

**Address by the Hon. Sir David Simmons, K.A., B.C.H.,
Chief Justice, to a Special Sitting of the Supreme Court,
10 February 2006**

Re-Positioning the Administration of Justice

Introduction

On 30 September 2005, at the commencement of the Law Term 2005/2006, I explained that the administration of justice was in a state of transition in preparation for what I think will be an exciting future. I declined to be expansive in my remarks then but I promised to choose an occasion later in 2005 or early in 2006 to review the administration of justice and discuss its immediate future. I now feel ready to do that review and outline some of the initiatives to be taken in order to reposition the administration of justice in Barbados and make it more responsive to the contemporary local, regional and international environment and the needs of the public.

2. If I may place the initiatives in a historical context, you may recall that at a Special Sitting of the Supreme Court on 4 January 2002 to mark my assumption of office as Chief Justice, I identified 9 areas for reform. They included: a re-evaluation of the system of Assizes; an extension of the hours of business; providing opportunities for continuing education and training; re-organisation of the Registration Office; improving the functioning of the Judicial Council; improving relations between the Bench and the Bar; promoting

greater recognition of the magistracy and improving the quality of practice by issuing appropriate Practice Directions from time to time. Some of you may also recall that, at that Special Sitting, I had indicated that there were three initiatives undertaken in my former office which, if continued, would provide the overarching strategic infrastructure for modernisation of the administration of justice. Those 3 initiatives were:

- (1) The construction of a new Judicial Centre for which architectural drawings had been done and financing identified;
- (2) Enactment of new Rules of Civil Procedure for which purpose a draft of new Rules had been prepared by **Burchett J** of Australia;
- (3) The wide-scale introduction of contemporary technology across the justice sector through the Justice Improvement Programme (JIP). Financing of US\$12.5 million had been secured from the Inter-American Development Bank in August 2001 to assist in the modernisation of the justice sector as a whole.

Indeed the *raison d'être* for the initiatives and reforms was to ensure that the administration of justice functioned more efficiently, more speedily and more effectively in the interests of the public.

The Judicial Council

3. In the past 4 years significant progress has been made to accelerate the process of modernisation. Central to that progress has been the

Judicial Council of Barbados. The Council has carried out its statutory mandates conscientiously and with a sense of purpose. During the past 4 years all members of the Council were committed to the systematic and planned reform of the administration of justice. The three pre-eminent mandates of the Council under s.93(1) of the Supreme Court of Judicature Act, Cap.117A, are:

- (a) to be responsible for the administration of the courts;
- (b) to formulate policy in relation to all matters affecting the performance of the courts; and
- (c) to keep matters of jurisdiction and procedure under review.

Thus, the Council has an important strategic function to perform in relation to the administration of justice.

4. A record of the work of the Council may be found in the Annual Reports 2002, 2003 and 2004. They have been laid in Parliament and are available in the Law Library. The work of the Council has been greatly facilitated by government's annual subvention of \$250, 000 commencing in fiscal year 2003/2004. These funds have proved especially beneficial in providing continuing education and training for members of the judiciary, the magistracy and the legal profession.

Delay and Backlog

5. Since January 2002, the Council has tackled many of the problems which have bedevilled the administration of justice for years. First and foremost among those problems have been delay and backlog. I have been associated with the law for 46 years and the single most prominent complaint of the public, legislators and lawyers has been the great delay in having legal business completed with reasonable dispatch. Judicial officers are blamed; the lawyers are blamed; the Registration Office is blamed; the justice system itself is blamed. I will not seek to apportion blame but the truth is that there is and has been too much delay in having legal business completed. Delay makes the system inefficient and brings it into disrepute.

6. But inefficiency in the administration of justice is not unique to Barbados. All countries whose legal system is founded upon the common law have been obliged to acknowledge that, especially in litigation, the administration of justice has operated to the disadvantage of the litigant – the very person in whose interests the system exists and ought to function. In November 2004 **Henry Brooke LJ**, a senior Court of Appeal judge in England, delivered a lecture which he called '*Court Modernisation and the Crisis facing our Civil Courts*'. He said that much still needed to be done in England "to save our system of justice in the civil and family courts from falling apart." I suppose that many of you have made similar observations as regards Barbados.

7. I hope that by the end of this address you may be persuaded that we are entering an era of fundamental legal reform to ensure that the administration of justice does not fall apart but, on the contrary, begins to function more efficiently and effectively.

