

Registrars & Court Administrators Conference 2013

Coco Palm Resort & Spa
St. Lucia



J.E.I
Judicial Education Institute

Address by the Hon. Dame Janice
M. Pereira, Chief Justice

"The Registry as the Gateway to the Court"

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Good Morning

I join in extending a warm welcome to all our specially invited guests. I am extremely pleased to greet the Registrars, Court Administrators and Case Managers from the various States and Territories from Anguilla down our chain of Eastern Caribbean Islands to St. Vincent and the Grenadines. It is regrettable that the Registrar of the State of Grenada is unable to attend. I do hope that a medium will be found where some, if not all, of the training materials circulated here, is imparted to her.

The Eastern Caribbean Supreme Court has not been in a position to host a Registrars’ and Court Administrators’ Conference since 2008 – that is some 5 years ago, and as we know, with the pace of life in the 21st Century, 5 years is a long time. The fact of the matter is that the financial constraints experienced by our individual State economies have, in turn, dealt a blow to the training programs, which the JEI has been able to organize. These are indeed tough times with which we are faced and I am delighted that despite the economic challenges we were able to organize this one. This has been possible due in large measure to the commitment of each OECS Member State to fund their participants. I place on record our appreciation for this assistance. It is an acknowledged truth that continuing judicial education forms the bedrock of any justice system which seeks to keep pace and devise solutions to the challenges encountered from changes in societal norms as well as socio-economic development.

In setting the stage for our discussions on the far ranging topics to be covered over the three-day period of this Conference, I consider that a fitting focus point is on “**The Registry as the Gateway of the Court**”. In using the term ‘Registry’ here, I speak only of the Registries as ‘Court Offices’.

Why do I say that the Registry is the ‘gateway’ of the Court? The answer is simple. Unless some step is taken at the Court Office then there is nothing to go before a **Master** or **Judge** for trial or determination. In essence, the trial process begins at the Registry – whether you are seeking Constitutional redress or you are seeking to restrain a trespasser from entering upon your land. The court registries then may be conceptualized as the nerve endings which travel to one central location – that is the Eastern Caribbean Supreme Court, the nerve centre of which is known as Head Quarters housed in Castries St. Lucia. There has been a long-standing misperception even among court officers; that St. Lucia houses only “the Court of Appeal” but in fact St. Lucia is the Headquarters of the Eastern Caribbean Supreme Court which exercises a

single jurisdiction throughout nine States and Territories. Indeed, the Supreme Court Order section 9 states among other things that *"the process of the Supreme Court shall run throughout the States.."* The Headquarters in St. Lucia is termed the **Central Registry**, with the Registry in each State being a "sub-registry". Perhaps, the framers of the Supreme Court Order which established the Eastern Caribbean Supreme Court, were already on to something when they saw it fit to create a **single judicial space despite the physical divide**. Currently, there is much effort being undertaken in the creation of a **single economic space**. Are there valuable lessons to be learned from the functioning of this Institution? Has the creation of this **single judicial space been truly and effectively realized**? **Are the gateways of the court functioning as truly integral components of this supranational institution called the Eastern Caribbean Supreme Court?**

In answering this question, one has to take into account and consider the Registry from a historical perspective. It is well known that the Registry has historically been a registry or repository for all things for which records were required to be kept - from births, deaths and marriages; deeds and conveyances - to, in some cases, Registrar of Ships and companies to name a few. It is the one office where the phrase "Chief Cook and Bottle Washer" in my view is aptly applied. This of course required the Registrar to be a "Jack of all Trades" and you know the saying, the realization over time that you may indeed end up as being "Master of none".

It is no surprise then (save with one exception) that the Registrar, being not only the Registrar of the Supreme Court, but Registrar of all sorts of other matters - all lumped under one Office and perhaps done at a time when the Court Office role was comparatively insignificant - that the selection, appointment and disciplinary processes affecting Registrars, find constitutional expression, in terms of appointment and the exercise of disciplinary control, in the hands of the Executive in each individual state. This is so notwithstanding the creation of that single court institution operating in that "single judicial space."

The constitutions of the OECS Member States and Territories vary as to the person or body with whom such powers have been vested;

In **Antigua & Barbuda, Anguilla, Grenada, and Saint Vincent & The Grenadines**, the power is vested in the Governor General acting in accordance with the advice of the Judicial and Legal Services Commission;

In **Montserrat**, the power is vested in the Governor General acting in accordance with the advice of the Chief Justice;

In the **Territory of the Virgin Islands** the powers are vested in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission. There is a tail piece however which carries the sting. It is provided further that the Governor, acting in his or her discretion, may act **otherwise than in accordance** with the advice of the JLSC if the Governor determines that compliance with that advice would prejudice Her Majesty’s service. [I have been trying to decipher, the mischief to which this latter provision is aimed. I haven’t found it as yet.]

In **St. Kitts & Nevis and Dominica** a Registrar’s appointment is by the Governor General acting in accordance with the recommendation of the Public Service Commission who is required to consult with the Judicial and Legal Services Commission. Discipline and removal however are vested in the Governor General acting in accordance with the recommendation of the Judicial and Legal Services Commission, the latter having **first consulted** with the Public Service Commission.

