
ADDRESS

BY

THE HONOURABLE CHIEF JUSTICE [AG.]

SIR BRIAN ALLEYNE, SC, KCN

TO MARK

THE OPENING OF THE NEW LAW YEAR 2007- 2008



GRENADA

THURSDAY 20TH SEPTEMBER, 2007

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I Acknowledge Sir Anthony Clark, Master of the Rolls, Hon. Attorney General, Hon. Minister of Legal Affairs and Education, Director of Public Prosecutions, members of the Inner and Utter Bar.

Local dignitaries, dignitaries present in Courts in other States and Territories within the Member States of the OECS, colleagues on the Court of Appeal, Members of the upper and lower judiciary, Honourable Attorneys General, Solicitors General, Directors of Public Prosecutions, members of the Inner and Utter Bar present in Court here and elsewhere within the jurisdiction, members of civil society, greetings to each and every one of you.

It is my distinct pleasure to be afforded the opportunity to address you at yet another opening of a new law year, 2007-2008. The advancement of technology has, over the past eight years allowed us to mark the opening of the law year with simultaneous sittings in the nine Member States and Territories transmitted via video link to each courthouse. This year I am privileged to address you from the beautiful Spice Isle of Grenada. Although ravaged by hurricane Ivan some two years ago, and further affected by Emily and Felix in the following two years, the island has been resilient and continues everyday to restore its image to its pre-Ivan state. I take this opportunity to express my sincere gratitude to the government of Grenada as well as the resident Judges, Registrar and court staff for their assistance in making today's sitting of such an impeccable standard.

I also say thanks to Cable & Wireless, the Manager and members of the IT department of the ECSC headquarters and everyone else who assisted in making this year's simulcast a reality.

Reviewing The Year

During the 17th Plenary Session on 21st May 2007, our very own The Rt. Hon. Sir Dennis Byron was elected the fourth president of the International Criminal Tribunal for Rwanda. Since his appointment to the ICTR in June 2004, Sir Dennis has made our region very proud and we continue to congratulate him on his successes and wish him God's continued blessings as he embarks on his tenure as president of the ICTR. He has provided exceptional service to our jurisdiction and we are elated to see the strides he has made at the ICTR and are certain that he will provide outstanding service there as he did for us here.

I take this opportunity to express my thanks to His Excellency the former Governor General Sir James Carlyle and the Government of Antigua and Barbuda for bestowing upon me the award of Knight Commander of the Most Distinguished Order of the Nation which was conferred on Tuesday 17th July 2007. I must say, however, that there is still some measure of getting used to the Knighthood and being addressed as Sir Brian. To have been bestowed such an award is, to say the least, overwhelming and I am deeply touched by and

humbly appreciate the desire of Sir James and the country of Antigua and Barbuda to honour me in this regard, and also by the many expressions of congratulations and support which I have received.

I take Advantage of this occasion to express, on my own behalf and on behalf of the entire judiciary of the Eastern Caribbean States, sincere condolences and deep sadness at the passing of a great and visionary Eastern Caribbean statesman, the late Rt. Hon. Sir John J.M. Compton, Prime Minister of St. Lucia. Sir John was one of the founding fathers of the Organization of Eastern Caribbean States, the regional inter-governmental body with which the Eastern Caribbean Supreme Court relates in developing its programs, seeking and obtaining approval of its budget, and accounting for its performance. This has enabled a very efficient and productive mechanism for rationalizing the relationship between the Court and the nine separate States and Territories which the Court serves. We express our deepest condolences to the widow, Lady Janice Compton and family, and to the Government and people of Saint Lucia on the passing of this great and historic statesman.

40TH ANNIVERSARY CELEBRATIONS

February 27th 2007 marked 40 years since the establishment of the Court by the West Indies Associated States Supreme Court Order

1967. This historic occasion was celebrated by various activities throughout the Member States and Territories.

I express my sincere thanks to each and every one of you for the various ways in which you celebrated with the court on this truly momentous occasion.

The growth and development of the Eastern Caribbean Supreme Court over these 40 years will be suitably commemorated by the publication of a history of the Court, "The Eastern Caribbean Supreme Court 1967 - 2007: Forty Years of a Distinguished Regional Judicature", being undertaken by Dr. Francis Alexis of the Grenada Bar, edited by Senator the Hon. Prof. Velma Newton of the University of the West Indies, Cave Hill, Barbados. Work is advanced on this project and the launching of the book is slated for October 2007.

An anniversary commemorative magazine with contributions from former judges and others, and a television documentary highlighting various aspects of the Court's history is expected to be released by early December 2007.

THE JUDICIARY

The last law year was a very busy one for the members of the judiciary. We bade farewell to the Hon. Michael Gordon QC, as he retired from the post of Justice of Appeal on 4th April 2007. Justice Gordon joined the Court of Appeal in December 2003 and provided outstanding service for the past 4 years. Acting High Court Judge Errol Thomas also came to the end of his contractual term in Antigua and Barbuda, and we also said goodbye to the Hon. Albert Redhead whose term of contractual employment as acting High Court Judge in Saint Lucia ended on July 31st 2007. I take this opportunity to thank these distinguished jurists for their outstanding contributions made to the development of the Court and wish them God's richest blessings.

Justices Ola Mae Edwards and Dancia Penn were appointed as acting Justices of Appeal from April to July 2007. Justice Ola Mae Edwards' appointment has been extended to December 2007 while The Hon. Dancia Penn's appointment was not renewed, as she indicated that for personal reasons she would be unable to continue. We have since learned that Mrs. Penn subsequently successfully contested a general election in the British Virgin Islands and has been appointed as Deputy Premier and Minister. We congratulate her and her party on their success and look forward to continuing with the new government of that Territory the same highly cooperative and

productive relationship that characterized our relationship with the former government.