Judicial Personnel

8. I start with the matter of judicial personnel. In October 2002, I highlighted the increase in the volume of litigation in all the courts and called for additional judicial personnel. The government responded swiftly later that month and acknowledged the need for additional judges and magistrates. In April 2003 they created posts for one additional Court of Appeal judge and two High Court judges and two additional posts of magistrate. Today we are almost at full strength in the Supreme Court. The Court of Appeal is now fully constituted and there is only one vacancy in the High Court which I am told will be filled on 1 April 2006. When the Supreme Court is fully staffed with 13 judges, we shall be able to plan the organisation and distribution of the caseload in the courts far more efficiently than in the past.

9. In the context of additional judicial personnel, I welcome to the judiciary Madam Justice Kaye Goodridge, Mr. Justice Randall Worrell and Madam Justice Jacqueline Cornelius. I wish them enjoyable and successful careers on the Bench.

Madam Justice Goodridge has had a distinguished career in the judicial and legal service of Barbados. Most recently, of course, she was the Solicitor-General of Barbados. Speaking as one who practised before her when I was at the Bar, I wish to go on record as saying that she was one of the best magistrates in the last 30 years. I have every confidence that she will be an equally outstanding judge.

Mr. Justice Worrell brings to the High Court Bench vast experience in the practice of the criminal law. He had a large and successful practice and was an excellent advocate. His deep understanding of the criminal law and the experiences of the realities of practice together with his amiable personality, make Mr. Justice Worrell particularly well suited for judicial office at this time.

Madam Justice Cornelius has had an outstanding academic career as a Scholar at Cambridge and as a Lecturer at the Faculty of Law at the U.W.I. She, too, has had benefit of 17 years' practice as an attorney-at-law. She has taken an active interest in matters ancillary to the practice of law and was always willing to serve on committees or assist in promoting the work of the Bar Association and the Family Law Council. All these qualities and her wide experience will contribute handsomely to her judicial career.

10. The additional magisterial posts were filled at a recent meeting of the Judicial and Legal Service Commission. These additional magisterial appointments will enable us to begin the process of reducing the backlog of traffic cases in the District 'A' jurisdiction. I will deal with that problem later. But let me now explain how the additional judges will assist in the reduction of backlog and delay.

Applications in Chambers

11. Take applications made in Chambers. Over the years the number of these applications has grown relentlessly. This week 107 applications were listed for hearings in Chambers. Unusual stress is put on the judiciary, attorneys-at-law and the parties. The system becomes clogged because of an insufficiency of time to dispose of contested matters and the consequential build up of part-heard matters and adjourned hearings. Cases have to be given long adjourned dates. The result is delay and inefficiency. We should never forget that when we speak of 'cases' we are actually talking about people. As **Lord Irvine** once said: "*People whose lives are blighted by the strain of waiting for justice to be delivered.*" We cannot continue to use traditional approaches. Some creativity is called for.

12. Thus, with effect from 3 April 2006, by which time the High Court will be fully constituted, two courts will sit every day of the week, except on

Wednesdays, to hear family law matters and other applications in Chambers. All such applications will therefore be heard by two judges, sitting 4 days each week. In the meantime, and until 3 April 2006, one court will be dedicated to hear applications in Chambers on 4 days of a week. These courts will also hear approved urgent applications. In order to accommodate the increase in judges, temporary High Court facilities are being provided at Roebuck Street. The two courts at Roebuck Street are being designated High Courts Nos.8 and 9. In due course, the colour-coded forms which we currently use to assist in the management of Chambers will be amended with a view to promoting the better use of court time. When that becomes necessary, I will issue a new Practice Direction and new forms will be made available. The operation of the new system of Chambers will be kept under review to evaluate its impact on backlog and delay but I anticipate that by the end of July 2006, there will be smoother, speedier and more efficient disposal of business in Chambers. At the present time, it takes about 3 to 4 months before the average application in Chambers is heard. I am confident that when the new system of 2 judges hearing these applications is in place, the time between filing and hearing can be reduced to less than 6 weeks.

