A Travesty Of Justice:

The Case

Of

The Grenada 17

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Affidavit Of The Former Attorney General Of The United States, Mr. Ramsey Clark, re The Grenada 17 "Trial"

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DR. RICHARD JOHN GIBSON,

Plaintiff,

-vs-

CENTRAL INTELLIGENCE AGENCY,
NATIONAL SECURITY AGENCY, and
DEFENSE INTELLIGENCE AGENCY,

Defendants.

AFFIDAVIT OF RAMSEY CLARK

Ramsey Clark hereby deposes and states as follows:

1. I am a citizen and resident of New York competent to testify in its courts. If called as a witness, I could testify as to the facts contained in this affidavit upon my own personal knowledge.

2. In 1967, President Lyndon Johnson appointed me as Attorney General of the United States. I served in that capacity until President Johnson left office in January 1969.

3. After I left the office of Attorney General, I have continued to practice law throughout the United States and the world. I have the privilege of representing many persons accused of political crimes in numerous countries throughout the world.

4. Among the persons I have represented are the 17 prisoners now confined in Richmond Hill Prison on the island of Grenada. I represented those defendants, including in particular Bernard and Phyllis Coard beginning shortly after their conviction, until the current date. In the course of my representation, I learned many disturbing facts about the prosecution, conviction, and sentencing of these defendants, which are related below.

5. These 17 defendants are the surviving political leadership of the New Jewel Movement, which had ruled Grenada under Prime Minister Maurice Bishop from 1979 until the U.S. invasion in October 1983.

6. When the United States invaded Grenada, it claimed as one of its justifications the assassination of Maurice Bishop and the murder of a number of persons who were present with him. It accused Bernard and Phyllis Coard, Hudson Austin, and the 14 other surviving leaders of the New Jewel Movement of perpetrating this act.

7. In the wake of the invasion, the United States Army and other government agencies interrogated a number of witnesses and seized virtually all of the documentary evidence. Most of this material was never made available to counsel for the defense.

8. In 1985-1987, what was called a trial was held for the 17 surviving leaders.

9. This trial was held by a group of attorneys and judges appointed and paid for by the United States. It was not presided over by any constitutional court or other tribunal of the island of Grenada.

10. As the Reagan administration was deeply committed to the invasion of Grenada, and as the conviction of these 17 defendants was central to its rationale for that invasion, the picking of judges by the occupying power was a very serious violation of commonly accepted notions of due process of law.

11. The jury in the case was chosen under the most inflammatory circumstances imaginable by a person appointed by the prosecution after the illegal removal of the registrar, who was normally charged with this duty. The jury was picked with no effort to probe for prejudice and no defendant or defense counsel present.

12. Motions to ensure a proper and fair jury were not heard until the trial court was ordered to do so for the third time nearly three years after the convictions.

13. During the course of the "trial", the prosecution presented its evidence without the defendants or defense counsel present and without cross-examination.

14. During the course of the trial, all but one of the defense counsel fled the country due to reported death threats.

15. Despite these incredible procedures, from my review of the record, there was no credible evidence that the members of the Central Committee of the New Jewel Movement ever ordered or even had the opportunity to order the murders of which they were found guilty.

16. The 17 defendants barely escaped execution after gallows had been erected, graves dug, burial clothes fitted, and a hangman from a neighbouring island had arrived. Only a storm of international protest ranging from Mother Theresa to 50 members of the United States Congress forced the Advisory Committee for the Prerogative of Mercy to grant a commutation to these prisoners.

17. I have visited the prisoners in Richmond Hill Prison just outside the capitol of Saint George's on numerous occasions.

18. I know from my own personal knowledge that the sole female prisoner, Phyllis Coard, was segregated from all other non-political prisoners and from the remaining 16 defendants for many years. Her mental health has deteriorated seriously and from conversations with her psychiatrist and doctors, I am advised that she has no hope of recovering her mental health and sanity unless she is released from prison.

19. With regard to all of the 17 prisoners, their continued confinement in Richmond Hill Prison remains a central issue of politics and life in Grenada.

20. I have met with and discussed the case of the Grenada 17 with Dr. Richard Gibson on several occasions.

21. While I had no involvement in his request under the Freedom of Information Act, I concur in his belief that the need for the documents and other evidence seized by the United States authorities regarding the assassination of Maurice Bishop and the trial of the 17 Grenadian leaders is urgent both as a matter of human decency and as a matter of political and legal rights.

22. On behalf of the defendants, I have pending a petition at the Inter-American Human Rights Commission. In addition, newly discovered evidence could be used for a motion to reopen Prerogative for Mercy.

23. We have searched every other location for evidence. Any information which could be gleaned from documents produced by the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency could be of extreme importance in any of these forums where relief is still possible.

Sworn to and subscribed to under the pains and penalties of perjury this 21st day of October 1997.

