you for your dedicated commitment on the Bench in this jurisdiction. I wish that you enjoy your retirement and maintain the continuing success you so richly deserve. Thank you, may it please, you, Lord.

**CHIEF JUSTICE ALLEYNE:** I call on the representative of the Office of the Director of Public Prosecutions, Miss Gardner.

**MISS GARDNER:** Thank you, My Lord. Honourable Chief Justice, Brian Alleyne; Justices of Appeal, Justice Michael Gordon, Queen's Counsel, Justice Denys Barrow; Justice Rawlins; Justices of the High Court, Justice Albert Redhead, Madam Justice Ola Mae Edward and Justice Sandra Mason. I would like to acknowledge the presence of Sir Vincent Flossaic, Justice d'Auvegne and

the Attorney General of Antigua and Barbuda; learned Queen's Counsel of the Inner Bar, Members of the Utter Bar, friends and well-wishers.

It is indeed an honour for me to address this court on what I believe to be a mixed occasion. Firstly, celebrating the legacy of excellence of Justice Michael Gordon, Queen's Counsel, and sadness at his retirement from the Justice of Appeal. I remember when I first returned to Saint Lucia to practice at the Bar, I had an opportunity to appear before you, Sir, as a defense counsel in Vieux Fort. You were a pro bono Magistrate at the time and something struck me, I thought to myself you have a distinguish career as a private attorney at the law firm of Gordon, Gordon and Company, but yet you realized that there was a need for assistance in an area that was short staffed and you rose to that challenge. You were doing your part in giving back to society and you dispensed with justice without fear or favour, thereafter, you were elevated to the Court of Appeal and again, Sir, you dispensed with justice in a fair and just manner. Your contribution to the Bar in your development of jurisprudence is exemplary. At the panicle of your service, you have decided to resign having accomplished so much and imparting even more. For young attorneys like myself, you have become a role model of impartiality, sound decision-making and the virtue of learnedness of the law.

On behalf of the Office of the Director of Public Prosecutions, I thank you for your contribution as Justice of Appeal in the development of law in the region and I wish you blessings and every success in your future endeavour.

**CHIEF JUSTICE ALLEYNE:** Thanks, Miss Gardner.

President of the Bar of Saint Lucia, Miss Jennifer Remy.

**MISS REMY:** May it please this

Honourable Court, Justices of Appeal; Justice Michael Gordon, Justice Hugh Rawlins, Justice Denys Barrow; Justices of the High Court; Justice Albert Redhead, Justice Ola Mae Edwards, Justice Sandra Mason; Members of the Magistracy. My Lord, I wish to recognize the presence of Sir Vincent Floissac, former Chief Justice of this Court, also the Justice Suzie d'Auvergne, retired judge, also the presence of the Attorney General of Antigua and Barbuda, colleagues of the Inner Bar, colleagues of the Utter Bar, distinguished guests, ladies and gentlemen.

It is my distinct honour and privilege on behalf of the entire Bar, to lend my voice to that of my other colleagues in paying tribute to His Lordship, Michael Gordon on the occasion of his retirement from the Court of Appeal. My Lords, Justice Gordon's legal career has spanned a period of upwards of 30 years. Most of this period in private practice in the law firm of Gordon, Gordon and Company. Additionally, and whilst in private practice, he served as a Magistrate for about a year in Vieux Fort. During this time that he served as a Magistrate, he, in association with Justice Hariprasad Charles prepared a report on the remand position at the Bordelais Prison, a subject and a topic of concern to Justice Gordon. At that time it was thought that a 120 persons on remand was outrageous, but I'm advised that there may be closer to 200 persons presently on remand.

My Lord, in September of two thousand and three, Justice Gordon answered the call to public office, he left his thriving private practice and joined the Court of Appeal in an acting capacity. He was appointed as a Justice of Appeal in December, two thousand and three. My Lords, the ease with which Justice Gordon made the transition from private practice to the judiciary is a testament to his intellect, his competence, his character and his personality. During his short stint on the Bench, His Lordship, Justice Gordon has demonstrated sound intellect, courtesy and respect for

practitioners young and old alike and a sense of fairness. In this, My Lords, he has been true to Socrates' measure of what constitutes a good judge, and I quote, "Four things belong to a judge, to hear courteously, to answer wisely, to consider soberly and to decide impartially."

My Lords, I've had the good fortune of working with His Lordship, Justice Gordon in private practice at the law firm of Gordon, Gordon and Company. I was therefore able to observe firsthand and to be impressed by his oratory and his mental agility. Justice Gordon was able to grasp legal and factual issues with a speed that was astounding. Equally impressive, My Lords, was Justice Gordon's wit. Indeed Justice Gordon's legendary and inexhaustible witticisms has become something of a trademark. My Lords, throughout his professional life, Justice Gordon has been true to a fastidious and unwavering standard of integrity.

In characterizing Justice Gordon, I think these words of Francis Bacon in his work, *Essays of Judipiture* are very apt, and I quote. "Judges ought to be more learned than witty, more reverend than plausible and more advisid than confident. Above all things integrity is their portion and proper virtue." I submit, My Lords, that if indeed we were to accept these prerequisites to the bestowal of praise and accolade to a judge for a job well done, His Lordship, Justice Gordon, need not worry that his name be remembered inside and outside the walls of Saint Lucia and the Saint Lucian courtroom as a good and a proper judge.