Effective 1st October 2007, Justice Errol Thomas has been appointed an acting Justice of Appeal until the end of the year. We welcome Justice Thomas and look forward to working with him.

We have had 4 appointments as High Court Judge in the persons of;

1. Justice Anthony Ross, with effect from 1st October 2006, who has been appointed Administrative Judge,
2. Justice Brian Cottle, with effect from 5th April 2007, assigned to St. Lucia,
3. Justice David Harris, with effect from 19th June 2007, who has been assigned to Antigua and Barbuda,
4. Justice Francis Cumberbatch, with effect from 1st August 2007, who has been assigned to Grenada.

Justice Brian Cottle's elevation to High Court Judge created a vacancy for a Master which was filled by Master Pearletta Lanns, former Registrar of St. Kitts & Nevis. We welcome all these new appointees and look forward to working with them.

Justice Kenneth Benjamin has been reassigned from Grenada where he has served for the past five years, to Saint Lucia where he will

replace Justice Albert Redhead as the Presiding Judge of the Criminal Division, effective 1st August 2007.

As indicated last year, since the ravages of Hurricane Ivan which severely affected the justice system in Grenada, the country has not enjoyed its full complement of judges and now hosts 2 High Court Judges and a visiting Master. We had in fact hoped that during the last law year we would have been able to restore the island to its full complement of judges. However the necessary infrastructure to enable this is not yet fully restored, although some progress has been made in reconstructing the Registry, and temporary accommodation has been secured for the second judge. We stand ready, as soon as the necessary arrangements are made, to return Grenada to its full complement of three judges.

Justice Ianthea Leigertwood-Octave has been appointed the new Chairperson of the Judicial Education Institute. She has taken over the reins from Justice Hugh Rawlins who has provided exceptional service to the Institute. Throughout his tenure as chairman, Justice Rawlins has toiled very diligently and I thank him for his outstanding service and dedication.

We have also had new appointments with our Registrars. Our former Chief Registrar Ms. Heather Franklyn resigned from her post in October 2006 and she was replaced by Mrs. Kimberly Cenac-

Phulgence. Ms. Agnes Actie was appointed Deputy Chief Registrar and they are both based at the court's headquarters in St. Lucia.

We have also had to bid farewell to one of our longstanding Registrars, Ms. Sonya Young who functioned as Registrar of the High Court in BVI for the past 5 years. I want to take this opportunity to extend my sincerest thanks to her for the exceptional contribution she has made to the court. Throughout her tenure she has shown immense dedication and vigor in carrying out her duties as Registrar and her contribution will never be forgotten by the court. We wish her God-speed, continued favour and every success in her future endeavours.

We have also confirmed the appointments of Ms. Aisha Jn. Baptiste as Registrar of St. Lucia and have made acting appointments for Mr. Charlesworth Tabor for Antigua and Ms. Claudette Jenkins for St. Kitts consequent upon the appointment of Master Pearletta Lanns as Master.

PRACTICE DIRECTIONS

Since its introduction in 2000, we have seen the transformation of civil litigation in our jurisdiction from lengthy drawn out procedures to more managed procedures. Although initially there was some opposition, as is natural with almost any change, we can now be truly gratified by the change which has occurred as a result of the introduction of the rules.

While we can see the significant impact the introduction of the rules has had on our jurisdiction we are aware that there are indeed areas which need to be reviewed, strengthened and updated. As civil litigation continues to grow in volume and complexity, so does our responsibility to ensure that justice is dispensed competently and expeditiously, in accordance with the overriding objective of the CPR.

This year's annual judicial conference focused on CPR 2000 as we subjected the rules to a critical review. It is recognized that there are areas which are in need of review and these were identified and will be presented to the Rules Committee in due course. It is our hope that we can review the necessary areas of the rules and make the appropriate adjustments.

I am also cognizant of the fact that there are a number of areas in the Rules which need clarification. To this end I have issued over the past few months two Practice Directions, one on Court Documents and the other on Judgment Summonses and these along with the other two issued some years ago on Mediation and Backlog Reduction/Status Hearings provide clarification in these areas. During the course of this Law Year I intend to issue further Practice Directions and Guides as well as pre-litigation protocols.

ADMINISTRATIVE JUDGE

Effective 1st October 2006 we appointed an additional High Court judge, and assigned him to function as Administrative Judge, a capacity in which he has worked since his appointment.

One of the key areas on which the Administrative judge has focused is the number of matters throughout the jurisdiction in which the current status could not be determined. Prior to April 2007 it was virtually impossible to determine the status of matters in the system, or the total number of outstanding matters. To date not only have these determinations been made but we have been able to determine the number of active matters and the number disposed of, as well as the particular status of active matters. It is now possible for the headquarters to access meaningful databases of each member state, once the information is provided to us.

Efforts are being made to correct the information in the databases so that for each court the classification will be Active and Disposed. When the statuses of matters have been realized, appropriate disposition codes shall be applied to all disposed matters and for the active matters a series of disposition codes shall be employed. The process has advanced to the extent that 20 disposition codes have been identified for application to civil matters.

It is expected that during the upcoming law year all matters in the court's database will be identified as active or disposed, each with its identifiable status code. Arrangements are now being made with the ECSC website manager for the reporting and updating of information on the High Court databases and this could be made available to the public without compromising the interests of litigants. It is expected that this information will be particularly helpful to Judges, Masters and Registrars as they continue to seek to have matters flow through the systems smoothly and efficiently.

It is hoped that over the next few months all systems should be sufficiently in place to allow emphasis to be placed on managing a system which is continually updated to maintain the integrity of the court's database.

COURT ADMINISTRATION

The reform program inevitably faced a number of problems in the past year. Entrenched attitudes, bureaucratic delays, skepticism at some levels of the public service, all contributed to delays in implementation of our program developments.