_____

Ramsey Clark

Note: *The above affidavit was sworn to and filed in Federal Court in Michigan, USA, and formed part of the evidence leading to the court's order to release secret United States government documents on the case of the Grenada 17.*

2

FACT SHEET ON THE CASE OF THE GRENADA 17

DO YOU KNOW:

1. That the Seventeen Political Prisoners did **NOT** receive **a free and fair trial**? In civilised societies/countries that are based on the principles of natural justice, a person is innocent until proven guilty **beyond reasonable doubt, in an impartial** court of law. Section 8 of Grenada's constitution (the highest law) entitles every citizen to a fair hearing?

2. That after the **Registrar** of the Grenada High Court, Mr Christian "Brim" St. Louis had selected a panel of Jurors from which the 12-member Jury was to be chosen for their trial, he was **fired and, within 24 hours, immediately replaced by** a person (Ms Denise Campbell) who, the day before, was **a member of the team of PROSECUTION lawyers** for the case?

   And that the Judge **dismissed the Jury Panel selected by Mr St. Louis**?

   And that Ms Campbell then **chose her own Jury Panel**? How can **someone** who is **PAID TO PROSECUTE YOU**, **CHOOSE THE JURY TO TRY YOU?!** Can that be **FAIR**?

3. That in open court on 11 April 1986, the new Panel of Jurors selected by Ms Campbell shouted at the 17 Political Prisoners "you are murderers and criminals!"?
   And the Judge chose the final 12-member Jury from those same persons who had convicted the Political Prisoners (by calling them "murderers") before they had heard one word of evidence? Can this be fair? **Is it therefore surprising that this same Jury brought them "guilty"**?

4. And that **one week AFTER THE 'TRIAL' of The 17 ENDED on 4 December 1986, MR CHRISTIAN ST. LOUIS WAS REAPPOINTED AS HIGH COURT REGISTRAR!?** Isn't it clear that he was ONLY REMOVED FOR THE 'TRIAL' OF THE 17 **so that the Prosecution could choose the Jury they wanted?** Is that FAIRNESS?

5. That **Documents** (seized by the US military forces in 1983) which could prove that the testimony of several prosecution witnesses were false, and thus prove the innocence of some of The 17, **were denied to them**? Is that fairness?

6. That **these and scores of other irregularities** took place at their 'trial' causing the International Commission of Jurists, members of the US Congress, Members of the British and European Parliaments, Human Rights, Church, Trade Union and many other organisations and individuals in the world (like former US Attorney General Ramsey Clarke) to describe their 'trial' as a "travesty of justice" and a "Kangaroo Trial"?

7. That the Prime Ministers of the Eastern Caribbean States (OECS) who had participated with the Reagan Administration of the US in the Invasion of Grenada met and decided and communicated in the form of **a formal letter from then Prime Minister John Compton of St. Lucia, then head of the OECS Authority, to then Prime Minister H. A. Blaize of Grenada, on March 22, 1988** that the OECS Prime Ministers had decided to withhold the return of the OECS Court to Grenada (the

Court of the Grenada Constitution) until the "Maurice Bishop Murder Case" (and that case specifically so named – the case of the Grenada 17) had been disposed of?

8. That the reason stated in the Compton letter is wholly unacceptable and dangerous, and highlights this case as having been singled out consciously by the then leading politicians of the OECS for special treatment? It is further open to the suggestion that only an unconstitutional court of no permanence and whose judges had no security of tenure could have, in those politicians' view, dealt with this particular case. This view is reinforced by the subsequent passage of the law referred to in #11 below. The effect of all these political machinations by those in power at the time was to prevent The 17 access to the highest court under the Grenada Constitution – the Privy Council. This is a clear and unmitigated case of denial of due process.

9. That the Appeal Court Judges were EACH PAID $1 MILLION DOLLARS to deliver a **written judgement** (as is required by Law) FOR ONE CASE ALONE (the Case of The 17)? Something that had never before happened in Grenada's history and since? Does this sound right?

10. That the Appeal Court, however, gave a VERBAL RULING (instead of the promised written one), in July 1991, upholding the 'murder convictions'?

11. That immediately after the Appeal Court's verbal ruling, clauses in a **special law** (Act #19 of 1991) were passed by the then Government in July 1991 **to prevent The 17 from taking their case to the highest court in Grenada, the Privy Council**. Is that fair? Was the Government afraid that their 'convictions' would be quashed because there was in fact **no evidence to convict them** and that they did not get a fair trial? Would the Government have passed these **special discriminatory clauses in the law against The 17 if they were sure they really had a case against them?**

12. That today – NEARLY ELEVEN (11) YEARS AFTER THE APPEAL COURT JUDGES (headed by Sir Frederick Smith of Barbados) GAVE THEIR VERBAL RULING upholding the 'murder' 'convictions', and after the Govt. paid them $1 million dollars each – they have continued to refuse to hand over to The 17 and their lawyers the **Written Judgement in their case**, **as is required by Law**? No one has ever seen the judgement. Have they destroyed it, knowing that it CANNOT stand the scrutiny of a higher and impartial court?
13. That **NINE (9) different laws were passed** by the Grenada Governments **PRINCIPALLY for the 17's case**? For example, there were 3 Jury laws passed for their case.