Your Lordship, Justice Gordon, as you take your leave from the Bench, I wish you on behalf the entire Bar a happy semi-retirement. I say semi-retirement, My Lord, because you will no doubt be returning to your private practice. Rest assured though, My Lord, that the clients are still very demanding and they still continue to plead poverty. I wish to thank you for your contribution to the Bar. I also

ish to thank you personally for being an inspiration and a mentor. I wish you well and most especially, I wish you God's richest blessings for the future, I thank you.

**CHIEF JUSTICE ALLEYNE:** Representative of the Utter Bar, Miss Mary Juliana Charles.

**MISS CHARLES:** May it please, Your Lordship, Your Ladyships. For purposes of brevity, I wish to adopt the protocol list of the previous speakers, although I particularly wish to recognize Justice Michael Gordon's family.

I rise on behalf of the Utter Bar to pay tribute to, His Lordship, The Honourable Justice of Appeal, Michael Gordon, Queen's Counsel, on his retirement from service as a Justice of Appeal of the Eastern Caribbean Supreme Court. Mi Lords, Mi Ladies, Justice Gordon's retirement from the Bench fills me with tremendous pleasure. Pleasure, pleasure, not because that I was so fearful of appearing before him that I am now happy to see him go, for by some fortunate chance, he had never had to pass judgment on me. The pleasure I speak of stems from the fact that while the Eastern Caribbean Supreme Court stands to lose one of its eminent judges, I stand ready to gain from his vast knowledge of the law which he has always been so willing to share.

There is belief in some quarters, that judge's appear sometimes to be remote persons who live apart in a lofty world of torts and malfeasance, but from the comments and utterances of my colleagues of the Utter Bar who have appeared before Justice Gordon, I verily believe that he was patient, attentive and never unduly harsh with them even when their arguments were not very sound. For my part, I understand the virtues and commendations which my colleagues in the Utter Bar have extolled, as I also know them to be true from my association with him for over 32 years. Such is his

personality he loves the law. He enjoyed his role as Justice of Appeal.

Although I have been asked to speak on behalf of the Utter Bar, I trust that my learned colleagues shall permit me to deviate a little so as to make some personal comments. Justice Gordon, the management and staff of Gordon, Gordon and Company and Affiliates ADCO Incorporated with whom you were previously associated, congratulate you on your sterling contribution to the state of Saint Lucia and the wider region served by the Eastern Caribbean Supreme Court. We are all proud of you, Sir. We salute you, we commend you and thank your for your dedicated and outstanding service to the Eastern Caribbean Supreme Court and to your own community. You have served with dignity and distinction.

Over three decades, I personally have witnessed Michael, the Barrister at law, and by the way, this is where judges come from, for those who think that they are remote persons; Michael, the writer of editorials; Michael, the college lecturer; Michael, the 'ARC' angel, A.R.C, ARC being Atlantic Rally for Cruisers; Michael, the Magistrate; Michael, the High Court Judge; Michael, the Court of Appeal, and after such distinguished career and at such a tender age, once again, Michael rolls the boat ashore, halleluia, sir. We know that you shall pause to smell the flowers you plant in your garden. We know that you shall find time to sail the seas again, but we trust that we shall be able to persuade you to resume your association with us in the near future.

I know my learned colleagues of the Utter Bar shall miss you being on the Bench, Justice Gordon. You have not only enjoyed our respect and admiration, but our confidence and goodwill, and I can confidently assure my colleagues of the Utter Bar that you, Justice Gordon, shall continue to listen to them and shall unselfishly share your time and knowledge with them, of course, these remarks are not meant to

encourage a stampede. There is a school of thought which says, that brevity is the soul of wit, that being so, and Justice Gordon being noted for his economy of expression, I shall take my seat now if it so pleases this Honourable Court, I thank you.

**CHIEF JUSTICE ALLEYNE:**

Miss Cynthia Combie-

Martyr.

**MRS. TAYLOR-ALEXANDER:**

May it please you, My Lords, I wish to

apologize for my late attendance this morning, and I also wish to apologize, because I had been asked by the Honourable Attorney General to attend on his behalf and to make whatever representations that need to be made. I trust the Court will crave - - I can crave the Court's indulgence to make a very short speech at this stage in honour and to say farewell to Justice Michael Gordon. Thank you, Mi Lords.

I want to adopt the protocol list of the persons and speakers who have gone before me. I was unaware that it required that we address the court this morning, but Justice Gordon will know that I will never pass up an opportunity like this to address him in a gathering such as this.

I first met Justice Gordon when I was called to the Bar some 11 years ago. Justice Gordon was someone who offered me guidance and was a mentor to me. Many persons may not know this but I became acquainted with Justice Gordon, not, sorry, not just as a colleague at the Bar, and more than anybody else here I think I appreciate Justice Gordon's versatility. Justice Gordon from very early on established a ladies sailing team. Many persons at the Bar questioned his intentions when he did so, especially when the sailing team was restricted only to the young females at the Bar. I, however, always knew that his intentions were honourable, and some 11 years on we went almost every weekend, I believe, and Justice Gordon can refresh my memory, whilst I remember very little about tacking, starboard and port, I do remember a lot

about green bottles and old talk. Nevertheless, I think his intentions were, in fact, honourable and the other young ladies at the Bar who went with me every weekend will attest to that.