Throughout the last law year, the ECSC continued its efforts at initiating programs aimed at modernizing the court structures of the OECS member states in keeping with the mandate of the OECS authority.

In January 2007, the ECSC recruited a new Deputy Court Administrator to replace the former DCA. Mr. Francis Letang, the new DCA, is assisting the Executive Court Administrator and JLR Project coordinator in the management of the ECSC's effort to re-structure the Court.

The Judicial and Legal Reform project entered its third year during this reporting period and recorded achievements in the following:

Establishment of the Commercial Division

Work on that division has been fueled by the ardent interest of the British Virgin Islands government and legal practitioners in that Territory. During the last six months the project financed several

activities in the BVI towards the establishment of that Division including rule development and practice directions for the proposed court. The rules for the division are now near completion, and the emphasis now shifts to the recruitment of the specialist Commercial Judge who will spearhead much of the training contemplated for its functionality. This court will function as a division of the High Court and is expected to open before the end of 2007.

Criminal Law And Procedure Reform:

One of the areas which continues to plague our islands is the delay in processing criminal prosecutions. Significant delays occur at the preliminary inquiry stage. This results in delays of up to 3 or 4 years from the arrest of a suspected person to trial.

As of July 2007, In St. Lucia there were as many as 132 persons on remand out of which trial dates have only been set for 54. In Dominica 114 are on remand and only 7 are awaiting trial. These islands were followed by St. Vincent with 76 persons on remand, 41 of whom were awaiting Preliminary Investigations; Antigua with 51 persons on remand, 9 of whom are awaiting trial; Grenada with 45, 30 of whom are awaiting trial; BVI with 19, one of whom is awaiting trial and Anguilla with 17.

When we compare the number of persons on remand to the number awaiting trial, we realize that persons are spending an inordinate amount of time on remand prior to their matters being set down for trial. This may result in injustice and a breach of the Constitutional guarantee of a fair trial within a reasonable time, with the possible consequence that the charge may be peremptorily dismissed or permanently stayed. This may itself be perceived as an injustice, more particularly to the victim of the crime, but also to the community at large and perhaps even to the accused person.. The possible legal consequences of delay are illustrated in the Canadian case of **R v Osei** **January 30, 2007** in the following terms:

*“On the issue of the failure of the trial to proceed in the Superior Court as scheduled due to lack of judicial resources, the decision in **Askov** also makes it clear that delay caused by the lack of institutional resources is delay for which the Crown must bear the responsibility since it is the Crown that is responsible for the provision of those resources.*

*In addition to all of these consideration of course, is the fact that the guidelines in **Morin**, following on the decision in **Askov**, have now been with us for about 15 years. We are not then faced with a situation that is unknown to the Crown or one for which the Crown is not on notice respecting the consequences if the directives of the Supreme Court of Canada are not respected. Notwithstanding that fact, here we have a fairly straightforward case where the preliminary hearing and the trial both occur outside of those guidelines. They both result from a lack of institutional resources.”*

“the constitution affords even to persons under sentence of death, rights that must be respected and that the true measure of the value of those rights is not just how well they serve the law-abiding section of the community, but also, how they are applied to those for whom society feels little or no sympathy”

Recognizing the need to put in place effective delay reduction initiatives, the court has worked assiduously on the Criminal Division Pilot Projects. Work on this division is behind schedule in terms of the expected levels of achievement, but is progressing. Three national consultations for the establishment of the Criminal Division were held in Antigua, Dominica and St. Vincent & the Grenadines. These consultations brought together key stakeholders to brainstorm with the ECSC on the way forward with the implementation of that division and to address other key court reform issues affecting these Member States. The meetings appointed Steering Committees which will work with the ECSC Court Administration Department and/or Project Coordinators for implementation of the reform activities. Dominica has already responded favorably with a complete set of recommendations for revision of the ‘Criminal Courts Delay Reduction Rules’ and the other proposed amendments to existing legislation which will impact on these rules. These are now before the Attorney General’s office for action. Meanwhile, work progressed on what should be the final set of amendments to the legislation for full implementation of the Criminal Division pilot in Saint Lucia; these

are now before the Attorney General's Chambers for onward submission to Cabinet for approval. Meanwhile the Criminal Division in Saint Lucia continues to serve the public assisting greatly with the reduction in the backlog of criminal cases in the Division. Delay and backlog are still major problems in that Member State.

Family Division

Work on that Division has entered a positive stage following the several discussions held with the OECS Secretariat and Family Court in Saint Lucia. The project facilitated the attendance of Justice Denys Barrow and Court Administrator Gregory Girard to a consultation in Barbados to chart the way forward for the Caribbean region with the implementation of Family Courts and alternative sentencing for juveniles.

Strengthening of the Judicial Education Institute

The project continues to support the JEI in its training programs. During the period under review, activities focused on the training for Police Prosecutors and Investigators on the Criminal Courts Delay Reduction Rules in preparation for the implementation of the Criminal Division in Antigua. The JEI hopes to use that initiative to stimulate interest with the merging of the Police Prosecution Unit and DPP's Office there. The Attorney-General's office in Antigua is hoping to shepherd this project using lessons from the Saint Lucia pilot.

In anticipation of the work scheduled to begin with the Civil Division, the Institute also responded to a request from the Courts in Grenada for training of Bailiffs on issues concerning process serving, where some fifteen Magistrates' and High Court bailiffs benefited from the exercise. Dominica is hoping to benefit from the replication of that training by year end. This exercise will culminate with the production of a procedures manual which will guide the operations of present and future bailiffs in the system.

