

ADDRESS

**BY
THE CHIEF JUSTICE**

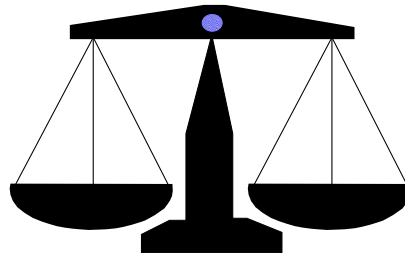
OF

THE EASTERN CARIBBEAN SUPREME COURT

THE HON. SIR DENNIS BYRON

TO MARK

THE OPENING OF THE LAW YEAR 2002/2003



CHARLESTOWN, NEVIS

Protocol List

- ❑ His Excellency, the Governor General, Sir Cuthbert Sebastian
- ❑ His Honour Deputy Governor General, Mr. Eustace John
- ❑ Honourable Premier, Mr .Vance Amory
- ❑ Honourable Judges of the Eastern Caribbean Supreme Court
- ❑ Hon. Minister of Legal Affairs and Attorney General, Mr .Delano Bart
- ❑ Ron. Members of the Nevis Island Council
- ❑ Chief Registrar and Registrars of the Eastern Caribbean Supreme Court
- ❑ Members of the Inner Bar
- ❑ Presidents of the OECS Bar Associations .
- ❑ Other members of the Legal Profession
- ❑ Distinguished guests
- ❑ Citizens of the Eastern Caribbean

Introduction

It gives me great pleasure to make this the third address to introduce the New Law Year 2002/2003. The first address was made in St. Lucia, the second in the Commonwealth of Dominica and this is being made in the Federation of St. Kitts-Nevis.

Once again there are simultaneous sittings in each jurisdiction and my address is being transmitted by computerized video link to each courthouse. This reemphasizes the oneness of our judicial system, several states sharing one judiciary .

There is historic significance to this Sitting. It coincides with the 19th Anniversary of the Federation's Independence and I offer congratulations on behalf of the Judiciary of the Eastern Caribbean.

This Sitting must be of significance to the people of this Federation and in particular to the people of the island of Nevis. My own fore bearers must be looking on this ceremony with approbation. It is also significant that Justice Hugh Rawlins, the other Member of the Court whose natal roots lie here in

Nevis, is part of the panel who will be presiding over the appeal court sitting during this historic week.

St. Kitts-Nevis is the only Member State with two Capital Cities, Basseterre and Charlestown. Each city is the seat of a separate High Court circuit. This is the first time since the constitution of the Eastern Caribbean Supreme Court that there has been a sitting of the Court of Appeal in Nevis. However, the building in which we now sit has had a glorious history .Over a century ago, the government of the Leeward Islands assembled in this building. This Sitting links us to the proud historical traditions of this building and the city of Charlestown.

Excellent preparations have been made for this Sitting today. The court building has been refurbished. This historic building has retained its original architectural appearance, however the interior has been modernized to the extent that it is airconditioned and sound-proofed and they have made provision for the use of technology in the court process.

There can be no doubt that the quality of facilities in which justice is dispensed is directly linked to the quality of justice delivered. Improved quality will bring important environmental and aesthetic benefits and enhance the capacity for efficiency and effectiveness.

I am pleased that many of our Governments have recognized this and have taken action. There are already new Court buildings in St. Kitts, Anguilla, BVI and Antigua. Dominica, Grenada and now Nevis have improved existing court buildings. I anticipate that this trend will continue.

I should comment that while the donor agencies have been giving support to improving the functionality of our judicial process, it will be considered that capital assistance with the court buildings and furnishings also deserve support.

Session Objectives

In my inaugural address in 2000, I indicated that the objectives of these addresses are to review the past year, to report on the projected activities for the ensuing year and to emphasize our intention to render artificial, the physical divide that the sea has created between us.

Mission Statement

The Mission Statement of this court is “delivery of justice independently by competent officers in a prompt, fair, efficient and effective manner” .Have we over the last year lived up to our mission statement?

During the past year our Judiciary has upheld the rule of law, successfully maintained its independence and facilitated access to justice for all our citizens. The OECS is without doubt in the vanguard of civil justice reform. We have made significant strides in this area.

The Judiciary

Over that last two years about 50% of our judiciary reached retirement age, and within the coming calendar year, other members will attain that golden age. This has again raised the question that the retirement age for the judiciary is too low.

This is a matter which is governed by constitutional provisions. Now that Member States are considering constitutional reform this would seem an appropriate topic for inclusion.