I also remember Justice Gordon as a cook, because amongst other things the ladies of the sailing team were treated to, I believe, spaghetti and meatballs or something to that effect, that Justice Gordon had cooked himself. It was one of those, it was one of those evenings where he thought that - - evenings, yes, where we did the academic side to sailing rather than the practical side. I hold a fondness for Justice Gordon, because as I indicated, he offered me tremendous guidance as a private practitioner.

I have to say though, that I was a little surprised when I first appeared before him as a Judge or Justice of the Appeal, because the friendship that I thought we shared vanished on that day, and no attempt by me to engage Justice Gordon in friendly banter assisted my cause or my case that day. Again, it allowed me to appreciate the versatility of the man who was able at that stage to divorce himself from any friendship we may have shared, our, or our friendship that we shared as colleagues at the Bar to address his mind to the business of the day. It has caused me to develop a tremendous respect for the man.

I have to say though, Justice Gordon, and I think I indicated to you last year when you agreed once again to do the stint at the Bench for a further year that in as much as I admired and appreciated your contribution over the period, I would appreciate nothing more than to have you again as a colleague at the Bar, where I think I am able to appreciate and it may not be much of an equal footing, but I think the times when there are certain things I would like to say to you, that I was not able to say because I, I was no longer able to address you as a colleague, but as a justice of the

Bench, and I think I would, I would, I would prefer to share with you what I shared when I first came into private practice. I look forward if you are coming back into private practice to seeing you again at the Bar. I thank you.

**CHIEF JUSTICE ALLEYNE:** Yes, Mr. ~ ~

**MR. SIMON, Q.C.:** May I crave, Your Lordships, indulgence.

**CHIEF JUSTICE ALLEYNE:** Mr. Attorney, of course.

**MR. SIMON, Q.C.:** I am aware that I am not listed for speaking, but if I crave, Your Lordships, indulgence. My Lord, Chief Justice, Justices of Appeal, Judges of the High Court. May I also recognize former Chief Justice of the OECS Supreme Court, and also former puisne judge here in Saint Lucia, members of Justice Gordon's family.

Mi Lords, it is recognized tradition that the Bench has pride of place and whatever the Bench wants the Bench gets. Whilst I am heartened by the words of My Lord Chief Justice, that Justice, Justice Gordon's retirement is in anticipation, I believe the Rules of Interpretation of Statutory Interpretation make it abundantly clear that he has to retire, and whilst we accept that the retirement is inevitable, I think we have to recognize that the retirement age for judges must be addressed by the political persons in high office. I have made this call before and I make it again today, and inextricably linked to the retirement age, I would further submit respectfully that the issue of funding of the OECS Supreme Court must also be addressed.

We have to understand and accept that the best of our attorneys will only be attracted to the Bench if the conditions of service are adequate and reasonable. In light of this, we have no doubt to recognize the sterling contribution that are

currently being made by our puisne judges or retired judges and our judges of the Court of Appeal, and on my right sits Sir Vincent Floissac and his appearance along with that of Justice Gordon clearly indicate that the retirement age has done nothing in terms of ageing them. I am sure Justice of Appeal Gordon retires that he will be seeking to continue in respect of his contribution to the legal fraternity, and by extension the society.

It has been stated that good lawyers never die, they simply rests on their submissions. May I submit, that good judges never retire, they simply move to another jurisdiction. Let me say to Justice Gordon that having had a distinguished career in private practice he has certainly brought with him the expertise, the experience and the dedication to the Bench. We are sorry that within a short space of time, two thousand and three to two thousand and seven that you have to leave, but we trust that your words of wisdom, even though all of us may not have accepted that, will certainly guide our Caribbean jurisprudence. I have noted, Justice Gordon, that you have been a Michael of many parts. I note, however, in the long list that you have not been Michael, the basketballer nor Michael the pop singer. Perhaps in your retirement you may seek to accomplish those two areas.

May I on behalf of the people of Antigua and Barbuda thank you for your contribution whilst you were on the Bench both in the High Court and the Court of Appeal, and also wish you well as you seek not to venture in rough waters, but as you seek further to make your contribution towards the development of our jurisprudence and in the Caribbean society as a whole. I thank you, Mi Lords.

**CHIEF JUSTICE ALLEYNE:** Thank you, Mr. Attorney.  
Miss Combie.

**MRS. COMBIE-MARTYR:** May it please, Mi Lords. I

begin my contribution to this special sitting by seeking the leave of this Honourable Court to adopt the salutation protocol as amended by those of my colleagues whose addresses preceded mine.

Those orators have so eloquently provided the relevant biographical details and chronicled the achievements of this honourable gentlemen of the Bench that my task has been made easier, but then on reflection by no means simpler. Indeed, any vacillation that I might have had in preparing these remarks on behalf of the Utter Bar is diminished by the presence here this morning at such an early hour that I can only say the attendance is proof not on a balance of probabilities, but beyond all reasonable doubt of the high regard with which, His Lordship, Justice Gordon, is held.

Of course, because it is such an early hour, I can with leave of the Court rephrase the recent words of an eminent former Chief Justice of the Eastern Caribbean Supreme Court, and state, that the addresses this morning are being delivered and I trust being listened to with untainted sobriety. In his response to the many words spoken at the special inaugural sitting in his honour some three years ago, Justice Gordon disclosed among other things that he would cautiously commence his tenure by adopting as a neophyte Justice of Appeal he then was, that short judicial phrase, which is often read after the leading speeches, I concur. Since then, however, His Lordship's contributions to the judgments of the court have been more effusive and he appears to have concurred the art, and some would argue the science of delivering the law in inspiring snippets using the well known honed distinctive Cambridge or perhaps Came-Lucian intonation, which must be evidently blended in when reading his judgments.