We initiated discussions with the University of the West Indies (UWI) on creating continuing judicial education opportunities through short-term summer programs. These are expected to include training for Magistrates, Registrars and Judges as well as lawyers aspiring to judicial office. The training will target less familiar areas of law such as environmental, arbitration, conflict of laws, which appear to be emerging as new areas of legal dispute. The representatives of the JEI participated in the talks in Barbados which were hosted and chaired by the Development Section of the Canadian High Commission. That meeting also considered plans for the hosting of a symposium as a prelude to the training programs contemplated and a book launch of the book by Dr. Alexis referred to earlier as part of activities to commemorate the 40th anniversary of the ECSC.

Integration of the Magistracy

Pursuant to a mandate from the Governments of the Member States through the Organization of Eastern Caribbean States (OECS Authority) the ECSC secured a Technical Assistance Grant from the Canadian Cooperation Fund (CCF) to finance consultancy services for the development of the appropriate organisational, administrative and legislative framework for strengthening the judicial branch of the governments of the Eastern Caribbean.

The overall objective of the Consultancy is to formulate and prepare a structure and legislation that will: promote greater independence and accountability of the Magistracy within the judicial and administrative chain of command; restructure the Judiciary in the Eastern Caribbean with magistrates being integrated fully into the Judicial Branch; and eventually achieve a strengthened Judicial Branch of government by developing an efficient, fair, impartial and independent Justice system at all levels.

There are two distinct though inter-related phases in the consultancy. Phase I involves the development of a strategic policy approach for the restructuring of the judiciary. Phase II involves the drafting of model legislative documents that would lead to the implementation of the policies developed in phase 1. The draft report on both phases of the consultancy is now before the relevant

stakeholders for comments and input before finalization.

A Look Ahead

The pilot project for the Criminal Division in Saint Lucia and the establishment of a Family Division are expected to be brought to completion during the upcoming law year. The implementation of the *Criminal Courts Delay Reduction Rules* will complete the establishment of that pilot. Those Rules and related amendments to substantive legislation have been the subject of extensive review and consultation and are now before the Government for review and promulgation. The Court is currently seeking to procure consultancy services for the redrafting of the *Family Court Bill* to align its provisions with the concept of the Family Division as proposed by the ECSC.

In this new law year provisions are being made to introduce the Criminal Division Pilot to Dominica and Antigua. This also includes providing assistance to the governments with the establishment of the State Prosecution Service. It is proposed as part of the reform plan that the Police Prosecution Unit will be merged with the office of the Director of Public Prosecutions for more efficient and coordinated operations.

FINANCE

The Court is financed by contributions from the nine Member States and Territories. In establishing the contribution which is to be made by each member state, a number of factors are taken into consideration, among which are the number of resident judges and number of court sittings in each member territory. The budget is prepared annually by the Court and is then critically reviewed by the Budget Committee of the OECS before being presented to the Heads of Government by the Chief Justice. The budget is financed as a part of the budgets of each of the Member States and Territories, and consequently the unanimous approval of the budget by the member governments is necessary. The government's commitment is translated into the national budgets and becomes a charge on the various consolidated funds.

I thank the Authority of Heads of Government for their continued support of the Court's programs and initiatives, and for their unfailing commitment to the Court's efforts and initiatives to meet the changing needs and evolving demands on the resources of the Court.

Like in years gone by, the tardy payment of contributions by some member states continues to plague us and has not only put a strain on the Court's resources, but has also hindered the implementation of some of the work programs intended for the court. We therefore

continue to appeal to member states to be more forthcoming with their contributions so that the court is able to meet its obligations and provide efficient and effective service in a timely manner.

The budget of the ECSC increased by 7.18% from the period 2005/06 to 2006/07, which was primarily due to the increase in the number of judges from 16 to 17 with the addition of the Administrative Judge. The recent increase in the number of Judges assigned to member states has brought the percentage contributions into focus. With this in mind, the Court has proposed a revised allocation of percentage contributions and this is currently before the Heads of Government for their review and approval.

The Court continues to receive assistance from the Canadian International Development Agency (CIDA) in the form of grant funding. Funding from CIDA included contributions towards computer hardware, Judicial Education, Court Reporting, Customer service, Bailiff training, Rules Revision and technical assistance with the implementation of the Judicial Enforcement Management System (JEMS) throughout member states. In the last quarter of the financial year work commenced on the Commercial division in the BVI.

We have also initiated a court Structures Project whose objective is to strengthen the judicial branch of government, to further the rule of law thereby contributing to social and economic development of Eastern Caribbean States. It starts with court reorganization that

consolidates the Magistrates and High Courts. This will provide the critical mass that enables structures of governance, administration, and management to be rationalized. Once the structures are in place, modern programs, systems, and procedures can be introduced more readily. CIDA funding has made it possible to continue the work on the unification of the Magistrates' jurisdiction into the Criminal, Civil, Family and Traffic Divisions of the court.

HUMAN RESOURCE DEPARTMENT

The department continues to be responsible for the implementation and monitoring of Human Resource policy, programs and systems in order to ensure continuity and efficiency in the operations of the Eastern Caribbean Supreme Court. The unit was strengthened by the addition of an Administrative Assistant, who was appointed in October 2006.

For the past year the department has implemented policies in attendance and punctuality as well as training, aimed at improving the efficiency of the court staff to ensure that the services offered to the public is of the highest standard to be expected from our organization.

A job analysis was conducted to review all the jobs in the organization and to ensure that the job descriptions were current and adequately represented the tasks and responsibilities of each particular post.

During the early part of 2006, the court implemented a performance appraisal system designed to facilitate a merit-based award system. In 2007 the first set of increments were awarded to staff members who performed above satisfactory level.

The staff welfare program continued with activities geared at enlightening staff members on food preparation, fire prevention and early detection of Cancer. These were all highly informative and have successfully placed staff members in an enlightened position on matters which are pertinent to our well being.