14. That the **sole material evidence against nine (9) of The 17** (i.e. the **Leaders of the ruling party of the Grenada Revolution**) in the 'trial' is that one witness (Cletus St. Paul) **saw them huddled together in an open yard, talking and nodding their heads –** even though he admitted he could not hear what they were saying?

15. That this same Prosecution witness gave **five (5) different statements about what he claimed he saw** (3 different statements to the foreign (Barbadian) police, one at the Magistrate's Court and the other at the 'trial'), and this caused the late former President of the Appeal Court (respected Guyanese and Caribbean Jurist Goff Haynes) to summon St. Paul (and, also, another Prosecution witness) to the Appeal Court hearings to be questioned because he (Justice Haynes) could not believe that the same person had given these **5 different statements**)? But before this could be done, Justice Haynes died. It should be noted that, despite the vigorous and continued protest of the defendants that that evidence was a fabrication from A to Z, **none of these statements were made available to the defendants prior to the trial or since**; and that their existence only came to light

when Justice Haynes commented on them. And since his death the matter was swept under the carpet. **All of a sudden the other Appeal Court Judges, led by Sir Frederick Smith of Barbados, refused to call the witness**. Doesn't something seem wrong here? Isn't something smelling? Is that fairness?

16. That virtually all of The 17, including Mrs Phyllis Coard, the lone female, were **tortured by the US- led invasion forces; specifically, a specially selected team of Barbadian police?** And that some of the **foreign soldiers guarding the 17 were horrified by this** and protested to their superiors but were overruled at very high levels?

17. That **the US government** while claiming in a formal statement to the Organisation of American States' Human Rights Commission that **it had not been involved in the tortures admitted that its agents – to wit, the US Military – had denied (despite repeated requests) all of the 17 access to legal counsel for the first six weeks that they had been detained and held as Prisoners of War and then 'Political Detainees' by the US occupation forces?**

18. That all those tortured during that six week period were **made to sign 'confessions'** dictated by the invasion force; 'confessions' later used in their 'trial' against them?

19. That The 17 have spent **more than 18 years in prison** — the equivalent of **a prison term of over 27 years** — which is longer than the normal definition of a 'life sentence' in many countries? For many of them that represents the majority of their adult lives.
20. That **10 of the 17** Political Prisoners put their lives at risk and **directly participated in the making of the Grenada Revolution on March 13, 1979**?

21. That The 17 **have made much sacrifice for the development of Grenada**? That the NIS, MNIB, International Airport, NISTEP, CPE, NCB, GBC, NTS, House Repair Programme, Agro Industries (and other programmes of the Revolution), and the scores of poor people's children who are today qualified as doctors, engineers and in other professional areas, and who are seriously contributing to the country, are also part of the serious contributions of The 17 to Grenada's Development? Several of them selflessly gave up their young lives, sacrificing opportunities that were available to them for personal development, so as to make a contribution to Grenada.

22. That The 17 have **publicly acknowledged that they made mistakes**, and have **publicly apologised** to the people of Grenada, and to all those who were hurt as a result of their errors/mistakes? [See the Open Letter in ***The Grenadian Voice*** newspaper of February 8, 1997, front page and several inside pages, and Televised Interview with Leslie Pierre, October, 1999.]

23. That Grenadians who are hostile to them are **still saying that they don't know what really happened** on Oct 19, 1983 and are <u>calling for a Commission of Inquiry</u> into the events? <u>If The 17 received a fair trial</u>**, shouldn't that 'trial' – IF IT WERE FAIR – have revealed what had happened?**

OURS IS A CHRISTIAN SOCIETY.
IT'S TIME TO FORGIVE,
HEAL THE WOUNDS AND
PUT THE PAST BEHIND US.

3

A Travesty Of Justice:

How 10 NJM Leaders

Of The Grenada Revolution

Were Convicted By One Lie

* We of the Grenada 17 and our supporters have been saying for 8 years now that the legal process which we were put through was unfair.

* We want to make it abundantly clear that our complaint is not just about legal niceties. It is a fundamental complaint, in that we are saying that the verdicts returned against us at the trial and upheld on appeal were bad in law. That is why we say with all the conviction we can muster that justice according to law demands that we be freed. This is an entirely different issue from that of political and moral responsibility for the events, including the October 19th tragedy which we have publicly and unequivocally accepted.

* This article focuses on the case against the former leaders of the NJM, collectively described as the NJM Central committee. It is not motivated by any feelings of anger or recrimination or any desire to hit back; we have long passed that stage. The article is an effort to address and lay bare a critical aspect of the legal process, the significance of which has been buried under a mountain of propaganda.

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The entire analysis which follows is based on the case presented by the prosecution; on evidence from prosecution witnesses.