Abolition of Assizes

13. One of the reforms which I envisaged in January 2002 was the abolition of the system of Assizes. The Judicial Council has examined and

analysed that system. If we continue the traditional system of Assizes in 2006 we would have a total of 157 trial days. On the other hand, if we abolish the Assizes as we have come to know them and substitute different dates with a view to holding continuous criminal trials in the High Court we can actually have 207 trial days – 50 more than with the traditional system. The case for abolition of the Assizes is clear. Therefore, for 2006, the new trial dates for criminal cases in the High Court will be as follows:

3 January to 7 April

18 April to 31 July

18 September to 15 December

14. For the time being, we will continue to use two courts (Nos.3 and 4) for these trials. I have indicated to the Director of Public Prosecutions my wish to see his department work down the backlog of old cases and traversals in a timely manner. The 50 additional trial days should make a discernible impact on the backlog in criminal cases. I believe that it will be evident that the new arrangements for Chambers and continuous criminal trials will allow the other 4 judges of the High Court to hear more contested civil cases and bail applications.

Hours of Business

15. Another of the reforms which I also spoke about in January 2002 was an extension of the hours of business. I had anticipated that the new Judicial Centre would have been completed by 2004 or 2005 and I therefore

predicated my proposal for extended hours of sitting upon the construction of the Judicial Centre. I have been loath to require judges to work long hours in these dilapidated conditions here at Coleridge Street. However, we have discussed the matter fully in the Judicial Council and agreed that in the Supreme Court we shall try to hear cases between 9.30 a.m. and 3.30 p.m. even though some judges' Chambers, including those of the Chief Justice, have no satisfactory ventilation.

16. I also take this opportunity to seek to dispel the myth or perception that judges' work ends when they leave this compound or, as some say, judges do not work a whole day. These comments reveal a complete ignorance of the judicial function. Judges have to take home the files for the next day's business, read them, and research law in preparation for the next day. A large part of a judge's work must, necessarily, be done at home. None of the critics spares a moment's thought for the judges sitting in criminal trials. For long hours into the night they have to read transcripts of the ongoing proceedings, review the evidence, and prepare summations for the juries. You must take that from me as the truth, the whole truth and nothing but the truth. I am married to a former judge and it was quite disconcerting, when she was working in the Assizes, to find her missing from the matrimonial bed at 2.00 a.m. preparing a summation. But if you think that what I have just said is self-serving, perhaps

you may prefer the observation of an English Court of Appeal Judge, **Henry LJ**, as the gospel.

17. In the case ***Amado-Taylor v. R [2000] 2 Cr.App.R. 189***, **Henry LJ** discussed some of the responsibilities of a trial judge in a summation. *Inter alia*, he said that a judge must focus the attention of the jury on the issues he identifies and marshal and arrange the evidence issue by issue. He ended his advice with these words: "This is the judge's responsibility – *it involves work out of court...*" – p.191. Out-of-Court work is a reality of judicial office.

18. The myth or perception ignores the fact that Court of Appeal judges are expected in less than a week to read and study records of appeal, usually in excess of 100 pages and authorities. In any one week, he may have 3 records of that size. Judges hearing applications in Chambers have to read and study, on average, 30 files before the start of business. The burdens on magistrates are no less. They actually hear more cases than judges on a daily basis. But some of them, to my certain knowledge, work without even taking a break for lunch. Then, after work in court is finished, they have to perform administrative duties in addition to writing reasons for decisions on appeal.

The New Judicial Centre

19. Since I have mentioned the new Judicial Centre several times in this address, I think that I had better inform you that I have heard from the substantive Attorney General that construction of the Centre will begin very soon. In fact, on Wednesday, I learnt that the contractor had signed the contract and, yesterday, I actually saw workers preparing the site. That is the best news that any one in the law has heard for more than 50 years. But while we wait a little longer for the reality of new facilities, commonsense dictates that we should continue the process of reform, preparation and training simultaneously with the construction of the new Judicial Centre. The Judicial Centre, in my view, will be the most important component in the package of reforms to reposition the justice system and improve the delivery of legal services.

New Rules of Court

20. The second overarching strategic reform is to be brought about through a change in the rules of civil procedure. In 1986 the late **Sir Jack Jacob** wrote in his Hamlyn Lecture *'The Fabric of Civil Justice'*:

'What is needed today is a breath of fresh air blowing through the corridors of civil justice to demystify the process, to render it plain, simple and intelligible – to enable not only the experts in other disciplines but also the man in

the High Street to understand its operation and in this way to bring justice closer to the common people.'