Mr. Justice Gordon, thank your for your contribution and service to this Bench, to the legal profession, to the people of Saint Lucia, and to the people of the

Eastern Caribbean whom this court serves. Your commitment to legal principles, your scholarship, industry, independence, impartiality, fast experience in the law and in life, courtesy, compassion, wisdom and gentle wit will be missed, I am sure by your brother and sister judges, but certainly by the profession and our community.

In the matters that have come under your review, My Lord, we discern very clear endeavours, not only in reinforcing legal principles, but we identify where it has been possible, a cautiously control broadening of the ambit of the law to provide justice and by this means you succeeded in defeating any challenges which would create unfairness.

Justice Gordon's discourses recorded in the judgments of this Court in over 70 matters have spanned the spectrum of the law ranging from administrative law through the criminal law domain to the area of civil law. It is in this latter area and in the big money cases originating from the British Virgin Islands that he has experienced in commercial and company law matters materialize with illuminating enthusiasm.

His Lordship, will no doubt remember the Privy Council case number of 13 of 2007, *Citco Banking Corporation and Pusser's*, which was delivered on the twenty-eighth of February, two thousand and seven in which the Privy Council dismissed the appeal against the leading judgement delivered by Your Lordship in the Court of Appeal. The central issue in that case concerned whether a majority voting to approve an amendment to the articles of the company, which gave control of the company to a single shareholder was for the benefit of the company. The judge at first instance held, that such an amendment was not for the benefit of the company. The Court of Appeal held, that the judge used the wrong test and that it was not for the judge to determine whether the amendment was for the benefit of the company. That

the proper test to be applied was whether reasonable shareholders would have considered that the amendment was for the benefit of the company and the fact that the majority took the decision they must have been convinced that it was.

You will also recall, My Lord, the various matters involving the BVI cases, case, Civil Appeal No. 12 of 2003; *Nam Tai Electronics and David Hague*, one in which Justice Gordon gave the leading judgment proceeded to the Privy Council. My Lords, this was an interesting case which concerned an amendment which purported to give the company certain powers to redeem shares of judgement debtors. The judge at first instance, Justice d’Auvergne held that such a power to redeem shares must be narrowly construed and held that on the facts of that case the redemption of the shares of the judgment debtors was not possible within the power conferred by that amendment.

Justice Gordon in the Court of Appeal, with respect to the validity of the redemption held that the redemption of shares was possible as it was within the power conferred by virtue of the amendment. Her Majesty’s Privy Council agreed with learned Justice Gordon with respect to the validity of the amendment, but found that the power conferred by virtue of the amendment on the facts of that case could not be extended to include the redemption of shares of an insolvent company.

Even when, Your Lordship, delivers a judgment for which there is dissent or perhaps a different opinion, opportunity is presented for widening the scope of the law, admittedly in a cautiously, controlled and reasoned manner. In that regard, My Lord, we await the outcome of the appeal to the Privy Council in the Saint Lucia case, Civil Appeal No. 17 of 2004, *Sylvina Lousien and Joachim Rodney Jacob*. This appeal concerns, Your Lordship’s, decision on an issue relating to mistake in the registration process under the *Land Registration Act 1984*. Your Lordship, you can be

satisfied in knowing that in what seemed like your short tenure on the Bench, you leave a firm heritage in your judgments and in what you have transmitted to those of us who continue the work of this court in its pursuit of delivering impartial justice according to the law.

Ma Lords, Ma Lady, colleagues, such a brief summary cannot fairly describe the breadth and the depth of Justice Gordon's contribution to justice according to law. Not content with the normal demands of judicial work, His Lordship, also chaired the court's committee on the electronic filing project and participated in various other administrative reforms. He has been of influence in providing practical advice on several matters, one of which has broaden the scope of land registration in Saint Lucia, and which it is believed will provide innovation stimulation to the real estate market. I refer here, Ma Lud, to the *Land Registration Amendment Act No. 19 of 2006*, which now allows define parts of building to be identified as registered parcels.

Justice Gordon managed to accomplish all of these without any noticeable change in demeanour or disposition. He continues to maintain a very good sense of humour and I can state for the record, that there has been no further modification in his hairstyle or his hairline. We hope, Ma Lord, that your excellence from this court is not a departure from the law or public life. We concur with Ernest Hemingway, when he notes that, "*Retirement is the ugliest word in the language.*" We submit a better view, My Lord, it is that age is only a number for a man cannot retire his experience.

Therefore, Ma Lud, we anticipate reading your future legal publications and judgments in yet unheard cases, perhaps, Ma Lord, in courts in exotic locations. We hope that you will now have more time for your interest outside this court and the law. In the words of another great writer, Ma Lud, "take your leave from work but not

from life”, but even then, My Lord, some would argue the law is life. Ma Luds, I thank you.