* It would be recalled that the Grenada 17 refused to recognise the court or participate in the trial except to make indicative defence statements from the dock. There was therefore no cross-examination of the prosecution witnesses nor were there any witnesses for the defence. In other words, basically only one side of the story was presented. Yet it would be established herein that even on the basis of this one side of the story if the case was fairly put to an impartial jury there could have been no convictions.

Evidence of Cletus St. Paul: It's Importance

* At the trial the prosecution relied on the evidence of Cletus St. Paul to convict all those who were executive members of the NJM and hence leaders of the Revolution. His was the sole evidence against the leaders. This was made clear by the trial judge when he was explaining to the jury the importance of St. Paul's evidence. Without his evidence there could have been no convictions. Therefore, if his evidence is bad then the convictions are by that very fact bad.

* Cletus St. Paul was the former chief bodyguard of PM Bishop. He was arrested on October 12th 1983, according to him on the orders of the NJM CC. He was locked up at Camp Fedon in Calivigny from October 12th 1983 to October 19th 1983.

J. O. F Haynes and St. Paul's Evidence

* It should be noted that at the outset of the appeal then President of the Court of Appeal J. O. F. Haynes made it clear that he considered the convictions of the NJM leaders suspect because to him St. Paul's evidence lacked credibility.

* Justice Haynes also expressed his grave misgivings at the fact that St. Paul had given five (5) different Statements: three (3) to the police; one at the preliminary inquiry; and his testimony at the trial. He could not understand how the same person could give such different statements.

* On account of his concern Justice Haynes ruled that he was going to call Cletus St. Paul before the court so that he could question him himself.

* However, Justice Haynes died suddenly before he could question St. Paul. A new Court of Appeal was constituted. The decision to call St. Paul was shelved. The police statements of St. Paul have never been provided to the defence. And of course, all the convictions were upheld.

Untruth

* The untruthfulness of the evidence of Cletus St. Paul is demonstrated by the fact of its inconsistency with that given by all other prosecution witnesses.

* At the end of this document are two tables which address the critical issue of time.
* Table One shows the time which some of the critical events took place. The final column to the right shows the time elapse or time gap between the various events. Table Two which follows is an expanded version of Table One and explains the movements of Cletus St. Paul on October 19th.

* What emerged from the trial was a remarkable level of consistency between witnesses at different locations with regard to time. One witness was located at Old Fort; another one was located at the Mental Hospital near to Fort Frederick; another was at the Fire Station on the Carenage; yet another was at Richmond Hill Prison. Some were part of the crowd which went to Mt. Wheldale. And some were on Fort Rupert.

* ***All the key witnesses on this issue except one, (Cletus St. Paul) based on the time they gave and the activities they described, were agreed that at least 2 hours elapsed between the time Fort Rupert was over taken by the civilian crowd and the time the tragedy started to unfold on Fort Rupert, i.e. when the armoured Personnel carriers (APC's) arrived up there and the shooting started.***

* One witness, a Sandhurst-trained military man was located at Old Fort overlooking St. George's. He said that the APC's arrived at Fort Rupert and the shooting started at 1:15 p.m. Given that witness' background his estimate of time is likely to be highly accurate. This 1:15 p.m. estimate also corresponds to the 1:39 p.m. time officially recorded by the Fire Station Chief for the fire alarm

caused by the fire at Fort Rupert immediately following the approximately 15 minutes shootout at the Fort when the APC's arrived.

* Indeed, when the 11:00 a.m. time for the arrival of the crowd at Fort Rupert, which other witnesses gave, is combined with the 1:15 p.m. time for the start of the shooting at Fort Rupert given by the Sandhurst-trained military man, we get a 2¼ hours time gap between the two events.

* As aforementioned, the only key witness whose evidence is inconsistent was Cletus St. Paul. Although St. Paul was very careful to avoid giving any times for any event at the trial, something which is itself suspect; what is clear is that his story is radically inconsistent with a two hour time gap for the two critical events, namely, the seizure of Fort Rupert and the arrival of the APC's.

Bernard Coard and Others Arrived at Fort Frederick – Minutes After Crowd Seized Fort Rupert

* In assessing the significance of the evidence of Cletus St. Paul it is important to establish that only a few minutes elapsed between the time the crowd arrived at Fort Rupert and the time that Bernard Coard et al arrived at Fort Frederick. Both tables 1 and 2 assert this but it is so important that it should be examined.

* From the evidence of the prosecution Bernard Coard and some other members of the Central Committee were at the home of the Coard's at the Mt. Wheldale compound when the demonstrators broke in.

* From the Mt. Wheldale compound Fort Rupert could be clearly seen. This is notorious fact and it was also attested to at the trial.
* The clear inference from the prosecution evidence at the trial was that, on seeing the crowd that left Mt. Wheldale with Bishop entering the Army HQ at Fort Rupert, the members of the Central Committee panicked and bolted for Fort Frederick.