21. That call for reform of the civil practice and procedure is as relevant to Barbados in 2006 as it was to England in 1986. Change came to England in 1999. It is my hope that change will come to Barbados in 2006. The sub-committee of the Rules Committee which worked on the draft of new Rules prepared by **Burchett J** has submitted the revised draft to the Chief Parliamentary Counsel for refinement. I expect that the clean draft will be camera-ready before the end of April 2006. At the next meeting of the Judicial Council, I intend to table a draft plan for implementation of the Rules which has been very kindly prepared for me by the Court Executive Administrator of the Caribbean Court of Justice, Mrs. Christie-Anne Morris-Alleyne. The plan will help us to approach implementation in a structured and organised way.

22. In the meantime, all members of the Bar Association were given copies of the draft Rules and I trust that you are familiarising yourselves with them. My wish is to have new Rules of Civil Procedure promulgated before the end of 2006. When that happens, there will be greater harmony in civil litigation practice throughout the region. The Eastern Caribbean Supreme Court, and the Supreme Courts of Jamaica, Trinidad and Tobago and Belize all have Rules similar to those being drafted for Barbados. Guyana is actively preparing to introduce new rules.

23. One major delay, however, has been the non-appointment of a Master of the High Court. But progress is being made to provide for an appointment. I have been consulted on the draft legislation making provision for the appointment of a Master and the Honourable Attorney General told me that the Bill will be placed on the Order Paper of the House of Assembly for next week's sitting. The Master's appointment is crucial to the enactment of the new Rules. The Master has to assist in the preparation of Forms, Protocols and Questionnaires. And, of course, the appointee has to be trained. Money for training was included in the budget of the Justice Improvement Programme for the current fiscal year. Unless an appointment is made quickly, those funds will lapse.

24. I have said many times in the past that the new Rules will bring about a radical change in the culture of practice. The change will be fundamental both for lawyers and litigants. The underlying philosophy of the new Rules is to vest control of the pace of litigation in the courts instead of allowing the parties and their attorneys-at-law to determine the conduct of litigation. In the new procedure, the case management conference will be pivotal to achieving the objectives of the Rules. The Judicial Council has agreed that it will undertake outreach and other programmes later this year to inform and educate the public about the operation of the new Rules of civil procedure. I have no doubt that the new Rules will be key to making the reformed civil

justice system work efficiently and the public, as court users, need to be informed of the ways in which the Rules will operate to their advantage.

Case Management and Case Flow Management

25. At the centre of the new civil procedure will be case management by the judiciary and the Master and case flow management by the Registration Office. In the Judicial Council we have developed a programme of systematic training for the judges, locally and overseas in case management. We intend to continue the programme until all of the High Court judges have been trained. In addition, specialised training for staff in the Registration Office has been identified. The Royal Institute for Public Administration trained two persons from the Registration Office in 2005 and, this year, two trainers from the Institute will be coming to Barbados to conduct training for 25 to 30 members of the Registry's staff. I also intend to accept the offer of the leading expert in case flow management in the region (Mrs. Morris-Alleyne) to provide training for staff in the Registration Office.

Information Technology

26. Case management, case flow management and the relevant specialised training are to be supported by the installation of relevant information technology. The officials of the Justice Improvement Programme have discussed with me the implementation of an Integrated Justice Information System (IJIS)

on a phased basis and the implementation of a Judicial Enforcement Management System (JEMS). The Courts and the Police will be included in Phase I of the IJIS. This phase is scheduled to be completed by 30 September 2006. The date for introduction of the JEMS is 31 October 2006. The JEMS is in use in Trinidad and Tobago, Jamaica and the OECS. It therefore makes sense to harmonise the technology across the Commonwealth Caribbean especially in light of the reality of the CARICOM Single Market. The JEMS technology allows for the efficient management of court cases and is capable of performing a multiplicity of functions including:

- ? data entry
- ? filing
- ? diarizing events
- ? collating statistical data
- ? performing wide-ranging search functions
- ? generating reports and forms
- ? information sharing with other agencies.

A study group was sent to Trinidad in October 2004 to observe the technology in operation and the members strongly recommended its introduction in Barbados.

27. The reforms to be fashioned by the new Rules cannot succeed without the support of modern and efficient information technology. But, as

some of you may be aware, last February we started a backlog reduction project at the Registration Office. The purpose of the project is to identify every case filed in the Registration Office since 1990, analyse its status and take action to get it moving within the system or out of it. The project has gone well and we shall restart it on 27 February 2006. It is absolutely crucial that we exclude from the system cases which ought not to be in it before technology is installed.