In an effort to enhance interpersonal relationships among the Judges and staff members, a social activities committee was established and a number and variety of activities were conducted during the year.

Work on a Disaster Management and Recovery Plan has been almost completed and the next phase will be testing to ensure that it is workable. This initiative will in due course be shared with the various Courts. In addition The Human Resource and the IT Units are presently working on creating a data base to improve accessibility to information on staff.

As part of the development of its human resource plan, the ECSC procured the services of consultant Dr. Trevor Hamilton for its job evaluation exercise. The purpose of the consultancy was to review the job descriptions and commensurate levels of remuneration of staff through the use of comparative market survey techniques. The recommendations from this study will form the basis of submissions to the Authority of Heads of government for revision of the salary structure of the ECSC which has not been reviewed since 2000. Dr Hamilton's report will be finalized by the next reporting period. It is expected that quite apart from the provision of recommendations for the review of salaries, the report will provide insights which could lead to a review of the institutional framework and corporate structure, provide new job descriptions and methods of evaluating and rating jobs within the institution and thereby position the HR department to respond to these and other job evaluation challenges in the Member States when the full integration of the Magistracy is realized.

Under the initiation of the JEI a Customer Service Training Program for Judicial Support Staff of the Magistrates Courts of Antigua and Grenada was held. This training program was aimed at enhancing the inter-personal skills and relationships among the staff of the Magistrate courts of Antigua and Grenada. The program in Antigua was held from April 30th to May 2nd, 2007 and the program in Grenada was held from May 15th-18th, 2007. The training was aimed

at preparing those who work in the Judicial System, in particular the Magistracy, both mentally and emotionally for the changes which are unfolding as a result of the wide-ranging reforms being implemented by the Eastern Caribbean Supreme Court headquarters.

The training workshops were conducted by Human Resource trainer Denise Collymore who covered such areas as Customer Relations, Inter-personal Relations, Stress and Time Management, Change Management, Team Building, among other issues. Participants of the workshops included administrative and support staff of the Magistrates Court, the Director of the Family Court, Clerks, Bailiffs and other workers in the court system.

The Human Resource Department also services the Judicial and Legal Services Commission which serves all the independent Member States.

INFORMATION TECHNOLOGY

JEMS

The end of the 2006-2007 Judicial year witnessed all JEMS Servers upgraded to JEMS version 5.0, March 2007-update-edition. JEMS continues to contribute immensely to the effective operations of the High Courts in the Sub-region. Most Magistrate's Courts have been connected to the JEMS Server; however, only The Magistrate's Court in Dominica continues to demonstrate the most advanced use of the software. Efforts by the ECSC to share Dominica's Magistrate Court success story with other Courts are being pursued. Nonetheless, it is to be noted that the Magistrate Courts in the other eight member states are awaiting further training sessions by the IT Department to fully implement the technology for Case Management in their Courts.

The court conducted its 5 day Annual JEMS-Users Workshop in Grenada, from 30th October to 3rd November 2006, which was sponsored by CIDA under the JLR Project . Over 30 JEMS users from government IT Departments and the Magistrate, Family and High Courts throughout the sub-region were in attendance. The workshop was geared at providing the participants with a significant level of application training in JEMS version 5.0., utilizing Hands-on and Train- the-trainer approaches, as well as providing JEMS support personnel with the necessary hands-on skills to effectively and

efficiently administer technical support to JEMS Users within their respective member states.

The training was carried out in two components, technical and application. The application component of the training was facilitated by Mr. David Stokes, from Professional computers software services in the USA. Mrs. Taylor Childress also from Professional Computer Software Services, USA facilitated the technical component of the training. Ms. Childress provides application support and training to existing customers, and also plans and organizes PCSS Users Conferences.

At the end of the training an evaluation revealed that the participants from both groups found the material to be well organized, the information to have met the training objectives, and the ideas and skills which were presented to be useful. The participants assessed the training as very professional, interesting and relevant.

ECSC Web Site/Server

The Court continues to place much effort on developing its website as its main communication tool. During the latter part of the 2006-2007 judicial year, the Court experienced problems with the search facility. The decision was taken to move the Web Server to a dedicated computer on the web hosting site and to experiment with

another search engine. Efforts at enhancing the search facility for Judgments will soon bear fruit when the Court implements a fully database driven search engine later in the 2007 - 2008 Judicial year.

As we endeavour to improve the court's website on a regular basis I encourage everyone to visit the website at www.eccourts.org. You will find it very informative.

E-Filing

By the end of the Judicial year 2006-2007 the E-Filing Project was making significant progress. The server has been installed and configured at the ECSC Headquarters and IT Staff have obtained training in the Administration of the Server . A demonstration of the E-filing software was carried out to the Clerks at the High Court in St. Lucia and comments on enhancements were made. The start date for the project had to be further postponed due to firewall issues at the court's headquarters. However, all efforts are being made to commence the project with a selected group of Attorneys by October 2007.

Work on initiating the Interactive Voice Response and Web Inquiry technologies moved up several notches this year as well. The Server for hosting both technologies is presently being configured by the

Software Vendor PCSS. Pilots are now scheduled to be conducted in Dominica and St. Lucia later in the 2007-2008 Judicial year.

INFORMATION SERVICES DEPARTMENT

The Information Services Department at the Court's Headquarters comprises the Library, Records Management Unit and the Statistics Unit.

The library continues to provide reference and research services of a high standard to the Justices of the Court as well as lawyers, research clerks and the general public.

In its effort to provide high quality and timely reference and research services and as part of the drive to forge links with all the official Law Libraries in the OECS, the Library, in conjunction with Libraries in the individual AGs' Chambers and the High Courts of the Member States, recently acquired subscription to the WestLaw Online services by Thomson Legal and Regulatory. Not all Member States have signed on, but we anticipate that everyone will be on board in the very near future. We are also exploring the possibility of gaining access to services of LexisNexis Butterworths.

