

**ADDRESS**

**BY**

**THE HONOURABLE CHIEF JUSTICE**

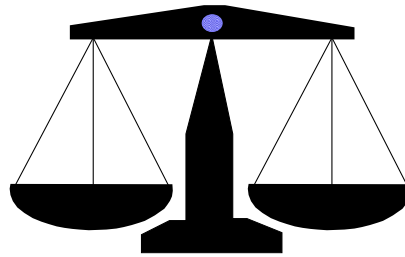
**OF**

**THE EASTERN CARIBBEAN SUPREME COURT**

**SIR DENNIS BYRON**

**TO MARK**

**THE OPENING OF THE LAW YEAR 2003/2004**



**ST. JOHN'S**

**ANTIGUA**

**MONDAY, 15<sup>th</sup> SEPTEMBER 2003**

## **Introduction**

Your Excellency, Sir James Carlisle, Governor-General of Antigua and Barbuda and Their Excellencies in the various courts who are sharing in this simulcast. The [Right] Honourable Prime Minister of Antigua and Barbuda, Mr. Lester Bird and other Heads of Government. The Honourable Speaker of the House and other Members of Parliament and of the Executive in the various courts sharing in this simulcast. The Honourable Judges of the Eastern Caribbean Supreme Court; The Attorney-General, Mrs. Gertel Thom; Members of the Clergy who are with us today; The Chief Registrar and Registrars of the Eastern Caribbean Supreme Court; The learned members of the Inner Bar; The Presidents of the OECS Bar Association and constituent Bar Associations; All other Members of the Legal fraternity; The Commissioner of Police and Police Officers; Distinguished Guests; Citizens of the Eastern Caribbean; Ladies and Gentlemen:

It gives me great pleasure once more to address simultaneous sittings in each Member State and Territory within our jurisdiction by computerized video link to each courthouse. Again, I express our thanks to Cable and Wireless and its related organizations, as well as to the Government Information Services within our jurisdiction for facilitating the simulcast of this address throughout the jurisdictions of the Eastern Caribbean Supreme Court.

In my inaugural address in 2000, I indicated that these addresses are intended to review the past year, and to report on projected activities for the ensuing year. It is also to emphasize our intention to render artificial, the physical divide that the sea has created between our various Member States and Territories.

One initiative that has been taken during the past year to emphasize the oneness of our court system has been the deployment of our scarce judicial resources in

an attempt to satisfy the needs of the region as a whole. This initiative represents our response to the workload in each Member State or Territory as the need is reflected by the data that is available to us. We are in the process of rationalizing the process and our response. The collection and collation of statistical data is an integral aspect of this endeavour.

You will recall that the first address to mark the opening of the Law Year was made in St. Lucia, the second in the Commonwealth of Dominica, and the third in the Federation of St. Kitts-Nevis. It gives me great pleasure to make this the fourth address to introduce the New Law Year 2003 to 2004 from Antigua and Barbuda. It is of particular significance that we are here today in this new edifice that was only recently dedicated to the administration of justice. It accommodates our Supreme Court and Court offices in ample and comfortable facilities and provides for other tribunals and library facilities. It affords a pleasing ambience.

I think it fitting that we should congratulate the Government and people of Antigua and Barbuda for providing this new facility. It supports the justice reform programme upon which we have embarked. It is significant, particularly because it follows relatively closely upon the construction of new Court Buildings in St. Kitts and Anguilla, and the refurbishing of the facilities in Grenada, the British Virgin Islands and Nevis. This further points the way forward for the enhancement of the physical environment in which justice is administered. I have no doubt that those who use this building will perform in accordance with its quality and the comfort that it provides.

Sadly, and with regret, we also mourn the recent passing of Mr. Cosmos Phillips, QC. He was a stalwart of the OECS Bar Association. He played a significant role in fostering a good working relationship between the Bar and the judiciary, as

well as in the promotion of judicial and legal reforms. We here express our condolences to his bereaved family, members of his firm, and his friends who now mourn their loss.