The exercise of recruiting new judges provided an opportunity to the Judicial and Legal Services Commission to introduce a new selection process based on principles of transparency, competition and merit.

Justice Wilson -In Remembrance

It is important during this exercise to remember Justice Ronald Wilson. Justice Wilson was appointed on the 6th day of April and assigned to Grenada. He had been the Assistant Principal of the Hugh Wooding Law School. His mother is from this Federation and lives in Sandy Point, St. Kitts. Just some 6 weeks after undertaking his assignment he was lost at sea while making a trip to Union Island to make connections with his family on his father's side who reside there. We have held Memorial Services and Sittings for him, but I would like to take this opportunity to remember him and to express our condolences to his family and loved ones.

Including Justice Wilson, there were 6 appointments to the High Court bench this year .

The Masters

At the commencement of this calendar year both of our Masters were elevated to the position of Judge. The selection process for their replacements is well advanced and it is expected that the 2 incoming Masters will be fully operational in December after a full month of orientation exercises.

Deployment -Optimal Use of Resources

The number of High Court judges was increased from 13 to 15 during this calendar year. This increase enables the deployment of judicial officers to deal with the increased demand for judicial services. It also coincides with increased

information of the workload of the court and enables administrative decision-making for optimal use of our resources. In St. Kitts and Dominica where there has been one resident judge, during the criminal assizes a second judge is deployed to do civil work. In Nevis, which has shared the resident judge assigned to the Federation of St. Kitts-Nevis, an additional Judge is deployed from time to time in accordance with the increased litigation demands. Grenada, also has such a high number of indictments that it is necessary for both resident judges to sit in criminal sessions for most of each term. It is necessary for an additional judge to sit there for at least part of each term to deal with civil matters. St. Lucia and Antigua have large civil caseloads and the resident judges need to be supplemented, from time to time, to get through the very substantial lists.

The Judicial Council

The Judicial council was established on the 2nd day of August 2001 and has completed its first year of operation. I am looking forward to increased functions. It is my hope that the Council will serve its purpose as an advisory body to the Chief Justice in policy, administrative and reform activities.

CPR 2000

The new civil procedure rules are fully in place and are functioning satisfactorily. It is already noticeable that a difference has been made. Praises must go out to the judiciary, and in particular to those assigned to case management duties. The support staff in the court offices whose work had to undergo substantial change have given invaluable support to this process. Their enthusiasm has been largely responsible for the successful implementation of the new rules.

Backlog Reduction

The court records have revealed that during the last two years there has been

substantial movement in this area. A vast number of cases that were pending have been finally disposed of. The backlog has been vigorously attacked and is being reduced.

Court Office Efficiency and Computerization

We have begun to reap some of the benefits of having a computerized case management software package which you may recall was referred to in my address at the opening of the law year last year. In an effort to use the software for obtaining as much information as possible we have embarked upon a backlog case entry exercise in most of the islands. This effort is being funded by USAID and the work is being performed through a firm which is based in St. Lucia. This effort began from March this year and will continue for the rest of this year to capture the information on all the cases not yet disposed of since January 1980. The project will be expended to include matters in other areas including Criminal and Land Title matters

In addition, we are in the process of implementing the latest release of the JEMS case management software package in the different islands and this will give us a number of additional capabilities for better management through the new reports which will be generated by the software. Another benefit which the Court will derive, is the ability to prepare the schedule of matters to be heard more efficiently through the system and to export this information electronically so that it can be sent out to practitioners via other means including electronic mail.

The Way Forward

Mediation

The stage is now set for the introduction of mediation in the court process during this law year. A six month project demonstration activity has commenced in St. Lucia which is designed to last for 6 months at the end of which time we expect to be able to roll it out to all other jurisdictions. This activity will be managed by a Committee which has already held their first meeting. Training of mediators in Saint Lucia is scheduled to take place early next month following which the mediation hearings will commence.

Court reporting

With improvements to the procedure it is important to improve the trial process itself and we see the introduction of court reporting as important aspect of that. The CA T program is in place in Dominica, and arrangements are in place for it to commence in St. Kitts-Nevis and Grenada during this law term. The BVI academy has commenced in June a two-year training program for 18 court reporters.

Audio reporting is already in place for the High Court in St. Lucia and we are moving towards its introduction throughout the jurisdiction. This will introduce court reporting during the two-year period while the CAT Reporters are being trained. The Audio Reporting will then serve as a backup system.