28. While I am on the matter of technology, let me also mention that 4 additional court reporters were recruited last month and the department of court reporting has been relocated to the Geddes Grant building on Whitepark Road. Since October 2000, judges in criminal trials have not been taking notes of evidence in their own handwriting. The entire proceedings are recorded and transcribed by computer-aided transcription. One of the projects that will be worked on during this year is the recording of proceedings by audio-digital technology. If our experimentation with this type of technology proves satisfactory, the government should consider its installation in the new Judicial Centre. Again, other courts in the region, such as the Eastern Caribbean Supreme Court and the Supreme Court of Trinidad and Tobago, are conducting trials with audio-digital technology.

The Registration Office

29. Between 1997 and 2003 various aspects of the work of the Registration Office have been computerized with notable benefits to the public. I refer to the vital statistics aspect of the Registration Office's work and the computerisation of the Probate Section. In August 2004, the Registration Office launched its customer service charter displaying the range of services provided by that department and the correlative maximum processing time for each service. We are constantly looking for ways in which to improve the functioning of the Registration Office but we are inevitably confronted by the twin problems of limited space and an insufficiency of staff. Hopefully, construction of the new Judicial Centre will ease the problems of space. Nevertheless, evaluation of the role and functioning of the Registration Office is ongoing. As some of you may know, Professor Albert Fiadjoe conducted a study on the Registration Office in 2003 and submitted his report to the Government on 15 April 2003. The report was examined by the Judicial Council in 2004 and our comments have been forwarded to the Attorney General.

Reform of the Procedure for Titling Land

30. In 2004 a Sub-Committee of the Judicial Council chaired by Mr. Justice Colin Williams examined the current procedure for obtaining title to land which had no title. The Committee prepared a report and proposed a new procedure. The relevant legislation is being refined by the Chief Parliamentary

Counsel and discussed with officers in the Land Registry and other interested persons. The purpose of the new legislation is to simplify the procedure for obtaining a marketable title to land while at the same time reducing the opportunities for obtaining land by fraud. The fictitious manner of initiating proceedings will be eliminated and a Registrar's conveyance will be replaced by a certificate of title having the same effect as a Registrar's conveyance under the present procedure.

The Magistracy

31. I shall now speak about the magistracy in some detail. The complement of magistrates is ten plus the Chief Magistrate. As from 1 March 2006, all the posts of magistrate will be filled. But with effect from 20 February 2006, the District 'D' magistrates court will be re-opened for business and another magistrate's court, District 'A' Special Court, will be operated at the site of the former Glendairy Prison. The District 'A' Special Court will conduct preliminary inquiries into charges arising out of incidents at Glendairy Prison on 29 March last year. It is necessary to have a dedicated court to conduct the preliminary inquiries into those charges because, if they were added to the cases in the ordinary lists at District 'A', the delays in completing them would be enormous.

Backlog in District 'A' Traffic Court

32. I am also making changes to accommodate the workload of the District 'A' Traffic Court. This court has an exceptionally heavy case load. But this was compounded by an increase of unmanageable proportions in 2004 when some 33, 000 cases were lodged in that jurisdiction as a result of the Police Force's 'Operation Road Maintenance'. Because there is only one clerical officer to write up the registers, stamp documents and do all of the clerical and administrative tasks that precede the issuance of summonses and appearance at court, there is now a huge backlog in the District 'A' Traffic Court. Additional clerical officers are urgently needed. A cost/benefit analysis will demonstrate that the advantages that will accrue to the justice system from such appointments to the justice system will far outweigh the expenditure associated with the appointment of additional clerical staff. I should also observe that it may be necessary to recruit a few more Marshals to serve the huge number of processes that will be generated in the District 'A' traffic jurisdiction. Next week I shall be writing to the Attorney General on these matters.

33. Nevertheless, while we wait for additional clerical assistance, we will start an attack on the problem at the District 'A' Traffic Court. In the re-assignment of Magistrates with effect from 20 February 2006, part of the traffic jurisdiction of District 'A' will go to District 'D' and part will go to District 'C' (sitting at St. Matthias). Those two courts and District 'A' itself should help us to

dispose of approximately 12, 000 cases per year. It may become necessary to use non-traditional strategies and mechanisms to further accelerate the disposition of the backlog of traffic cases. I intend to put to the Judicial Council the possibility of night courts presided over by willing members of the legal profession on a temporary basis to clear up the backlog. Nothing has as yet been discussed and I only mention it as a thought and a possibility. We have to seek creative solutions to the problem. We will have collectively to discuss all of the ramifications of such an experiment with relevant persons such as the Attorney General, the Commissioner of Police, the Department of Defence and Security and the Bar Council.