## **The New Plateau - the Status of the Reform Process**

The reforms that we have undertaken in the administration of justice fall under 5 broad headings to which I shall afford a brief review.

### **The Introduction of Technology in the Judicial Process**

This area has witnessed the introduction of substantial pieces of hardware for the use of technology in the judicial process. In the Supreme Court this has resulted in the computerization of the court. Every courtroom in our jurisdiction has been provided a computer and a printer. The courtrooms have been linked to the court office network, which provides access to Judges and Staff of the Court Offices to the Judicial Enforcement Management Systems or JEMS. This is the software that facilitates filing and the input and retrieval of information on cases. It also facilitates research and makes research information readily available to Judges on the Bench and in Chambers.

Additionally, complete networks of computers, printers, scanners and ancillary equipment have been installed in every court office. They have the appropriate software to provide all of the office automation facilities, and tools for the most modern techniques in case management. Every judge and registrar has been provided with computers and in most cases with laptop computers with the capacity for linkage to the court office network.

Our courts now have the capacity for automated Court Reporting. Every courtroom has been provided with the equipment for audio recording. This makes it unnecessary for the judges to take notes of proceedings in long hand. Additionally, steps have been taken to introduce the Computer Aided Transcription or C.A.T. Reporting system in our courts. To this end, pilot projects have commenced in Dominica and in St. Kitts. C.A.T. Reporting equipment has been installed and there are trained court reporters on the staff of these courts. At the moment, court office personnel from throughout the jurisdiction are undergoing training in the British Virgin Islands.

I understand that some islands are making enquiries with a view to institute Court Reporting Units similar to that which exists in the British Virgin Islands, once their trainees return. I wish to commend and encourage this.

The court process has benefited from the introduction of technology. In particular, it has aided communication throughout the region. It has made it less expensive and quick. It has strengthened our research capabilities through the use of QUICKLAW and other international research sites, and the website that has been set up by the Law Library at the Faculty of Law of the University of the West Indies.

We have also continued to provide the facilities of our own website, which was established in 2000. It is an important aspect of our accountability to the public by the provision of information. Our website provides all judgments given by our courts, newsletters and other information on the work of the court in a manner that is cost efficient and free to users. Application forms and other information for job vacancies, both judicial and administrative, are posted on the website.

Locally, some courts circulate cause lists by email after generating them automatically from JEMS. I anticipate that this will be standard procedure for all Court Offices in the future. The modules for the improvement of technology that will be implemented during this Law Year will include the introduction of JEMS in the Magistrates' Courts, and its utilization for imaging and jury management. It will also include the customization of JEMS for the criminal justice module, and the introduction of Internet access to case information, an interactive voice response or IVR system and e-filing of court records.

USAID has already provided some of the hardware and software. They have also met procurement costs for the introduction of these modules. The OECS/CIDA/JLR Project is assisting in the implementation in the Magistrates' Courts with the procurement of hardware, along with the costs to bring the various parties together for training. This, we know, can be very costly if we are to reach the targeted audience.

### **Court Administration**

The Supreme Court headquarters in St. Lucia now has a well developed department of court administration. There is now a Court Administrator. This officer is not a trial court administrator. The officer is the head of the management and administrative support team and reports directly to the Chief Justice. The team provides a complement of services in the fields of Human Resource Management, Financial management, Information technology, Information services, Office Management and Judicial Education. It also serves the Judicial and Legal Services Commission and provides general secretarial support.

The staff is highly professional and each department has a high ratio of professional and technical staff as compared to administrative or clerical staff.

The improvements that we have had in the area of court administration are already very obvious. We are particularly pleased to report the setting up of a statistical unit, which is staffed by a qualified statistician. Statistics provide critical information for scientific assessment and forward planning. We believe that the institution of this unit is a critical element in the improvement of the capacity to administer the court in a manner that facilitates accountability. I encourage legal practitioners, court users, litigants and the general public to utilize the services that the Court Administration Department provides. The Department operates out of the Headquarters of the Supreme Court in St. Lucia. Please bring to its attention any issue of an administrative nature, which might be affecting the trial process. This is in keeping with our vision and desire to be more service oriented.