* **Indeed, the aforementioned Sandhurst trained officer testified that he was monitoring the activities at Coard's home from his vantage point, through a binoculars. He said that as he saw the crowd entering Fort Rupert he shifted his focus to the army headquarters for a short while. And that when he returned focus to Coard's home, everyone who were there had gone**.

* With the haste in which the Central Committee members left Coard's home, they would have arrived at Fort Frederick, five minutes drive away from Mt. Wheldale, within minutes. Indeed one witness, a worker at the mental hospital, which adjoins Fort Frederick, said at the trial that from there he saw the crowd going up to Fort Rupert and about the same time he saw cars with Bernard Coard and others speed pass in front of him and entered Fort Frederick. Bernard Coard and others therefore clearly arrived at Fort Frederick at approximately 11:05 a.m. while the crowd was still in the process of seizing Fort Rupert. (At the Preliminary Inquiry St. Bernard said that he saw the car pass about half hour after he saw the crowd arrive at Fort Rupert. It would mean that at worst, Coard et al would have arrived at Fort Frederick at approximately 11:30 a.m.)

* **The conclusion from all the above is therefore this: there is no significant time gap between when the civilian crowd seized Fort Rupert and when Bernard Coard et al entered Fort**

Frederick. Cletus St. Paul's evidence must be analysed with this important conclusion in mind.

St. Paul's Story

* St. Paul's story is that he was standing at the entrance of Fort Frederick on October 19th 1983 when he saw Bernard Coard and other members of the Central Committee arrive in a state of great urgency. That immediately upon their arrival they huddled together for a brief moment right there at the entrance, only half dozen yards from him. That he saw them shaking their heads and moving their hands though he could not hear what they were saying. That shortly after in the presence of the others, one of the CC members, Cornwall, made a very short statement to soldiers who were gathered at Fort Frederick that Bishop and others had taken over the Fort and that they must be liquidated. That immediately after Cornwall's statement Coard and the rest of the CC members left for the top level of Fort Frederick. But that Ewart Layne stayed back and spoke to some of the army commanders. And shortly thereafter, those commanders together with a contingent of troops on APC's left Fort Frederick. And that, 10-15 minutes later, he heard shooting from Fort Rupert.

Missing 2 Hours

* On St. Paul's version, no more that 15 to 20 minutes would have elapsed between the seizure of Fort Rupert (approx. 11.00 a.m., on the basis of the rest of the prosecution case) and the arrival of the APC's (approx. 1.15 p.m. on the basis of the rest of the prosecution evidence). Two hours would go missing.

* **On St. Paul's version, some of the people who died on Fort Rupert could not have died there. They would not have been there because they arrived there over one hour** after the Fort was seized. If St. Paul is speaking the truth then it must be that those people are alive somewhere. They were not at Fort Rupert.

* **On St. Paul's version, some of the people who said they were in the Operations Room at Fort Rupert and who described their experience in graphic details would be lying. They could not have been there because they went to the Fort a long time after it was seized. Some close to two hours after. No one would seriously suggest that these people lied. But that is the irresistible logic of Cletus St. Paul's evidence. If he is speaking the truth then they are lying. And if they are speaking the truth St. Paul is lying. It is as simple as that**.

The Truth

* Table Two below lays out the truth as to St. Paul's whereabouts on October 19th 1983. The truth is that Cletus St. Paul did not see a single member of the CC arrive at Fort Frederick on October 19th 1983.

* He could not have seen that because at the time the CC members were arriving at Fort Frederick Cletus St. Paul would have been at Camp Fedon in Calivigny.

* Cletus St. Paul arrived at Fort Frederick a whole 1½ hours after Bernard Coard et al. He arrived there together with the unit led by Conrad Mayers. He arrived there in handcuffs, since on his own admission he was a prisoner at Calivigny since October 12th 1983. There are dozens of soldiers in our community who were at Fort Frederick or who arrived from Calivigny together with St. Paul can verify when he, St. Paul, arrived. They would have been too fearful to go public. But anyone interested in the truth can get that from them.

* As a footnote: it would also be observed that at the Preliminary Inquiry in 1984, only a few months after the tragic events, St. Paul says nothing about seeing anything at Fort Frederick which could pass as a Central Committee meeting. However, at the trial 2¼ years after the events he recalls seeing the Central Committee members huddled together and shaking their heads — the prosecution's evidence of a Central Committee meeting. This is not a minor detail because in law the mere presence of the Central Committee members at Fort Frederick, based on St. Paul's Preliminary Inquiry evidence, would not have been sufficient to secure convictions against all of them. Some form of participation in the making of a decision had to be established. The huddle and the shaking of heads and moving of hands is how the prosecution decided to achieve that. It was a neat legal manoeuvre which shows the presence of a legal mind.