Appointments to the Magistracy

34. The recent appointments to the magistracy are largely consequential upon the departure of two magistrates on promotion elsewhere in the legal service. I take this opportunity to congratulate Ms. Marva Clarke and Ms. Heather Clarke on their promotions to the posts of Deputy Solicitor-General and Acting Registrar of Corporate Affairs and Intellectual Property respectively. They were both excellent Magistrates and I wish them continued success in their careers. I also welcome to the magistracy Messrs. Christopher Birch and Douglas Frederick who will assume duties on 20 February 2006 and Mr. Ian Weekes who will replace Ms. Heather Clarke at Hometown from 1 March 2006. I wish them well in their new careers. I also include in these

congratulatory remarks, Ms. Michelle Weekes, who has acted as a magistrate in the past but who was permanently appointed on 1 January 2006. She has replaced Ms. Marva Clarke at Oistins.

The Position of Chief Magistrate

35. There is one long-standing and continuing problem which has adversely affected the efficient functioning of the magistracy for years. I refer to the position of Chief Magistrate. This post is at the S5:S4 grade. But after 5 years' service, a magistrate will also be eligible for promotion to the same scale. So, in reality, you can have the Chief Magistrate and 4 or 5 other magistrates on the same level. In fact, at the end of last year, 4 magistrates were at the same grade as the Chief Magistrate. The designation 'Chief Magistrate' is therefore of little practical consequence in reality. There is another problem. The magistracy is the only department in the judicial and legal service where there is no hierarchical structure or differential grades providing for, say, Senior Magistrates and a Deputy Chief Magistrate as is the case in other Caribbean jurisdictions. In fact, other departments in the Barbados legal service have a hierarchy of officers – for example, the Office of the Director of Public Prosecutions and the Department of Parliamentary Counsel. The Judicial and Legal Service Commission has made certain representations to address the anomalies in the magistracy and I hope that they will be given favourable consideration by the Ministry of the Civil

Service. If they are, then an important advance will have been made to enhance the status of the magistracy, provide career mobility and improve morale.

36. In the light of the new appointments which I mentioned earlier and with a view to reducing the backlog of traffic cases at District 'A', I have decided to re-assign some of the magistrates to different jurisdictions from those where they presently sit. Therefore, with effect from 20 February 2006 the following re-assignments will be made.

1. Ms. Deborah Holder - District 'A' Special Court (Glendairy)
2. Mr. Christopher Birch - District 'A' Traffic Court (Bridgetown)
3. Mrs. Barbara Cooke-Alleyne - District 'A' Civil Court (St. Matthias)
4. Mrs. Faith Marshall-Harris - District 'A' Domestic and Juvenile jurisdictions in addition to the duties of Island-wide Coroner (Roebuck Street)
5. Mr. Robert Simmons - District 'B' (Boarded Hall) and District 'F' (Horse Hill)
6. Mr. Valton Bend - District 'C' and part of District 'A' Traffic (St. Matthias)
7. Mr. Douglas Frederick - District 'D', District 'F' (Belleplaine) and part of District 'A' (Traffic)

With effect from 1 March 2006 Mr. Ian Weekes will be the Magistrate assigned to District 'E' jurisdictions.

Fees

37. The increase in the number of judges and magistrates was conditional upon an increase in the fees for the services provided by the Registration Office. These services include the fees payable in the Magistrates' Courts, the Supreme Court and the Records Section of the Registration Office. The fees for the various services have not changed for 24 years, yet the administrative costs of providing those services have increased by over 200%. In addition, the computerisation of aspects of the work of the Registration Office between 1997 and 2004 to improve the efficiency in the delivery of services to the public cost \$3.7 million.

38. No one should complain if fees payable to the Registration Office and the magistrates' courts are increased. Some years ago the Rules Committee approved increases for services across the whole range of activities performed by the Registration Office. Under the law, the approval of the Ministry of Finance must be sought before an increase in fees is legislated. I understand that the Ministry of Finance and the Cabinet have agreed to the increases in fees and, in fact, the Registrar and some of her senior officers are currently checking the draft legislation. It is therefore safe to say that sometime this year the Rules Committee will cause new fees to go into effect. The Bar will be informed of the date in good time.