The Library and the court's IT Department, in a combined effort have embarked on a project to post all the judgments of the Judicial Committee of the Privy Council on appeal from our Court on to the

Court's website. We have begun with judgments from 1996 to present.

The Librarian and the Library Assistant attended the Annual Caribbean Association of Law Librarians Conference convened in Saint Lucia. At the end of the session the Library was presented with over £2000 worth of books by LexisNexis Butterworths. This will greatly add to the Library's collection development program.

The Records Management Unit continues to support the Court's mission by ensuring that the right records are provided to the right person at the right time at the lowest possible cost. To this end work continues towards the implementation of a comprehensive records management program.

Last year it was reported that an off-site storage facility was procured to be used as the Court's Records Center. Due to the volume of records this facility quickly became too small to accommodate the records, so a new location had to be procured. This has greatly increased the Records Center's storage capacity. At present the Records Center is about 50% operational. I emphasize the value of proper storage and preservation of official archives, in particular records of the Court's activities.

One of the major exercises undertaken by the unit during the year was the organization of the Court of Appeal's inactive/dormant records. Records for the nine Member States were verified in the case management court software JEMS, sorted, listed, shelved and boxed for transfer to the Records Centre or, where appropriate, for destruction.

Currently approximately 70% of incoming correspondence and a large percentage of outgoing correspondence are in electronic format. Being mindful of the need to manage efficiently both physical and electronic records to facilitate an effective Records Management Program, preparation is being made for the establishment of an electronic records management program to ensure the proper management of the Court's electronic records.

The Statistics Unit continued with statistical research, statistical support and assistance to other departments of the organization. The Unit also continued with the compilation and update of databases for Member States which provided information during the review period. Statistical information was also compiled on a continuous basis for the Criminal Division Pilot project of St. Lucia.

In November 2006, the statistics Unit commenced initial work with the Administrative Judge on the Case Status Code initiative, using St. Lucia High Court as the pilot. The statistics Unit presented

information on Court Statistics at the Orientation exercise for new judges in July 2007.

Other agencies outside the ECSC also benefited from the assistance of the Statistics Unit. In December 2006, research support was provided for a consultant from the World Bank who conducted a comparative Case Study of the Eastern Caribbean Supreme Court. The Unit also assisted in the compilation of statistical data for the Caribbean Court of Justice. In July 2007 statistical support was also provided for the Halls of Justice Project, which arises out of a recognition that the physical infrastructure for the judicial services in the OECS, at the Supreme Court and Magistrates Court levels, is seriously outdated, wholly inadequate, and projects a very poor image of the concern of our countries for the administration of justice. There are clear indications that our several Governments recognize this severe deficiency, and some of them have initiated programmes and projects to address this issue. There are obviously issues of cost and competing priorities. Nevertheless, in each State tremendous amounts are expended on maintaining, extending or renting premises to house judicial establishments, in most cases without impacting to any significant extent on the quality or adequacy of the accommodation to meet the expanding demands.

In recognition of reality, we have embarked on devising a project proposal which we believe would enable the Governments to provide adequate and modern judicial buildings and facilities to meet current and future needs without increasing the burden on national budgets. Indeed we believe that our proposals may well result in savings on current levels of capital and recurrent expenditure on such facilities.

STATISTICS

The Statistics Unit continues to encounter challenges with the frequency and format of statistical information provided, or in some cases not provided, by some Member States despite the adoption of the Information Policy Document at the Annual Judicial Conference in August 2006. We re-emphasise the importance of statistical data as an essential tool for planning and decision-making .

JUDICIAL EDUCATION INSTITUTE

During the past law term, the Judicial Education Institute, the training arm of the Eastern Caribbean Supreme Court facilitated programs throughout many Member States of the OECS. These included;

1. Audio Recording Program for Judges and Staff of the High Courts and Magistrate's Courts of Dominica and St. Lucia from August 27th, 2006 to September 2nd, 2006;
2. 3rd Annual JEMS User Training Workshop from October 30th to November 3rd 2006, as mentioned earlier;
3. Orientation Program for Newly Appointed Staff to provide the participants with the necessary information on the operations of the court. The presenters were the Judges and managers of the headquarters.
4. Customer Service Training For Judicial Support Staff of the Magistrates Courts of Antigua and Grenada, also mentioned earlier;
5. Prosecutors Workshop

The JEI in collaboration with the Office of the Attorney General of Antigua hosted a Prosecutors Workshop at the City View Hotel in Antigua from May 1st -2nd, 2007. The participants of the training were from the Police, Office of the Director of Public Prosecutions and the Office of National Drug Control Policy (ONDCP).

The aim of the training session was to facilitate the merging of the Police Prosecuting Unit and the Office of the Director of Public Prosecutions in Antigua. The topics covered in the training included: *An Overview of the Crown Prosecution Service in St. Lucia, Initiating Criminal Proceedings and Committal Hearings, Evidential Elements of Specific Crimes, Pitfalls to be avoided by the prosecutors and Examination-in -chief and Cross Examination.*

The facilitators of the training were individuals from the Judiciary and the legal fraternity of Antigua and St. Lucia.

At the end of the training an evaluation was conducted which revealed that further training was necessary in the areas of Witness Statements, Confession Statements and Ethics of a Prosecutor.

6. Orientation Program for Bailiffs

The JEI hosted the first Orientation Program for Bailiffs in Grenada from May 18th -19th, 2007 at the Grenada Grand Beach Resort Conference and Convention Center.

