

ADDRESS

BY

THE CHIEF JUSTICE [AG.]

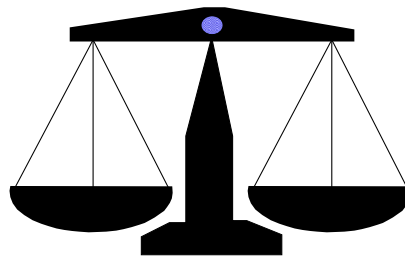
OF

THE EASTERN CARIBBEAN SUPREME COURT

THE HON. MR. JUSTICE ADRIAN SAUNDERS

TO MARK

THE OPENING OF THE LAW YEAR 2004/2005



ST. VINCENT & THE GRENADINES

FRIDAY, 17th SEPTEMBER 2004

Introduction and Greetings

I wish to extend warm greetings to:

- my colleagues on the Bench throughout the Eastern Caribbean, including of course all our Magistrates
- the Honourable Attorneys General and other legal personnel in the service of the Crown in the various territories that comprise our jurisdiction,
- the Directors of Public Prosecution and Prosecuting Crown Counsel,
- the Presidents of all the Bar Associations in the respective territories
- all the Attorneys-at-Law hearing or seeing this address, and to the very distinguished persons and lawyers in all our Courts, and particularly those with us here in Saint Vincent and the Grenadines who have traveled from overseas.

Special warm greetings and sincere condolences must also be extended to the Judiciary, Court staff and legal practitioners of Grenada who have all suffered such tremendous loss as a result of the destruction wrought by Hurricane Ivan. As you all know, that storm devastated our lovely sister isle of Grenada, killing several persons in the process. It also seriously affected Saint Vincent and the Grenadines and Saint Lucia. The great damage done will undoubtedly have severe implications for all facets of life in Grenada, which will in turn impact on regional institutions like our Court. Already, the Court's Headquarters has been doing its part in assisting our brothers and sisters in the relief effort in Grenada. We will continue to do so, and make necessary and appropriate adjustments in

the Court's operations to take account of these new circumstances. We also invite everyone to assist as far as is possible in the relief effort in Grenada especially.

Departure of Sir Dennis Byron and retirement of Justice Redhead

This is the fifth occasion on which we have had this ceremonial opening to introduce our Law Year. But it is the first time that we do so without the presence of the Rt. Hon. Sir Dennis Byron presiding as Chief Justice. In June of this year Sir Dennis departed, on leave, for Arusha, Tanzania to take up a 3-year appointment with the United Nations International Criminal Tribunal for Rwanda.

Sir Dennis' leadership and vision will be sorely missed, and we all wish him a successful and fruitful tour of duty in Arusha. The greatest tribute we can pay him is to strengthen and carry forward the many reforms he introduced, and while I act in this position as Chief Justice, I pledge faithfully to do so.

During the past year, Sir Dennis' contribution to the law and judicial governance was recognized internationally when in February he was made a Bencher of The Honourable Society of the Inner Temple, and in June he was appointed a member of the Judicial Committee of the Privy Council. I join with our entire Court in extending to him sincerest congratulations.

Within the last year we also witnessed the retirement of the Hon. Mr. Justice Albert Redhead as a Justice of Appeal. Justice Redhead served the legal and judicial services of this region with almost 30 years of unbroken service in almost every position one can conceivably hold. We are not yet ready to say goodbye to Justice Redhead because, given his vast experience as a prosecutor, a High Court judge and a judge of the Court of Appeal, we have begged him to stay on with us to be the presiding judge of the Criminal Division of the High Court in St. Lucia. We do however take this opportunity once again to recognize and to show appreciation for his long years of excellent service to this Court.

Mediation

Over the last year, the Court began rolling out its court-connected mediation programmes to various territories. Mediators from the British Virgin Islands, Montserrat, Antigua and Grenada have been trained, and in each of these countries court-connected mediations are now available. Up to the end of August, 2004, in Saint Lucia which had a long head start, 282 cases had been referred to mediation. Of those that were actually mediated 61% ended in full settlement, proving conclusively the great benefit of the mediation process. 27 referral orders have been made in Grenada with approximately one third of those mediated being settled. In the British Virgin Islands, 8 matters were referred, and one half of those mediated were settled. No referrals have yet been made in Montserrat.