Continuing Education and Training

39. I now wish to make some comments about continuing education and training for the Bench and the Bar. There was a time, about 25 years ago, when it was considered anathema that judicial officers should undergo training to better equip them for office. All that has now changed throughout the world. Across the Commonwealth, judges are required and expected to attend training courses to inculcate best practices and ensure their competence to deal with the dynamics of the law. In England since 1979, the Judicial Studies Board provides on-going, all year training for judges. So too in Canada and Australia; there are highly organised and developed training courses for the judiciary. Closer to home, Jamaica has a training institute; the OECS has continuous training programmes and Trinidad and Tobago has a judicial education institute providing training programmes for judicial officers and their support staff. It is funded to the tune of \$3 million annually.

40. In Barbados we do not have a formal, institutionalised approach to continuing judicial education but, as the annual reports of the Judicial Council will show, we have accelerated the pace and range of continuing legal education since 2002 albeit in a less formal way than some of our regional counterparts. Yet, I am disappointed to hear that the utility of such education and training has been questioned and doubted. Such attitudes are reactionary and betray a complete lack of understanding of the requirements of a modern judiciary. For

the avoidance of doubt, I think it best to ground the case for continuing education and training of the judiciary in advice from outside Barbados. In 1995 Commonwealth Heads of Government adopted an action programme known as *'The Millbrook Commonwealth Action Programme'* and one of the programme's commitments was "strengthening the rule of law and promoting the independence of the judiciary through the promotion of exchanges among, and training of the judiciary." Further, in the ***Latimer House Guidelines*** of 19 June 1998, the following words appear under the rubric 'Training'.

"A culture of judicial education should be developed. Training should be organised, systematic and ongoing and under the control of an adequately funded judicial body."

41. As I indicated earlier, the annual government subvention to the Judicial Council has been invaluable in enabling our judiciary and magistracy to be exposed to opportunities for continuing education and training. I should say, also, that the Justice Improvement Programme has been particularly responsive and helpful in providing assistance for the training of the judiciary. So far as the Bar is concerned, I wish to see a greater effort made by the Bar Association to structure and carry out its own programmes of continuing education. In some countries, in order to practise, lawyers must attend a prescribed number of courses, not for the purpose of examination, but for the purpose of ensuring that they are at the cutting edge of the latest information that is relevant to the

practice of law. The Bar Association should become a recognised NGO. This would enable it to access funding for training and development.

42. The inauguration of the CARICOM Single Market means that there will be free trade in legal services and free movement of lawyers across the region. Competition will be an inescapable consequence of the free trade in services. It must necessarily be a counsel of prudence that attorneys-at-law registered to practise in Barbados prepare themselves in the best manner possible to meet the challenges and opportunities that will eventuate in the changing environment. In a word, the Bar too, must embrace a culture of continuing education and training for its members to lift the standards of practice. In that regard, I can inform members of the Bar that the Judicial Council will be sponsoring the Jack Dear Memorial Lectures once again this year in conjunction with the Faculty of Law of the U.W.I.

Visit of Middle Templars

43. I can also report that I have been having correspondence with the Under Treasurer of Middle Temple with a view to providing training in aspects of advocacy for the local Bar. A number of English judges, 'Silks' and junior barristers of Middle Temple will be holidaying in Barbados during the week 17 to 24 April 2006. They have generously offered to provide lectures, free of cost, to members of the Bar. I have requested members of the Bar to indicate their

interest in attending the lectures and I am greatly heartened by the response. I am looking forward to the lectures with keen interest and I trust that the Bar Association will now feel itself emboldened to start to develop other programmes of training for its members.

Alternative Dispute Resolution

44. During the next financial year the Justice Improvement Programme will be funding a project to deliver alternative dispute resolution (ADR) processes for Barbados. ADR will be a crucial component in the new environment of civil litigation to be ushered in by the new Rules of civil procedure. There will be 4 components in the ADR project:

- (i) preparation of draft legislation to underpin the process;
- (ii) training for the judiciary and the Bar;
- (iii) training for members of the local ADR Association to a level of certification and accreditation; and
- (iv) public outreach programmes.