### **The Quality of Judges**

We are still striving to improve the quality of our judges and the service that they render. As you are aware, a majority of judges have recently reached the retirement age at around the same time. This has required a major recruitment effort. The court adopted the principle of changing the selection and appointment process with the objective of ensuring that it is viewed as more transparent, and based on a competitive merit based process.

It is now necessary for any judicial candidate to apply for full time appointment. All applications are submitted to automatic referees for assessment and reports on the candidates. The referees are members of the existing judiciary and the Bar Associations of the OECS. The applicants are also entitled to nominate their own referees. That process leads to preliminary evaluation. Then there is an interview process, which aids selection. The criteria that are used are published. The process of advertisement and other steps are taken to attract applications from qualified persons.

Continuing judicial education is an integral part of the process to improve the quality of our judges. The Judicial Education Institute has gone on from strength to strength with the conduct of at least one program per month on average. It has provided orientation programs for the new judges and continuing education programs for the existing judiciary, including the Magistracy. It has also conducted training programs for Registrars and for the supporting court office staff. Many of the programs catered to mixed groups, in our attempt to foster cooperation and co-ordination for the benefit of a unified process. We have also undertaken work for the Bar Associations. We have developed the plans for our public awareness programs. The implementation of this has recently started.

### **Court Structures**

We are at the initial stages of an initiative to rationalize our court structures, with a view to streamline the system and provide for a more efficient and effective court operation. To date, only preparatory work has been done in this area. It is, however, very important that we move this initiative forward. Out of this realization, we have embarked upon studies that should assist us to develop a unified family court, a criminal division, a civil division with a special small claims court, a commercial court and a traffic court. We are also pursuing the institution of administrative integration of our Magistrates Courts and High Courts for the purpose of achieving greater economies of scale. A pilot project in this area should be implemented in Anguilla during this Law Year.

Over the next few weeks, work will commence to develop a complete implementation plan taking into consideration space and facilities, human resources, and administrative procedures. As part of the early activities, we plan to establish pilot projects for a criminal division and a commercial court.



## **Procedure**

I am pleased to report that the consultancy for the Probate Rules project has been completed, and draft rules were sent to me for review. The mediation activity is ongoing in St. Lucia. Work has already started to replicate it in Grenada, Antigua & Barbuda, and the British Virgin Islands during this Law Year. The work of the Civil Justice Task Force under the joint chairmanship of Mr. Joseph Archibald, QC, and Mr. Charles Wilkin, QC, is proceeding. Its work will inform the revision of the Civil Procedure Rules 2000, where necessary, and the making of practice directions to flesh out the Rules. Additionally, work is progressing on rules of criminal, family and commercial procedure and Magistrates' procedure.

## **The Partners in the Process**

You are well aware that there are many partners in the administration of justice and the reform process. The progress that there has been to date would have been impossible without the support of the various stakeholders. These include the Governments of the region. They continue to be very supportive of our efforts. They also include the OECS Legal Authority, the Judges and Magistrates of our courts, the Registrars and Court Office staff, the OECS Bar Association and affiliated Bar Associations of the Member States and Territories, the Chambers of Industry and Commerce and related institutions in the region, and the litigants who seek justice in our courts.

We have found another partner in the Caribbean Law Publishing Company, which is assisting us with the publication of the OECS Law Report series. I am pleased to inform you that the first report, which is for 1996, has been completed and is ready for distribution.

Again, I take this opportunity to express appreciation for the assistance, which the international funding agencies, the USAID, CIDA and the British Government, in particular, have afforded to our several reform projects. The funding agencies continue to provide direct support in the form of equipment and technical assistance. It is still my wish that it might well be considered that capital assistance with court buildings also deserves support.