**CHIEF JUSTICE ALLEYNE:** Thank you. It was said by one speaker from the Bar that Justice of Appeal, Gordon, has resigned from the Court of Appeal. The fact is that what has happened is that he has achieved what he himself defined as statutory senility and he achieved that a year ago, but we were fortunate in this court to have got the agreement of the Heads of Government to extend his tenure by one year. So he is now for the second time achieve statutory senility, but we all know that Justice of Appeal, Gordon, is far from senile and I think the exploration by Mrs. Combie-Martyr of his record of judicial achievement brief and incomplete as it is, is an illustration of his continued mental acuity and ability to continue to make significant contributions to not only the law, but to life generally in Saint Lucia and in the OECS.

Justice of Appeal Gordon has the unique distinction, I believe, of being the only person who at the same time served as a Justice of Appeal and a Magistrate, albeit de bono. He did this for a short while after appointment as Justice of Appeal. I have to say that I have been deeply honoured and pleased to have served on this court alongside Justice of Appeal, Gordon. Almost for the entire period that I myself have been on the court, our appointments coincided very closely. Justice of Appeal Gordon has demonstrated a very profound knowledge of the law as well as an analytical capability, an ability to get to the root of the matter, to cut through all the fluff, and to identify the issues that require a decision and his, his judgments are notable for avoiding irrelevances and coming to the meat of the matter, if I may use that expression.

He has also distinguished himself for his judicial propriety and mention has been made of his interaction with members of the Bar while on the Bench and also in other areas of life. The life of a judge puts considerable constraints on the life of a person. I almost said of a man, but that's no longer appropriate, and Justice Gordon has suffered this disability during his period on the Bench. He has been, he has not been able to indulge in his love of sailing, except, I believe, on perhaps one occasion, when in the British Virgin Islands he took his colleagues, including myself, on a very pleasant sail through the waters of the British Virgin Islands. His love of golf has also suffered considerably and I won't mention other areas of life which perhaps have not suffered.

Off the Bench, Justice of Appeal Gordon's wisdom has been of tremendous value to his colleagues on the Bench. His good counsel has assisted us not only in our own approach to judicial decision-making, but also generally in our efforts to develop the judiciary and I have say to also in areas of personal life. His, his depth of human understanding have been of great assistance to all of us who have worked with him on the Bench. His guidance in so many areas of life has been invaluable, and I for myself wish to really acknowledge that and to thank him personally for that.

Justice of Appeal Gordon is known for his elegance of language. Mention was made of his editorial ventures, his writing, activities, etcetera, but one can see very clearly in his judgments, his familiarity with the English language and the ease with which he expresses very complex and difficult concepts with elegance and with simplicity. So in that area as well, Justice of Appeal, Gordon, has enriched the jurisprudence and the quality of judgments of the Eastern Caribbean Supreme Court. Justice Gordon has also demonstrated a deep sense of honour, and a deep awareness of the importance of maintaining the image and the integrity of the judiciary of the Eastern Caribbean Supreme Court. He has contributed significantly to the respect in

which the court is held in Saint Lucia and throughout the OECS. Outside of that, Justice Gordon has demonstrated more than a willingness, an anxiety to fully participate in all the activities of the court, including, our reform program, our social activities and our internal dynamics in the staff of the Eastern Caribbean Supreme Court.

The court is a, a family in many senses. Not only is there a familial relationship among the judges, but also with the members of staff in Saint Lucia at the Headquarters and with the various Registries with which we interact when we travel and, of course, also here in Saint Lucia, and Justice Gordon has been very much, very intimately a part of that familial relationship. He has gone as far as to express his readiness, even his anxiety to continue to contribute to the work of the court after his retirement and I personally very much welcome that, because his contribution has been so profound and so invaluable and I have no doubt that it will continue to be. Indeed perhaps he will have a lot more time now to assist us in the various areas of our endeavours and to help us to build a court that can attract the respect not only of our own people in the Eastern Caribbean, but internationally.

Particularly significant has been Justice of Appeal Gordon's contribution to the thinking and the development of the concept for the establishment of the Commercial Division of the court in the British Virgin Islands. A responsibility which he accepted very willingly and, of course, which was conferred on him because of a recognition of his unique skills and understanding of the area of commercial litigation and commercial law. He has taken the lead in that area and has worked very closely with the authorities in the British Virgin Islands in developing the ideas, the concepts and the activities which will lead to the establishment of this court, and we are seeking to ensure that his services to that particular project continue after his retirement as a Justice of Appeal and until the court has been successfully established

and is up and running. I have confidence that relying on his experience and his knowledge and his skills in the area of commercial litigation that we will, when we do establish a commercial division that we will have an outstanding court, which will be a leading institution in the development of commercial jurisprudence, not only in the Caribbean, but throughout the Commonwealth and even further afield. I believe that some of his judgments coming out of the British Virgin Islands are already making the impact on commercial jurisprudence outside of the Caribbean.

Justice Gordon has also been outstanding has also been an outstanding contributor to the camaraderie within the court. Many people have noted that this court demonstrates a level of friendship and camaraderie among the Justices of Appeal that's perhaps unique and has certainly helped us, not only to survive the rigours of travel, which we undertake so frequently, but also to continue to provide quality services to the, to the courts in our judgments, because my personal view is that without that relationship among the judges it is that much more difficult to provide the quality of service that we believe is so important.