A total of fifteen Bailiffs from Grenada attended the Orientation. The topics covered included; *Service of Documents in Civil and Family Matters, Levying Execution, Seizure and Sale of Property, Conflict Resolution, Report Writing and Record Keeping, and Non Combatant Techniques, Legal Framework for Bailiff Duties and Bailiffs in the Criminal Process.* The participants discussed a number of job welfare issues which require review including; the need for ID Cards, Traveling Allowances, Uniforms, Personal Security Issues and their perceived need to be armed, Wages /Remuneration and the Removal of the distinction between High Court and Magistrate Court Bailiffs which would allow for greater efficiency and flexibility through better utilization of limited resources.

The facilitators of the orientation included retired Bailiffs and legal practitioners.

Participants were very appreciative of the training and found it highly interactive and informative. It is expected the training manual will serve a very worthwhile purpose to the Bailiffs.

7. Orientation for Newly appointed Judicial Officers

The JEI hosted two orientation programs for newly appointed Judicial Officers, the first in April 2007 for newly appointed acting Court of Appeal Judges, and the second over a two day period in July

for Newly appointed High Court Judges and Masters. Also in attendance was Master Keith Roberts, a member of the Barbados Judiciary.

In both Orientation Programs the newly appointed Judges benefited from the experience of the presenters. The featured topics included, Judgment Writing, Judicial Ethics and Protocol, the Civil Procedure Rules, the Role of a Judge/Communication in the Courtroom, Role of Registrars and Court Offices, An Overview of the Reform Process, Court Office Statistics & Logistics, Case Management/Pre-Trial Review/Judicial Courtesies and Court Administration.

At the end of the training the participants expressed the finding that the program was extremely interesting and highly beneficial, setting them in good stead for their duties which lay ahead.

8. Justice for Children Seminar

The Judicial Education Institute (JEI) partnered with UNICEF, the Austrian Cooperation and the British High Commission to host a Justice for Children Seminar for Judges, Family Court Magistrates, Magistrates, Child Protection Officers, Probation Officers and Law Enforcement Officers of the Eastern Caribbean, Barbados and the Turks and Caicos Islands. The seminar was held in St. Lucia from July 26th - 28th, 2007 and brought together almost one hundred

participants to chart the course for the Caribbean region. This brought to the fore issues of justice for juveniles and served its purpose as it reliably placed into context the work proposed for the Family Division.

It was thought that the seminar was timely as the Eastern Caribbean lacks specifically designed legislation, accompanied by the implementation of supportive policies and protocols which facilitate comprehensive and uniform practices and procedures for ensuring the safety of children who have been abused and are otherwise victims and witnesses of crime. The archaic nature of our legislation was evidenced by the fact that children in need of care and protection are routinely incarcerated in a penal juvenile facility with individuals over the age of 16 years convicted of an offence punishable by imprisonment. While in custody there is also a curtailment of meaningful education programs for these young people, as well as a limited range of rehabilitative programs.

The participants of the seminar comprised youth Residents of the Boys Training Centre of St. Lucia, the judiciary, magistracy, police, probation and social worker representatives from the participating territories and regional and international partners from the Embassy of Austria and the High Commission of Britain, development agencies and the United Kingdom, the OECS, CARICOM, UNIFEM and UNICEF.

The facilitators of the seminar were; Ms. Anne Grandjean, Justice for Children Specialist, UNICEF New York, Mr. Jean Zermatten, Director International Institute for the Rights of the Child, Switzerland, Hon. Renate Winter, Judge, UN International Court of Sierra Leone, and Mrs. Hazel Thompson-Ahye, Senior Tutor, Eugene Dupuch Law School, Bahamas.

The Opening Ceremony included addresses by Mr. Kelvin Green, Resident British Commissioner, St. Lucia, Mr. Nils Dastberg, Regional Director, United Nations Children's Fund, The Americas and the Caribbean Regional Office, Panama, with the feature address by Senator Dr. the Hon. Nicholas Frederick, Attorney General of St. Lucia. A special presentation by the boys from the Boys Training Center brought tears to the eyes of the participants. The participants ended the first day with a treat of a welcome reception at the Official Residence of the Governor General Her Excellency Dame Pearlette Louisy, which from all reports was deeply appreciated.

The Seminar provided a forum for building a knowledge base on justice for children and developed consensus on a sub-regional action plan for a sustainable process of reform in the sector that is endorsed and promoted by the Heads of participating Member states.

It is expected that the resolution and plan of action for improving Justice for Children in the Eastern Caribbean will be used to:

- Serve as an advocacy tool to garner the necessary political and administrative will to revamp current national approaches to justice for children and promote the further inclusion of children's issues in ongoing national development strategies.
- Help guide countries in applying the justice for children approach
- Assist child-focused organizations in applying a justice for children approach in their work within the sub-region.

9. Annual Judicial Conference

This year's *Annual Judicial Conference* was held in the simply beautiful island of St. Lucia. This four day conference went from Monday 30th July to Thursday 3rd, August, 2007. This conference coincided with the annual Registrar's conference which lasted for 3 days and was held at the same venue.

The theme of the Judges Conference was "*CPR 2000 - A Critical Review*". The objective of the conference was to review the rules in order to propose recommendations for amendments.

The areas of the rules under review included:

- Rules relating to Initial Process
- Disposition of Cases other than by trial
- Practice Directions
- Rules Relating to Evidence
- Enforcement of Judgments
- Rules which relate to Appeals
- Costs

The participants of the Judges Conference included all the Judges of the ECSC and we were privileged to be joined by the Hon. Chief Justice of Jamaica, Zaila Mc Calla, Hon. Randall Worrell and Master Keith Roberts both from Barbados, and Mrs. Estelle Gray-Evans from the Bahamas.