Judicial Assistants

45. In the last year, through the Justice Improvement Programme, the judiciary were fortunate to have four judicial assistants to provide support services for them. Advertisements will soon be run for another 4 persons to

assist us in the next financial year. The judicial assistants were particularly useful in helping the judges to speed up their delivery of decisions. To give you an example of the kind of productivity to which the judicial assistants undoubtedly contributed, I will mention some statistical information concerning the Court of Appeal in 2005. Apart from hearing 72 applications in Chambers, Court of Appeal judges heard 53 appeals but gave 71 decisions. Those 71 decisions included decisions outstanding from previous years. On behalf of the judges, I thank the four judicial assistants most sincerely for their service. I shall try to persuade the government to have the posts of judicial assistants as a permanent feature of the civil establishment untied to the Justice Improvement Programme.

Barbados Law Reports and Judgments on the Internet

46. Publication of the Barbados Law Reports has fallen behind for a variety of reasons. However, the good news is that Senator Velma Newton has been able to assemble a team of assistants and she hopes to be in a position to publish 8 volumes by September 2006. To facilitate the process of updating the Reports, the Attorney General has promised to include funds in the government's Estimates of Expenditure for fiscal year 2006/2007. To those of you who access the judgments of the Supreme Court at www.lawcourts.gov.bb, I must apologise for a period of inactivity last year. The Data Processing Unit ran out of space on the Internet. However, they have advised me that additional space has been

bought and steps are being taken to have the information brought up to date. The reach of contemporary technology is so extensive that a website in Australia now carries the judgments of the Barbados Supreme Court. The website was activated last September during the Commonwealth Law Conference in England. The website is <http://www.commonlii.org>.

Code of Judicial Conduct

47. You will have observed that we now have a relatively young High Court Bench. The elders among us are on the Court of Appeal. I think it is therefore timely and appropriate that all judges be made conversant with the essential canons and ethics of judicial conduct in permanent form. A code of judicial conduct has been drafted and approved by the judges and magistrates. I have sent it to the Bar Association for its comments. Subject to any substantial comments from the Bar, I hope to be in a position to publish the code by April 2006.

Adjournments

48. None of the reforms taking place in respect of litigation will yield the desired benefits for the public unless there is an attitudinal change to the matter of adjournments. Adjournments obviously retard the progress of a case and contribute to delay and backlog. I am appealing to all judicial officers (including magistrates) to take a less generous approach to requests for

adjournments than hitherto. At the same time I am also appealing to members of the Bar to so organise their practices and their approach to litigation as to reduce the incidence of requests for adjournments. The new Rules of Court will contain provisions for 'wasted costs orders' but, pending the enactment of those orders, the Bench and Bar can usefully prepare for the new culture by adopting a different attitude to requests for adjournments. After all, the courts exist to serve the interests of the public. And litigants, as consumers of legal services, are entitled to expect and receive prompt attention to their business from the courts and those of us who deliver those services.

Commercial Court and Family Court

49. I turn now to speak about two initiatives which the Honourable Attorney General has discussed with the Judicial Council. We have been told that the Government wishes to see the establishment of a Commercial Court and a Family Court. I expect that the Family Law Council will prepare a paper for further discussion in respect of the proposed Family Court. So far as a Commercial Court is concerned, discussions are on-going with the Attorney General. As presently advised, it is not intended that any one judge will be designated as Judge of the Commercial Court. The rotation of a variety of work among all judges in a jurisdiction as small as ours is preferable to confining one judge exclusively to a particular type of litigation. However, the overriding objective of the Commercial Court is that business properly characterised as

'commercial' will be assigned to a judge on the understanding that it is completed swiftly. The ultimate objective of a Commercial Court is that it will add value to Barbados' promotion of itself as a services economy. When the final decisions on a Commercial Court and Family Court are made, the Bar will be informed.

Conclusion

50. During this address, I have discussed a number of important reforms and initiatives which are directly relevant to the administration of justice. I hope that it is evident that serious efforts have been made and are being made to modernize the administration of justice. During this year, some of the reforms and initiatives will come into effect; others will come into effect next year. There will be teething problems along the road to the implementation of the reforms but I ask that patience and understanding be exercised. Most of all, however, I ask for the continued co-operation of the Bar in all that we are doing. The Judicial Council, with the assistance of the Government, is re-positioning the administration of justice on a new and progressive path.

51. Against all the odds of working in an antiquated and unsatisfactory environment and, without all of the advantages of modern technology, the judiciary and the magistracy have continued to dispense justice according to their oaths of office and with a commitment to serving the public interest better.