The Problem The Prosecution Had

* **The problem the prosecution faced is that they could obtain no truthful evidence to convict the members of the Central Committee. Yet the conviction of the surviving leaders was so important for those who had seized Grenada that they were prepared to manufacture evidence to achieve that. Because the Grenadian people were already angered by the death of Bishop in particular and the loss of the Revolution and given the job the invaders did in demonizing the surviving leaders, they were confident that Grenadians would go along. So they manufactured evidence.**

* It is instructive that in 1983 or early 1984, in answer to questions from the regional media as to the reason for the delay in laying charges against the former leaders, Sir Nicholas Braithwaite, then head of the interim government, told the Caribbean media that there was no evidence to charge anyone. Clearly, Sir Nicholas being a man of high Christian values must have been greatly disturbed by the fact that at one time there was no evidence but then later evidence of a highly dubious nature appeared. We suspect that this doubt must have played a role in Sir Nicholas and Mrs. Purcell taking the courageous decision to commute the death sentences in 1991.

A Further Problem

* In using St. Paul to manufacture the evidence which nearly sent the former NJM leaders to the gallows, the prosecution had a further problem. The only other witness who gave testimony with regard to Fort Frederick stated that he was standing outside of the gate of Fort Frederick when Bernard Coard, Selwyn Strachan and others arrived in haste. He said that as they jumped out of their cars they shouted Forward Ever! Backward Never! And they immediately departed for the top level of the Fort about 100 yards away.

* St. Paul therefore could not testify that the CC members remained down in the bottom yard in front of him for any length of time. It had to be a brief time span so that it could be argued that the other

witness standing far away missed the brief delay. The other witness had previously stated that he did not know Layne so St. Paul could safely have him stay back to 'Give the orders'. It was a neat operation and that is why we are convinced, though we cannot prove, that St. Paul did not fabricate this on his own, but that a legal mind was behind this manufacture.

St. Paul's Evidence: How It Was 'Backed Up'

* Throughout the legal process everything was done to ensure that St. Paul's piece of fabrication could be effectively used.

* Mention has already been made of the fact that his three different police statements were never handed over to the defence.

* Mention has also been made of the shelving of the decision to call St. Paul before the court to question him. Once President J. O. F. Haynes died suddenly, this decision was swept aside.

Additionally:

* At the preliminary inquiry another prosecution witness, Errol George, gave evidence which gives the lie to Cletus St. Paul's evidence that he was there standing at Fort Frederick when members of the CC arrived. The prosecution refused to call that witness at the trial. And the court, despite the call of the undefended accused to do so, also refused.

* **There is a duty officer diary which was kept at Fort Frederick. This diary would have a record of persons who entered Fort Frederick on October 19th. It would show that Bernard Coard and others arrived at around 11:00 a.m. and that the unit from Calivigny along with a prisoner, Cletus St. Paul, arrived there at 12:30 p.m. Since this is an official document it can be used in evidence. The Americans seized this diary in 1983 and despite the appeals by The 17 to have it returned to assist them in their defence, the Americans have refused to hand it over.**

* **At the trial the judge spent several days summing up the case and giving directions to the jury. His summing up runs into hundreds of pages. Yet, over all these days not even on one single occasion did the judge draw to the attention of the jury the fact that St. Paul's evidence does not fit with that of the other prosecution witnesses. There is not even a hint of that. The jury would therefore have retired completely oblivious of the fact that St. Paul's evidence was at odds with that of the other witnesses, and the implication of that. This failure by the judge, this non-direction, is fatal to the convictions. Any appeal court with even a modicum of integrity would quash the convictions on this ground alone not to mention scores of other grounds.**

Not Just Legal Niceties

* So when we say that the trial was unfair we are not just speaking of legal niceties.

* Not just about the fact that nine (9) separate laws were passed to deal with our case.

* Not just that the self-declared unconstitutional court was kept in place because of our case and our case alone. [This was openly admitted in an official letter from the then O.E.C.S. Prime Ministers, submitted to the Appeal Court.]

* Not just that a prosecution lawyer was the one who selected the array from which the final panel of jurors was drawn.

* Not just the fact that the array was selected in a highly irregular manner.
* Not just that the summoned array was highly biased, and demonstrated this by shouting at The 17 in open court, ***two weeks before the first witness was called***, that we were 'Criminals and Murderers'.

* Not just that nothing was done by the judge to screen the panel so as to neutralise or mitigate the effect of the massive prejudice dished out by the media against the Seventeen for over 2½ years before the commencement of the trial.

* Not just that **the judge took the unprecedented step of metaphorically putting a gun to the head of the jury by giving them a verdict sheet which each of them had to sign and return showing how they voted on each count. Even in general elections people vote secret ballots. The issue of the secrecy of the jury process in the Commonwealth is as fundamental to the judicial process as secret balloting is to fair elections. The judge's action amounted to duress and naked coercion of the jury. After the 2½ years and millions of dollars spent in propaganda to poison the minds of Grenadians, which juror would have signed a paper saying that he/she voted to acquit Bernard Coard, for example?**

* So our complaint about the lack of a fair trial is not just about the fact that the Appeal Court, following the death of J. O. F. Haynes, refused to call St. Paul to be questioned at the appeal.