In the remaining islands, suitable persons are being selected for training, and we expect that, starting with Saint Kitts and Nevis, these persons will soon be trained so that within this Law Year every territory in the jurisdiction will be able to boast of a court-connected mediation programme.

The challenge in each of these countries is twofold. Firstly we have to ensure that the optimum number of cases is referred to mediation. Our limited experience has already borne out that generally speaking, litigants are more satisfied with a mediated solution to their disputes than with a solution that is imposed by the court. Moreover, a mediated solution resolves the dispute at a far earlier time, it saves judicial resources and litigants' costs and it makes an enormous contribution to enhancing case flow efficiency.

Secondly, we cannot permit the mediation centres and the case flow through the mediation centres to be plagued with adjournments and delays. Mediation is our alternative to a court system in which these evils crept in and almost paralyzed the civil justice system. It would be entirely unacceptable for us to allow the same evils to corrupt the mediation process. We are therefore asking for the full support of the Bar Associations in this regard, as our Registrars and Mediation Coordinators will be adopting a firm position so that the time tables set out in the Practice Direction are scrupulously followed.

In order to assist with the streamlining and coordinating of the mediation project, the Court has been fortunate to have the services of Mr. Francis Compton of Saint Lucia as Regional Mediation Coordinator. Mr. Compton is a very distinguished retired public servant and a trained mediator himself. He has brought to the post of Regional Mediation Coordinator a passion, zeal and commitment that augur well for the maintenance of high and uniform standards throughout the territories of the jurisdiction.

At this juncture we again express our thanks to our Mediation Consultant Mrs. Deborah Mendez-Bowen, and also to USAID for their generous funding of this project which started with the initial design several years ago. USAID's funding has also extended to the rollout to the six independent Member States of the Court.

Judicial Education

Over the past year the Judicial Education Institute continued in its mission to enhance the administration of justice through education and training. Twelve workshops were held during the law year 2003/2004. Many of these were orientation programmes for newly appointed judicial officers and staff. The concept of holding such programmes is in fact now firmly entrenched. Accordingly, training programmes were held for mediation coordinators, newly

appointed Judges, newly appointed Magistrates, Registrars, Deputy Registrars and newly appointed staff at the Supreme Court Head Quarters in Saint Lucia.

A workshop was also held on headnote writing and law reporting. This was an important workshop designed to stimulate interest in, and to train judicial officers and members of the legal profession in headnote writing. The goals of the workshop were intended to complement the Court's thrust in law reporting and I would here like to proffer my profound thanks to those persons - Judges and Attorneys - who have taken the time to participate in the project by proofreading and/or preparing headnotes. Those of you who may not have been able to offer your assistance, possibly because of pressing workloads, I want to remind you that your attendance at the workshops signified a willingness to be a part of the project. This is our law report and its continued production depends to a large extent on your cooperation and support.

To date we have published judgments delivered in 1996 and 1997, with 1998 and 1999 scheduled to become available very soon, possibly before the end of 2004. I must here however express my disappointment at the low response in terms of sales of the reports which may be had at the ECSC Headquarters for the price of US\$125.00 each. We encourage lawyers and the various Government departments to support this project by purchasing the reports.

The Judicial Education Institute (JEI) hosted the Second Biennial Meeting of the Commonwealth Judicial Education Institute (CJEI), in Saint Lucia, from 30th November to 3rd December, 2003. Participants came from jurisdictions as far away as India, Australia, the continent of Africa, the United Kingdom, Canada and the United States Of America; and from as close by as, Barbados, Trinidad and Tobago, the Cayman Islands, and Jamaica. It was a reunion of many fellows of the Commonwealth Judicial Education Institute (CJEI), but more importantly it was an opportunity to identify and elucidate best practices, methodologies, teaching tools and teaching plans relevant to judicial education and reform.