Justice Gordon's sense of humour is sometimes irreverent comments and I won't, I won't repeat his latest one. I'll do that privately, but that has been a tremendous lift for those of us who have worked alongside him. He was referred to as archangel Michael, well judicial honesty and integrity forbids me to endorse that sobriquet, but Michael Gordon has really been an inspiration to those of us who have worked with him on the Bench, and it is a matter of great sadness for me personally that we will be losing his services on the Bench. Although, as I say, we will continue to call on his services in other areas where I am deeply aware that he can make a high quality contribution.

So for myself, I want to say that it's a, a period of sadness to see

Justice of Appeal Gordon ready himself to depart from the Bench of this court and I think the, the court will be the poorer for his absence in so many areas. So, it's an honour for me to be able to preside at this particular event, especially in his homeland. This is not that last sitting that he will be having with the court, but certainly the last in Saint Lucia. So, it's really a tremendous honour for me to be able to preside at this sitting and to express publicly what I think Justice Gordon knows that I think privately, the pleasure, the richness of the experience which has typified our relationship in the last three years.

So in saying farewell, I really want to put on record the appreciation of the members of the court for the quality of service which Justice of Appeal, Michael Gordon, has provided to us and to a region as a whole and to say that we look forward to continuing relationships, maybe at a different level, maybe he will organize a sailing class for statutorily senile persons and that we can continue to enjoy his company in many other areas.

I now call on His Lordship, the Honourable Justice Denys Barrow, Senior Counsel, to express some thoughts.

**JUSTICE BARROW, S.C.:** It is not the same Michael Gordon, who returns to private practice who came from there. The attributes of the former practitioner of which we have heard remain unchanged. The quick intelligence, the strong presence, the ordain way, the sharp wit, the good humour and the considerable personal charm are all there, still very much intact, but he, the man, has changed. If I may retain the seafaring metaphor, which has been introduced, by all account these qualities which were cited were the deplored to great effect in the swash buckling days of trial by ambush and requests for adjournment. In an expansive moment, Justice of Appeal Gordon will recall with distinct fondness the longing for

those good old days. So that when this consummate ambusher and adjourner came to the Bench, another seafaring allusion comes to mind because one, if one wanted to be unkind could see a comparison with another ambusher and swash buckler. One thinks immediately of the legendary Captain Henry Morgan, who was persuaded to give up his practice of ambushing passing ships to become the Lieutenant Governor of Jamaica to stamp out that practice. That example has always served as a historical instance of setting one of a certain kind to catch others. But as frequently happens with the reformed and converted, Justice Gordon soon became the bane of ambushers and adjourners, but that is not the change of which I will regale you, because a far more significant change occurred.

There is an undramatic but profound change in conception and self-conception that occurs when a lawyer becomes a judge. A lawyer is definitionally a partisan, he has an interest to serve. His interest is to win his client's case, that is how a lawyer sees justice, that is how a lawyer sees success. When the lawyer becomes a judge winning and losing become irrelevant, the measure of success is then in discharging responsibilities, these responsibilities include, to the office and the institution, to litigant, to lawyers and to fellow judges. Those who have spoken before, did justice to Justice Gordon's discharge of the other responsibilities, therefore, I wish to pay brief tribute to the discharge of his responsibilities to his fellow judges.

As the Chief justice has indicated, Justice Gordon has towered in the support, leadership, loyalty, guidance and encouragement that he has provided to his colleagues on the court. The success of the court has been significantly enhanced by the efforts that Justice Gordon has made in a deeply personal way. By his personal commitment, he has strengthen the court. He leaves his brothers, and hence the court much the better for his efforts and his presence. There is a harmony that he maintained

that he leaves us now to nurture. It is this Michael Gordon who returns to private practice. This is a different man from the one who came. It is to this man I say, my brother, we thank you.

**CHIEF JUSTICE ALLEYNE:** Justice of Appeal, Hugh Rawlins.

**JUSTICE RAWLINS:** Honourable Chief Justice, Justice of Appeal; High Court Judges; and may it please you, My Lord, Chief Justice to permit me to recognize former Justice of Appeal, Sir Vincent Floissac; former High Court Judge and acting Justice of Appeal, Justice Suzie d’Auvergne; the Honourable Attorney General of Antigua and Barbuda, Mr. Simon. I recognized in the audience, My Lord, Dr. Henry Brown, who is here to do battle.

This, of course, My Lord, is a mixed occasion. It is one of sadness, but we have tried our very best not to keep it sad. I don't think the relatives of Justice of Appeal Gordon or Justice Gordon himself would like us to do that. In fact, we had to plan clandestinely to have this sitting today, because he would have none of it. The first mention that was made of his leaving was done in Antigua when the Bar Association of Antigua last week hosted a reception, that was Friday, and, of course, he literally went into hiding when he realized that tribute would have been paid to him. That is the measure of the person with whom we have worked over these years and whom we have come to love and respect. For what do we gain in this world if we gain everything and at the end of the day there is no love for us because of the manner in which we gained those everything. That cannot be said of His Lordship, Justice of Appeal, Michael Gordon. He is a person with a big heart. Perhaps literally, but I speak of it figuratively. He is a person with an extremely kind heart. He, it is who kept us together in this court.