Facilitators of the conference included Mr. Murray Shanks and Mr. David di Mambro. Mr. Murray Shanks who is no stranger to the ECSC presented on the rules relating to judgments in default. Mr. David di Mambro, a member of the United Kingdom Rules Review Commission gave an informative presentation on Practice Directions. He discussed the English position and suggested the situations where practice directions are required. Mr. di Mambro was able to provide the High Court of each member state, as well as the library of the headquarters with copies of the 2007 Green Books on the English Civil Procedure Rules compliments of Butterworths publishers.

The feature address for the opening ceremony was delivered by Senator the Hon. Dr. Nicholas Frederick, Attorney General of Saint Lucia. He asserted that the conference was very timely because it will provide an opportunity for the identification of rules which need to be re-examined periodically. He also stated the importance of the Registrars in the administration of justice and recognized the work load of our High Court Registrars bearing in mind the increase in the volume and complexity of litigation and the pressures that are placed on them. Dr. Frederick pledged his support to the Court in improving the conditions of the officers of the Court, which will make for an improved justice system.

A special presentation was made by the President of the OECS Bar Association, Ms. Nicole Sylvester discussing the areas of the rules which pose a particular problem to the various Bar Associations of the member states. Ms. Sylvester voiced the various issues concerning the CPR which, in the view of practitioners, require attention.

One of the highlights of the conference was a presentation made by Sir Dwight Venner, Governor, Eastern Caribbean Central Bank whose topic was *Justice, Law and Order, A prerequisite for Social and Economic Development in the OECS*. The address by Sir Dwight illustrated the importance of OECS integration if we are to improve our social and economic conditions especially taking into consideration our economies of scale. Mr. Dennis Darby also made an informative

presentation on the study which is being carried out towards integrating the Magistrate's Court into the structure of the Supreme Court.

The conference ended with reviews on Rules which relate to Appeals and Costs. The discussions relating to Costs were quite exhaustive with many recommendations being made. At the end of the day we engaged in an open evaluation session with all indications that the value of this year's conference exceeded that of last year. Though the agenda was quite packed the Judges felt it stimulated a great deal of critical discussion.

The theme for this year's Registrar's conference was *The Registrar - A New Perspective*. The aim of the conference was to examine the role of the Registrar with a view to better appreciating the potential judicial functions which they can exercise. The three main objectives of the conference were;

1. To critically examine relevant rules of the CPR 2000.
2. To examine the role of the Registrar with a view to better appreciating the potential judicial functions which they can exercise.
3. To appreciate the Registrar's role in the administration of the CPR 2000.

The Chief Registrar recognized the need to consider training for Registrars. It is hoped that the collaboration between the JEI and the

University of the West Indies in instituting summer training for Judges, Masters, Magistrates and Registrars, and other JEI initiatives, would address these issues.

The Registrars examined database management and the role of the Registrar in ensuring that the database is properly classified and maintained, default judgments, and the jurisdiction of the Master. The Registrars were also given the opportunity to hold a discussion session with Justice of Appeal, Hon. Hugh Rawlins and High Court Judge, Hon. Ianthea Leigertwood-Octave. This session gave the Registrars the opportunity to ask questions and get clarification on any administrative or legal concerns which they have.

The Registrars also had a critical look at the CPR 2000, in particular, Part 3, Court Documents, Part 44, Oral Examinations, Part 62, Part 52, Judgment Summons, Part 12 and 13, Default judgments. At the end of their deliberations the Registrars made recommendations for amendments to the rules. These recommendations will be forwarded to the Rules Committee for consideration.

The third day of the conference was a joint day of the Judges and Registrars. The objectives of the session were to identify areas which will permit Registrars to exercise judicial functions and to identify the administrative and legal problems which affect the work of the Registrars. During one of the sessions, the Registrars had the

opportunity to report to the Judges on the result of their deliberations, including recommendations of their two day conference. The conference concluded with each registrar giving brief presentations and a roundtable discussion on the status of the Registries in their islands.

At the end of the conference the evaluation session revealed satisfaction by the Registrars and Deputy Registrars on the proceedings of this year's conference.

MEDIATION

Since the introduction of Mediation in 2001 I am pleased to report that it has grown tremendously, although there is still much scope for further growth. All 9 member states are now conducting mediation. A total of 218 persons in the region have been trained by the Judicial Education Institute to conduct mediation. Out of that number 124 persons have been placed on the court's roster of mediators.

St. Lucia continues to show the highest rate of mediation referral although in the last year there has been a drop in the number of referrals in comparison to the previous years. Settlement rates are satisfactory, with most islands being over 50%.

Mediation Committees have been appointed in each island and with the exception of Dominica, a mediation coordinator serves the court in each territory. The entire mediation initiative is under the capable guidance of the Regional Mediation coordinator Mr. Francis Compton.

The regional mediation coordinator conducted one-day mediator refresher programs and meetings with the St. Vincent Bar association in November 2006, BVI in June 2007, Grenada in February 2007 and Dominica in April 2007.

The court, recognizing the fact that this is a relatively new program in many territories, has seen it necessary that adequate annual or biennial provision be made to facilitate workshops in an effort to encourage interaction of Mediators and Mediation coordinators.

Also of dire importance is the need to sensitize lawyers as to the importance of alternative dispute resolution options, in particular mediation, which since its inception has been able to resolve a high percentage of the matters which were referred. As the mediation program continues to be a positive force towards settlement it is important that it is continuously nurtured so that it continues to produce accelerated settlements.

Conclusion

I apologize for the length of this presentation, but perhaps it reflects the extent of the changing demands and dynamic responses of the Court in response to developments in our societies. The judicial environment, like the social and economic environment of our nations, is rapidly changing, and if we allow ourselves to be overtaken by events, the consequences will not only, or even primarily, be for our collective reputation as a vital organ of governance in our societies, but will impact severely on every other institution in the nations which we serve.

I thank you for your attention.