During the past year, the Court also deepened its relationship with the Judicial Studies Center of the Americas. A delegation led by the Hon. Chief Justice, Sir Dennis Byron, attended an important Seminar in Buenos Aires, Argentina in April. This seminar was a follow-up to a study on criminal procedure reform related to public criminal prosecutions in Latin America and the Caribbean, and it came at a timely moment for us as we were just embarking on the establishment of our criminal division model in Saint Lucia. Several months earlier, the Court's statistician and I attended the JSCA's 2nd Inter American Seminar on Judicial Management, which focused on using information to govern the judicial branch.

Our Judicial Education Institute is now going through a period of restructuring, and we are fortunate to have as the new Chairperson Justice Hugh Rawlins who also brings to this position his vast experience as a Lecturer at the University of the West Indies. We have also been afforded the opportunity to have a Court of Appeal Judge, a High Court Judge and the President of the Industrial Court of Antigua and Barbuda attend courses conducted by the International Labour Organisation, and we fully intend to encourage further collaboration with the ILO and other similar bodies in our judicial education programmes.

Information Technology

At the core of the Court's drive to increase efficiency is the attention being paid to make maximum use of modern information technology. Over the past year therefore, the Court conducted training programmes for new and existing users of Judicial Enforcement Management Software (JEMS), the software that the Court uses. Updated versions of the software were also installed.

The use of appropriate Information Technology has the potential to revolutionize the entire judicial system and increase the effectiveness and efficiency of the administration of justice. This is particularly so as our jurisdiction comprises several Member States separated by the Caribbean Sea. As counsel in the region know, it is now not uncommon for our Court of Appeal to conduct some of its hearings by teleconference.

The Court has also invested heavily in the use of Audio Recording Equipment to assist in the timely delivery of justice. Over the last year, judicial officers were exposed to training in this field and I encourage all Judges and Magistrates to make full use of the audio recording machines to avoid the arduous task of taking hand-written notes during trials.

Our goal is to supplement the audio recording of court proceedings with the presence of trained transcriptionists and court reporters capable of producing a record of the proceedings in court within a very short time or even in real time. The timely production of accurate transcripts of court proceedings is a vital step in our efforts to modernize and make more efficient the justice system in the Eastern Caribbean. A cadre of well-trained, professional court reporters is essential to this goal.

In June this year, four students graduated from the British Virgin Islands Academy of Court Reporting, and here I wish to offer my congratulations to Ms. Yvonne Rattoo of Grenada, Ms. Joycelyn Seraphin of Dominica, Ms. Lissa Noel of Saint Lucia and Ms. Samantha Huggins of Saint Vincent and the Grenadines. It is my hope that these persons will be deployed and compensated in a manner that does justice to the excellent qualifications they have attained as a result of the rigorous training they received at the British Virgin Islands Academy of Court Reporting. We wish to thank USAID for their support in funding the two-year

programme that produced these professionals. Presently there are a number of students who require further training at the Academy and some of the individual Governments of Member States have stepped forward to support these students in the completion of their programmes of study. I take this opportunity to extend the gratitude of the Court to the Governments of Saint Lucia, Saint Kitts, Antigua and Montserrat for this level of support.

In the coming year, our impetus in the area of information technology will not slow down. Up to fairly recently JEMS played an integral role in the civil justice system. We are now extending the use of the software to both the criminal justice system and in the family courts as well.

Court Re-structuring

Up to this point in time, the Court's reform programme has focused on reforms in civil procedure in the High Court, on building up administrative and technical capacity in all the courts, on introducing appropriate technology and on improving the appointments process and the caliber of judicial officers. We are now at a point where we need to pay greater attention to our Magistrates' Courts.

The Magistracy falls within the judiciary's jurisprudential authority, but they are not included within the judiciary's administrative chain of command. They are

half-in and half-out. This anomaly fragments and weakens not only the Magistrates' Courts, but also the entire judicial branch of government. The Magistrates feel isolated, estranged, deprived of the collegiality and sense of involvement that comes from being part of a wider judiciary. Magistrates' Courts are an essential part of the judicial organization. They carry the brunt of the caseload and public trust and confidence in the administration of justice depends largely on how they function.