You know when men are about, we have a way of falling and fighting over nothing, and he saw to it that that never happened on this court. His humour, his ready wit, always there to lighten the moment. The assistance which he gave particularly to Justice of Appeal Barrow and myself might never be chronicled, but I have to take this opportunity to make mention of it. You usually see us sit in this court and for many persons when we are not sitting we are doing very little, that, of course, is not the truth, it is when we are not sitting that we are doing much and in those moments, the wisdom, knowledge, experience and guidance, which have been afforded to us and particularly in helping us to find our way in the early days on this court, we had such assistance from Justice Gordon in a manner, which was so extremely helpful. Justice Gordon, I take this opportunity to thank you.

I say it, it might not be chronicled because you know in the Caribbean we don't like to chronicle, we prefer to lose our history and then we don't know from whence we came and where we are going. It heartened me, of course, last week Thursday night when at the behest of the Bar Association of Antigua, the Honourable Justice, Don Michel, delivered a lecture in which he captured and chronicled some of the older history of the court, mixing a very balanced mixture he achieved of personalities and the law. I spoke to Justice Mitchel very recently, I commended him highly. I'm really sorry that many more persons were not there and that it was not broadcast to the entire Eastern Caribbean and beyond. For what it was worth it was broadcast in Antigua and persons in Antigua who did not attend, ordinary persons spoke with me during the rest of the time which we were there, indicating surprise that the court had such a rich history. For what it is worth, I think that, that lecture will be published on the court website and I'm certain that everyone here knows the address of that website. I beseech you to have a look at it.

We have had other speeches during the course of these celebrations the 40th anniversary. We have had presentations by the Honourable Chief Justice Alleyne; we have had by Sir Vincent Floissac; we have had other presentations and I think they would be available. Could I beseech, because I think that they would be all of the tributes that we are paying to Justice Gordon this morning, will be of no assistance to generations to come to point them in a way that is wholesome and in the way of achievement that Justice Gordon has, has taken unless we have them chronicled in writing. I hope Justice Michel will be, will be publish a book. I hope there are others, for example, the former Chief Justice and other justices who would chronicle and publish so that it is there for prosperity.

For my own part, Justice of Appeal, Gordon, may I thank you most wholeheartedly for the assistance which you gave me, for the way in which you assisted me in settling into the court. At times I think you are aware that I might have shortened my tenure. I wouldn't express, express it in that way, but for the guidance, assistance, assurances that were given, not only in terms of the work of the court, but also outside of it. Thank you for the guidance particularly in relation to deciphering some aspects of the *Civil Code*. Such a wonderfully written document which we seem to overlook in so many instances with provisions which are more clear than the English principles which we adhere, which we are wedded to and which only come out every now and then when someone finds a little snippet which can assist their case. In those instances, Justice of Appeal, Gordon's wisdom, experience and knowledge were always quite helpful. Particularly, it will not be known the assistance which he gave, for example, with the Judicial Education Institute. Any time that he was called upon he was there ready and willing even if you gave him one hour's notice, but that is the measure of the man, someone who has sacrificed. He is a member of the Institute's

Advisory Committee, that will not be known unless we say it, because good things are not usually put about.

My Lord, Chief Justice, Justice of Appeal, High Court Judges, Justice Gordon, in parting, let me wish you God's speed, I know he is always your guide. We cannot get you to travel early Sunday mornings, because you have to go to church before you travel. I think that has assisted in the judgments which you have written and in the balance which you always have. We wish you God's richest blessing. We know that you have many more productive years to live. We know that we can count on you for assistance which you will give to us and thanks ever so much for the guidance and assistance which you gave to me. Thank you.

**CHIEF JUSTICE ALLEYNE:** Just to pick up on a point made by Justice Rawlins, both Justice Don Michel's lecture in Antigua, which was really very inspiring and informative and Sir Vincent Floissac's, the text of his, of his toast at the anniversary dinner held here in Saint Lucia, along with a lot of other very important and rich material is, in fact, accessible in the court's website, whose address because I don't assume like Justice Rawlins like everybody knows it is [www.eccourts.org](http://www.eccourts.org) and I hope that at least members of the Bar will seek to access that website for that material as well as for so much else that's available on it.

I now call on His Lordship, the Honourable Justice Albert Redhead to address the court.

**JUSTICE REDHEAD:** May it please you, Honourable Chief Justice, fellow judges. Honourable Chief Justice, may I adopt the protocol that you have outlined. I recognized the presence of Sir Vincent Floissac, our Ex-Chief Justice; Justice Madam Suzie d'Auvergne, retired; the Honourable Attorney General of Antigua and Barbuda; members of the family of Justice of Appeal Gordon.

Justice Michael Gordon joined the Bench as an acting Justice of Appeal on the first of September, two thousand and three. Thereafter, he was confirmed in that position on the eighteenth of September, December, two thousand and three. Throughout his acting appointment and later confirmation to the post, I sat with him in the Court of Appeal on many occasions. I must say that Justice Gordon brought conviviality and a true sense of camaraderie to the Bench. He has a sense of humour. Did I say he has a sense of humour? I should say he has a wicked sense of humour. There is the well known cliché, “as serious as a judge”. Who says that a judge cannot be serious but relaxed. Justice Gordon, in my view, brought relaxation to the Bench. When I sat with him on the Court of Appeal, his easy going manner, his sense of humour and most of all his sharp mind made sittings less stressful.

Justice of Appeal Gordon never takes anything, even criticism personally. He is a big man in every sense of the word, both physically, in any way as compared with me and in his mental attitude. Justice of Appeal Gordon is a breath of fresh air on the Court of Appeal. We have just celebrated our 40th anniversary of the Eastern Caribbean Supreme Court. I have served for 22 years of those 40 years. I attest to the fact, that in all these years, I have never found a more cordial, affable jurist as Justice Michael Gordon. I, indeed have been honoured to have served with him.