### **The Need for Performance Standards and Measurement**

The executive and legislative branches of government, as well as the public, rightly seek to hold the judicial branch accountable in terms of its efficiency and the fairness of its operations. Accountability, however, must be balanced against the importance of an independent judiciary. Our courts are implementing measurement tools and standards that objectively document the courts' performance. They are trying to do this in a manner that does not jeopardize their ability to provide due process and render just decisions free from improper influence, by various performance measurements by which standards are assessed.

The measurement tools relate to court performance, rather than to judicial performance. These are not appropriate standards for gauging the performance of individual judges and that is not the intention. These address the court as an organization, consisting not only of judges but of all who perform judicial and administrative court functions, including clerks, managers, probation officers, lawyers and social service providers. These tools are intended for internal evaluation, self-assessment and self-improvement. Our courts and judges can use them to explain the purpose of courts, the various functions of the court and what the court is doing. They are also useful in developing strategic and action

plans, framing problem issues, evaluating current court performance, and identifying strategies for addressing specific problems.

One performance measure considers access to justice, which is a basic requirement of a fair and equitable system of justice. This is intended to encourage judges and court staff to look at their courts from the perspective of court users. They are to have regard to the ease or difficulty that the general public encounters to get to the court, find their way around the court, obtain information about the court participate in the proceedings and so forth.

The attainment of this ideal requires our courts to conduct their proceedings openly, maintain facilities that are safe, accessible and convenient for use, provide an opportunity for all persons who appear before the court to participate effectively, without undue hardship or inconvenience. They are also to ensure that judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come in contact, and maintain reasonable, fair and affordable costs of access to court proceedings and records. This must be whether the costs are measurable in terms of money, time, or the complexity of the procedures that must be followed.

Other performance measures require our courts to facilitate expedition and timeliness in the management and hearing of cases. They require courts to ensure that equality, fairness and integrity become practical touchstones of justice, and that the system engenders public trust and confidence. Another critical aspect of this is the independence and accountability of the judiciary.

## **Judicial Independence and Accountability**

The performance measures for this aspect direct our courts to maintain their institutional integrity, while observing the principle of comity in its governmental relations. They also direct our courts to responsibly seek, use and account for its public resources, use fair employment practices, inform the community about its programs and anticipate new conditions or emergent events and adjust their operations as may be necessary.

This aspect requires the judiciary to maintain its distinctiveness as a separate branch of government, while at the same time maintaining effective working relationships with other branches of government and other components of the justice system. In this regard, we see the court also as a public institution that is responsible for developing action plans, obtaining resources for implementing those plans, monitoring its operations, and accounting publicly for its performance.

This year I shall consider, in particular, an aspect of judicial independence that concerns the financing of the justice sector. It touches upon the aspect of independent financial management, which involves the preparation of the budget and the management of the budgeted funds. It is my view that the judiciary needs to develop greater professionalism in these areas, through its administrative and management offices. I think that it is also important that the executive put in place the necessary procedures and systems to provide the funds that are budgeted. Financial independence will be meaningless if the funds that are required for the process are not made available.

Over the years, we have demonstrated that the quality of our service is important to us and to all of the stakeholders in the administration of justice. This is in

keeping with our view that independence and accountability of the judiciary are kindred concepts. In addition to our own remuneration, we must be concerned with the support staff from whom we are demanding high performance standards.

### **The Next Summit**

During this Law year, then, the targeted activities will include rules of procedure, the rationalization of court structures and the establishment of specialized court divisions. They will also include continuing programs to improve the quality of our judicial officers and the improvement of our court administrative capacity, both at the headquarters and at the trial courts. We hope to enhance the financial and administrative independence of the judiciary, and to continue the technological development of the justice system, extending the capability particularly to electronic filing and jury management. This, at the end of it all, is the ultimate underlying objective of all the reforms.

### **Epilogue**

We open this, another Law Year, with the reaffirmation of our commitment to 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.

I thank you, and God Bless you.