* It is not just about **the failure of the Court of Appeal, indeed the refusal of the court of Appeal, to hand over a written judgement, up to this day, in open violation of Section 8 of the Grenada Constitution.**

What we are saying is that, outside of all the above, the convictions over our heads would have been impossible. In a fair trial the verdicts would have been not guilty. In a fair appeal the guilty verdicts would have been quashed. That is what we mean when we say that justice according to law demands that we be freed.

No To Constitutional Court And No To Privy Council

Moreover, those who mounted the case against us were themselves well aware that convictions could not be secured in an independent and impartial court. Those who controlled power therefore decided that come what may the case of the Grenada 17 would be dealt with in a special unconstitutional court; and that there would be no appeal to the Privy Council, Grenada's highest court.

Thus the self-declared unconstitutional Grenada Supreme Court was kept in existence until 1991 even though all other sections of Grenada's constitution were brought back into full effect since 1984. Once the court of appeal of that unconstitutional set-up had upheld the convictions against us, an Act of parliament to facilitate the return of the OECS court, the court of the Grenada constitution was

passed. Together with the return of the OECS court, the jurisdiction of the Privy Council was restored to Grenada.

However, the very Act 19 of 1991 which brought back the OECS court and Privy Council to Grenada contained a provision — S7 (4) — preventing any case finally determined by the unconstitutional appeal court from being taken to the Privy Council. Put in simple terms, the case of the Grenada 17 was to go no further!

There can be absolutely no doubt that S7 (4) of Act 19 of 1991 was aimed at stopping the Grenada 17 from getting an independent review of their matter. Indeed, in March 1988 the OECS Heads in a letter signed by then-chairman PM Compton of St. Lucia to the government of Grenada, stated that the OECS Supreme Court, which is the court of the Grenada constitution, would not be allowed to resume function in Grenada ***until the Maurice Bishop Murder Trial (actually named) was disposed of***. This letter was read into the record of the appeal proceedings and amazingly it was used as the 'jurisprudential' basis for the continued existence of the unconstitutional court. In other words, the politicians of the various OECS islands were openly declaring that they, and not the judges of the OECS court, would determine if and when the court of the Grenada constitution would be permitted to exercise its legal jurisdiction in Grenada. It was one thing for the politicians to so declare; it was another thing for the judges who had the power of life and death over citizens to concede this authority to the politicians. The question therefore of the legal validity of the unconstitutional court previously premised on the operation of the doctrine of state necessity, was no longer to be determined by accepted principles of law. It was now to be determined by political fiat. Everything was wrong with that. More naked political interference in the judicial process is hardly imaginable! But that was not the end of the matter.

Act 19 of 1991 was due to take effect on August 1st 1991. Five of the 17, among then former Deputy Prime Minister Bernard Coard, were schedule to be hanged on July 30th 1991. The date for the hangings was postponed following an international outcry. On July 29th lawyers for the 17 filed an action to be heard by the OECS Court of Appeal. It would have meant that under the provisions of Act 19 of 1991, to wit S7 (3), this motion would have had to be heard by the OECS Court of Appeal since, it would be pending in the defunct Court of Appeal on August 1st. With this the 17 would get into the constitutional stream and be able to take their matter to the Privy Council.

The government reacted to this situation swiftly and in a most dubiously lawful manner. By executive action the date for the return of the constitutional court was pushed back. The unconstitutional court was hurriedly reconvened. The matter was heard and swiftly dismissed by this unconstitutional court. And shortly thereafter the constitutional court was allowed back into Grenada.

This determination to prevent the Grenada 17 from having their matter heard and/or reviewed by an independent court (in this case the Privy Council) is a clear admission by those in power that the case cannot stand up to scrutiny. That the only way they could achieve their political objective of convicting the 17 for murder was in a kangaroo court. [And, as noted earlier, this Kangaroo court to this very day, is afraid of ANYONE reading its written judgement and exposing, consequently, its bankruptcy. Thus, eight years later —— and counting —— no written judgement has seen the light of day.]

So once again it is clear that justice according to law is on the side of the Grenada 17; and those who were in power in, the post-invasion Grenada were fully aware of that. But politics was more important than justice!

Political and Moral Responsibility and 16 Years Imprisonment

This is not to say that we are bitter about the 16 years imprisonment. We have accepted it among other reasons because we view it as the price we have had to pay for being responsible in a profound sense for the disaster of October 19, 1983, for the demise of the Grenada Revolution, for the pain and suffering inflicted upon many Grenadians during the Revolution and for the pain so many have suffered since. We think that the acceptance of this punishment with dignity is the honourable thing. And that is why any fear or concern that we would seek compensation for the 16 years or seek revenge against others is totally without basis.

Grenada would soon have to face up to a new millennium. The world has to face it. We believe it is time to look forward. From our standpoint, we think it's time to bring an end to our ordeal. We just want to get on with our lives; to care for our children and families. We just want to move on.