Justice Gordon, I remember on one occasion you once said, when you were down there and I was up here you were afraid of me. Now that you got closer to me, you would have note, you would have realize what a nice guy I am and there was no need to fear. Justice Gordon, I know that you will be surely missed, the judiciary will be poorer with your departure. My wife, June and I, wish you God’s richest blessings and all the best in your future endeavours.

**CHIEF JUSTICE ALLEYNE:**

Yes, I’m now pleased to

call on Justice of Appeal Gordon, Queen's Counsel, to respond.

**JUSTICE GORDON, Q.C.:**

My Lord, Chief

Justice, brother and sister judges. With your permission, Chief Justice, I recognize, Sir Vincent Floissac; retired Justice of the High Court, Suzie d'Auvergne, and I shall be joining you soon, ma'am; Honourable Attorney General of Antigua; Solicitor General, Saint Lucia; Members of the Inner Bar; Members of the Utter Bar; ladies and gentlemen.

I must confess that I felt a certain chagrin when I discovered earlier this week that this unusual sitting was being planned. It was my sincere hope which had metamorphosed into an expectation that my leaving of the court would be remarked by no more than a feeling of uncertain missing of something that was there, but you can't quite remember what. In short, I had hoped that the Patois saying, "koutla pa ka fé mark en dlo" would be the epitaph of my time on the Bench. It was not to be. A number of persons who need not expect a Christmas card from me this year, conspired not to say entered into a criminal joint enterprise, to ensure that my embarrassment would be maximized.

My time on the Bench has been relatively short, but has been intensely satisfying. I wish to pay tribute to you, Chief Justice, and to my brother judges with whom I have sat in the Court of Appeal. Our relationship has been characterized by robust argument great good humour and speaking for myself in ever deeping respect for the remarkable knowledge, legal experience and tolerance of the foibles of the human race residing in each of you. Sitting in judgement, whether as a Magistrate, a High Court Judge or an Appeal Court Judge carries with it certain inherent temptations, the most obvious of which is the growing belief that you are always right. This translates into an absolutely incorrect belief that you are better than others, and finally, can evolve into the fully blown disease known as 'judgitis'. You believe that you

sit at the right hand of God and that only because God does not realize he should move over and let you sit in the middle.

As a Court of Appeal, we regularly pricked each other balloon in an attempt to remind ourselves that we are servants, first of the people and secondly of the law. We are masters of nothing, save perhaps the standards of conduct in our court and for sure our own integrity. One of the things that develops reasonably rapidly when sitting on the Bench is the ability to discern the tenor of the addresses made to the court. Is counsel flying a kite? Is counsel confident of his ground? Is counsel winging it? Is counsel sincere? If I were to believe half of what you have been so kind as to say here today, I should be locked in this room for the rest of my life for no door would be big enough to let my head through. I recognize your kindness in attempting to persuade me of that which I know to be inaccurate. I am, however, for a few more days judicial. I regret I must find against you. As lawyers, we have all had cases which are congenitally bad, the best that we can do can no more make a silk purse out of a sow's ear. Sometimes, I wondered of whom you were all speaking. In not very many days, I shall rejoin the ranks of the unprivileged practitioners. I hope that I may be welcomed back. It would be an unkindness of you, members of the Bar, if you were to take advantage of my statutory senility.

Sometimes it is necessary to articulate one's ambitions for the future. If for no other reason than as you falter in achievement, others can spur you and shame you to further effort. In that context, I would like to announce two ambitions for this next stage of my life. The first is of no excitement, but deep necessity. It is to assist in whatever way I can to give life and purpose to our Bar Association. An active and vibrant Bar Association will ensure that evolution in our profession is on our terms, rather than being imposed on us. The second ambition is to bring as many of

our jurisdictions as can be persuaded into the fold of the Caribbean Court of Justice. I have no doubt that those of you who have read the unfortunately far too few judgments of the CCJ, and who read the judgments of the Judicial Committee of the Privy Council, would conclude that only rank prejudice and unshakable belief in our own inferiority could lead to the conclusion that in the law, in intellect, in independence and in integrity, the indigenous is in any way inferior to the imported.

As I say goodbye to the Bench, I hope that it may be said that all that I did here is done *ex aequo et bono*. I shall deeply miss that intimacy of relationship that is developed amongst my brothers, and I shall miss all those members of the Eastern Caribbean Supreme Court Head Office, who have had to put up with my sometimes inane humour. I will treasure the memories of all of you and I do mean each one of you *ab imo pectoray*, from the bottom of my heart, I say to you all, thank you for coming today. Thank you for this sitting and may God bless all of your endeavours in the future. Goodbye.

**CHIEF JUSTICE ALLEYNE:**

Thank you, Justice

Gordon, and I just want at this late stage to acknowledge the presence of the Senior Magistrate and the Magistrates of Saint Lucia. Looking across that way, I suppose my eyes were so focused on retired Justice d’Auvergne, that I did not notice the presence of the Magistrate and of the family of Justice Gordon, and thank you all for your very excellent turnout this morning.

Court will now rise.

**THE INTERPRETER:**

Court!

(Court adjourned)