In the Magistrates Court the audio reporting pilot commenced in St. Lucia earlier this year. It is expected that the recording equipment will be introduced in the Magistrates Court during the ensuing year. To support the use of Audio

Recording in both the High Court and the Magistrates Court, specialized training for audio transcriptions is being planned.

Regional Magistracy

This Program has commenced. Professor the Hon. Justice Telford Georges and Mr. Charles Maynard have been appointed as consultants to this project. Their initial report to facilitate the integration of the Magistracy in the OECS judiciary has been submitted for consideration.

Legal Aid

Legal Aid is an important adjunct to Access to justice. Moves are already in place to introduce. Both Governments and the Bar Associations have taken steps to introduce legal aid programs in all of our circuits. These initiatives have had the support of the CIDA/JLR program. In some of the jurisdictions implementation programs have already commenced. It is my hope that this process will be successful and assist in the removal of the impediments which low financial resources create with respect to access to justice.

Judicial Education Institute

The ongoing commitment to judicial education has been visible through the number of programmes held in the last law year .The major highlights included December 2001, the Caribbean Anti-Money Laundering Programme's two-day seminar in Grenada for the Judges, Masters, Registrars and Magistrates. That programme was followed by a Sentencing workshop. In 2002 JEI hosted three orientation programmes for our judicial officers. Orientation Programmes for Judges and Registrars were held in St. Lucia. The Orientation programme for Magistrates was held in Antigua and Barbuda. There was also a seminar on telecommunications law to address the new arrangements for

telecommunications in the sub-region. The ensuing program for the institute is ambitious and in this new law year, JEI has numerous training programmes planned. The first of these is the training of mediators for the mediation demonstration activity to be held in St. Lucia within the next fortnight. The Institute is in the final stages of arranging training of court office staff from the High Court and Magistracy in the area of court administration. In addition the institute has made plans for the orientation of the newly appointed masters. The work of the institute has been facilitated by the support of USAID-Jamaica which has supported institutional strengthening and specific programs as well as the CIDA/JLR Project which has also given support.

Professionalising the Legal Profession

I wish to stress the need for reform in the area of professionalising the legal profession. This must go hand in hand with judicial reform. The population as a whole will stand to benefit tremendously from it. At the Council meeting of the OECS Bar Association in July in Grenada I challenged the Bars to move the process forward. I would like to emphasise that I encourage support for the plan for the establishment of a professional secretariat for the OECS Bar Association which must be financially supported by all members of the legal profession in the OECS. I also reiterate my support for the introduction of legal profession legislation throughout OECS which will introduce the establishment of professional standards and the concept of public accountability with improved complaint procedures.

Professional Court Administrators

We have continued to work towards the development of centralized professional administration and management of the support services for the delivery of justice. I would like to take this opportunity to announce significant appointments in the area of court administration and human resources. Mr. Greg

Girard and Ms. Angus Smith who have been stalwarts in the court administration department and proven their competence have been appointed to take office with effect from 1st October 2002 as Court Administrator and Human Resource Manager respectively. I would like to congratulate them and wish them success in their new positions.

Conference of Chief Justices

I had the privilege and honour to host the annual conference of Commonwealth Caribbean Chief Justices in Palm Island, St. Vincent and the Grenadines in June 2002. It was a Successful and full meeting. The outcomes included

- ❑ a decision to recommend that the conference become an institution of CARICOM; and
- ❑ published declarations of support for the introduction of the Caribbean Court of Justice.

The Family Law Project

The ECSC is in partnership with the OECS, UNICEF , NCH, UN ECLAC and the CIDA Gender Equality Fund to implement modernized legislation on domestic violence and family law. The Family law and domestic violence judicial and legislative reform project, has completed the first phase of the project. This phase supported the implementation of the background work necessary to develop a reformed justice system to adequately deal with family law and domestic violence in the Eastern Caribbean. Research on many aspects of Family Law including, Status of Children, Child protection, Affiliation, Adoption, Juvenile justice, maintenance, marriage, divorce and spousal maintenance, and custody and access and family court has been completed and papers written.

The project has now begun the second phase. During this phase, it is expected

that a policy framework documents will be prepared. These documents will form the basis for discussions at the national level. The national consultations will assist in the development of the policy framework to be implemented. It is anticipated that this will be completed in the first part of this new law year.

Conclusion

The work of the Court will continue to provide our society with the protection of the rule of law enforced by a competent and independent judiciary committed to give justice to all in an efficient and effective manner.