Our goal now is to streamline the trial courts by merging the administrative support of the Magistrates' Courts and the High Court and to create specialized court divisions by organizing the Court into divisions: a **civil division**, including a small claims part; a **criminal division** to deal with all summary and indictable matters, including a traffic part; and a **family division** which will also deal with criminal charges against juveniles.

The Government of Saint Lucia has agreed to be the site for the model of the Criminal division. This is a model that we intend to replicate with appropriate adjustments in the other territories. We hope that models for the other divisions can be implemented in quick succession in suitable Member States. In every case, each division is to be managed by a Presiding Judge with the assistance of a Division Manager. All would be under the central management authority of a Managing Judge who will report to the Chief Justice and a trial Court

Administrator who will report to the Supreme Court Administrator. The plan not only calls for a streamlined administrative structure and clear lines of management authority but also the implementation of new case management systems and procedures, the application of modern technology, job redesign, and staff reorganization. Together, we are confident that these new approaches will improve the administration of justice.

The broad outlines of the initiative have received the approval of the OECS Heads of Government and once again we take this opportunity to show our appreciation for the supportive role of the various Prime Ministers and Chief Ministers in the Court's reform programme. At every step of the way, the Governments have encouraged, stimulated and supported the Court's reform initiatives. We also wish to express special thanks to our indefatigable, internationally renowned Consultant, Mr. Robert Lipscher, who has been the lead consultant on court re-structuring.

It is no accident that the first division we have sought to organize is the Criminal Division. In many of our territories, the criminal justice system is in dire need of reform. In those territories there are considerable delays and backlogs. The remand population is too high. The victims of crime and witnesses are dissatisfied with the slow pace of criminal justice. Many of them lose their faith in the system. No special measures are in place to quickly address crimes where

there are victims and witnesses who happen to be visitors to our shores. The judiciary must accept that it has a vital role to play in improving this situation and we must move quickly to arrest the problems.

Thus far, we have, in Saint Lucia, established a Criminal Division Advisory Committee headed by Justice Albert Redhead, the Presiding Judge of the Criminal Division. The structural design for organization of the Criminal Division including the system design for the traffic case management has been completed and case processing of summary cases under new case management procedures has been initiated since March 22, 2004.

During the course of the coming year, we also intend to work on the establishment of a modern Commercial Division in the British Virgin Islands to meet the needs of that territory. For some time now it has become apparent that given the huge volume and complexity of the commercial litigation that flows through the British Virgin Islands courts, specific measures must be employed to manage that case flow, organize support staff in a manner that would enhance efficiency and deploy suitable judicial resources to handle the caseload. The British Virgin Islands Court's Review Committee has accordingly agreed that the Court should move ahead with this project. We congratulate the far-sightedness of that Committee in taking this approach and we look forward to putting in place a world-class Commercial Court in the British Virgin Islands.

Preliminary steps have also been taken towards the establishment of a pilot project for the Family Division. Justice of Appeal Brian Alleyne has been identified to head a committee that would examine this area and a consultant has submitted a report which is currently being examined.

During the course of the last year we were unable, as we had hoped, to bring into effect new Probate Rules. These Rules have been drafted and in the course of this year we expect that they will come into effect.

Earlier this year, the OECS/CIDA Judicial and Legal Reform project was terminated following the report of a mid term review which was considered by the Project Steering Committee. The main reason for the termination was related to the limited remaining funds that were available for the project activities. A decision was accordingly taken to dedicate these funds to court reform activity managed by the Court. I would like here to thank the staff of the JLR project for their efforts over the life of the project. The Court also wishes to thank CIDA for their support for justice improvement measures in the OECS.

The USAID funding project is currently approaching the end of its five-year strategy period, from 2000 - 2004. During those years the Court benefited enormously from this project. Details of the next five-year strategy period which will commence in July 2005 have not yet been released. When it is, if the level of

support for Court activities is reduced then the scope and pace of our reform programmes may be impacted.

Our Mission Statement is *“the delivery of justice independently, by competent officers, in a prompt, fair, efficient and effective manner”*. It is to that end that we aspire. I trust that over the next year we will continue striding forward to that goal so that this time next year we can look back with pride on tasks accomplished and with renewed confidence, set ourselves new and more challenging tasks.