In **St. Lucia** such powers are vested solely in the Judicial and Legal Services Commission;

It may be said then, that St. Lucia is the only Member State within the Jurisdiction of the Court which comes closest to a true integration of the Registry as a Court Office.

Interestingly, it was agreed by the OECS Member States and Territories under section 5 of the Eastern Caribbean Supreme Court Agreement 1982, that the government of each state shall ensure that a Registrar is appointed in accordance with the island’s constitution, as well as other officers of the public service, to allow the Court to exercise its jurisdiction in the state. Section 5(2) of this agreement is of particular interest. It provides that the Registrar and other officers appointed shall be responsible to the Chief Justice for the due discharge of their functions, without prejudice to the powers of any court, the JLSC or the Public Service Commission and in the performance of their duties the Registrar and other officers shall not in the performance of their duties, be subject to the **direction** or **control** of any officer or authority other than the Chief Justice or such judge or officer as may be authorized by the Chief Justice.

This, to my mind, raises the question as to how this provision in the Agreement, binding as it is on all Member States, squares with the constitutional provisions giving disciplinary control over Registrars of the Court to the Governor or Governor General (as the case may be).

In many of the States and Territories, we have seen a gradual divesting of the multitude of responsibilities from the Registrar of the Supreme Court. Many have removed the responsibilities for land, companies, intellectual property and civil status from the office of the Registrar. This is a welcome separation. Given the volume and complexity of litigation in all areas, the separation of all non-court related functions and responsibilities is long overdue. This much needed separation will allow the Registrar, to devote all of his/her time, energy and experience to advancing the processes of the court. This will enable the court offices in great measure to operate as they should, as being truly and effectively, the gateway of the Court. This in turn, can only lead to a higher level of efficiency and greater accountability in the overall administration of the justice system. We are operating in a different time which is a world away from the 1950s or 60s.

This fact is well known and accepted, but it is worth re-stating – *‘The Court cannot achieve optimum efficiency where its gateway is operated within a system which, either due to lack of proper resources, (personal, financial and otherwise) is less than satisfactory’*. We all know that the Court operates under considerable financial constraints. This is no less so at the Registry level. Coupled with this is the well-known fact that State Registries are often times affected by staff selection or transfers of officers (as they are officers within the public service) in a manner which allows for little or no input either of the Registrar or the JLSC. This is usually to the certain detriment of the Court Registry and thus the Court.

Our Registries, and by extension our Court, are hampered by the lack of adequately trained personnel, the poor use of electronic technology, inadequacies in data collection; and the collection, transfer and management of records and information. All of the above are of vital importance to the efficient functioning of the Court.

Notwithstanding the financial and administrative tentacles of the Executive, which under our existing regimes are, to a considerable extent, hooked into the judiciary, we must strive to find ways to ensure that our Court, as an institution, in all its processes - beginning from its gateway- remains and, importantly, be seen as independent. We can do this by recognizing our role in the court process, and working assiduously to

put in place improved operational practices and procedures, and enhance our skills. We must develop a thorough understanding of the critical part the Registry plays in the administration of Justice. We must have the desire to see to it that the court is able to fulfill its mandate. We should take great pride in the work we do. It is very important work. It affects the lives of our men, women and children in our societies.

The Court’s reform initiatives are all geared at improving our judicial system to better allow us to achieve our mandate. Under our present arrangement we rely on the Executive to approve our budgets and decide on the allocation of funds given to the courts to function. As a result of this unavoidable link with the executive, our reform initiatives as well as our everyday functioning are sometimes retarded and not as effective. It is a well-established and notorious fact that the Judiciary, as a branch of the State – in comparison to the Executive and the Legislative – is more often than not seen as a distant Third Cousin. I hasten to add that is in no way peculiar to the Eastern Caribbean.

Former Chief Justice, Sir Dennis Byron, who was the visionary for the Court’s reform initiative expressed openly that his intention was to ultimately *“build a cadre of highly trained, specialized and motivated persons to man our Registries and Court Offices.”* This vision, despite the limitations, is still achievable. This is indeed why we are here at this Conference of Registrars, Court Administrators and Case Managers.

Conclusion

Conferences such as this one are of the utmost importance as they bring to the forefront issues which are pertinent to the day-to-day activities of the court. Over the next few days, you will have an opportunity to address many of the challenges which you face in executing your duties. You should also use this opportunity to bounce ideas and solutions off each other as you create a network to enhance your capabilities as Registrar, Court Administrator, or Case Manager. It is my hope that at the end of this Conference, you return to your respective state registry better equipped to manage the court processes in all its spheres, including the supervision of junior staff so as to ensure that at the end of the day, there is efficient case management and allocation; greater accuracy in recording, collecting and storing of data; speedier transmission of vital information; and greater use of internet and computer technology. Making such strides gets us a few steps closer to the objective of having a gateway to the court which is

seamless in its integration. We will have reached that much closer to the reality of truly having **'one judicial space.'**

I look forward to a successful conference, and I thank all of you for listening and for coming.

Thank you.