Cletus St. Paul, We Have Forgiven You

Finally, we say to Cletus St. Paul: We have forgiven you. Of course we were bitter and angry for years. But we have let go of the anger and the bitterness. We know you were committed to the Revolution. We know that you loved Maurice immensely. We are clear that the desire for revenge is what motivated you to do what you did. We pray that it would be possible to forgive yourself for something that the better side of you must tell you was wrong. We pray that with the help of God you will be able to find inner peace.

TABLE 1

TABLE OF TIME SOME OF THE MAIN EVENTS OCCURRED ON OCTOBER 19TH 1983

No.	TIME	EVENT	TIME ELAPSE
1.	Approx. 0800 - 0900 hrs	Crowds start to gather in the streets of St. George's.	
2.	Approx. 1000 hrs	Sizeable crowd reaches the entrance of Mt Wheldale (the compound which housed the homes of PM Bishop and Bernard Coard).	1-2 hours
3.	Approx. 1030 hrs	Crowd breaks into the compound of Mt. Wheldale. Bishop leaves with them.	30 minutes
4.	Approx. 1100 hrs	(a) Crowd enters Fort Rupert (b) Those members of the Central Committee who were at the home of Bernard Coard depart for Fort Frederick.	30 minutes
5.	Approx. 1105 hrs	Bernard Coard et al arrive at Fort Frederick	5 minutes
6.	Approx. 1300 hrs	Troops leave Fort Frederick for Fort Rupert	2 hours
7.	Approx. 1315 hrs	Troops arrive at Fort Rupert. Shooting begins.	10–15 minutes

Note the 2 hours + time gap between events #4 and 5 on the one hand, and #7 on the other.

TABLE 2

EXPANDED TABLE OF TIME OF SOME OF THE MAIN EVENTS ON OCTOBER 19TH 1983

No.	TIME	EVENT	TIME ELAPSE
1.	Approx. 0600 hrs	Unit at Calivigny rises. Cletus St. Paul is at that time a prisoner at Calivigny.	
2.	Approx. 0800 - 0900 hrs	Crowds start to gather in the streets of St. George's.	2 - 3 hours
3.	Approx. 1000 hrs	Sizeable crowd reaches the entrance of Mt Wheldale.	1 hour
4.	Approx. 1030 hrs	Crowd breaks into the compound of Mt. Wheldale. Bishop leaves with them.	30 minutes
5.	Approx. 1050 hrs	Combat alarm is sounded in Calivigny.	20 minutes
6.	Approx. 1100 hrs	(a) Crowd enters Fort Rupert (b) Those members of the Central Committee who were at the home of Bernard Coard depart for Fort Frederick.	10 minutes
7.	Approx. 1105 hrs	Bernard Coard et al arrive at Fort Frederick	5 minutes
8.	Approx. 1230 hrs	Unit from Calivigny arrives at Fort Frederick. C. St. Paul arrives together with unit as a prisoner.	1½ hours

4

GENESIS AND DEVELOPMENT OF THE UNCONSTITUTIONAL COURT SYSTEM (AND THE JURY SELECTION PROCEDURES) USED TO TRY THE GRENADA 17

Preamble

On December 3rd 1986, fourteen (14) former government and military officials of the Grenada Revolution were convicted of murder by a Grenadian court and sentenced to hang. Three other soldiers of the People's Revolutionary Army of the Revolution were convicted of manslaughter and given long prison sentences.

The trial of the group, now referred to as the Grenada 17, was by its very nature a high profile event. Indeed it was the most high profile trial in the history of the English speaking Caribbean. On trial were former leaders of a government, including a deputy Prime Minister; they stood in the dock charged with killing other members of the former government, including the Prime Minister.

The background against which the alleged murders took place elevated the profile of the trial.

On March 13th, 1979, tiny Grenada, a tri-island state of 133 sq miles (340 km^2) and 100,000 people exploded in the English speaking Caribbean's first successful revolution.

The radical New Jewel Movement (NJM) spearheaded the revolution. The government of Eric Gairy was overthrown. The overthrow of the Gairy government followed years of abuse of power in the decade leading up to 1979. Some of these abuses were catalogued in the Report of the Duffus Commission which looked into the breakdown of the rule of law in Grenada in the period 1973–74. Not surprisingly, then, the overthrow of the Eric Gairy government and the triumph of the Revolution had the widespread support of the Grenadian people.

With the advent of the Revolution, Maurice Bishop became Prime Minister of the People's Revolutionary Government (PRG). Bernard Coard was his deputy.

The People's Revolutionary Government ruled Grenada from March 13th 1979 up to October 1983. During the period of its reign it had to contend with intense political pressure from outside Grenada, in particular from the USA whose President, Ronald Reagan, had publicly pronounced his ambition and intention to land troops in Grenada to put an end to the revolutionary process.

The intense political pressure and military threat from outside Grenada compounded the difficulties inherent in developing and guiding the revolution, an entirely new experiment in the English speaking Caribbean. This also exacerbated the differences, which are bound to arise in the context of any human endeavour involving power, particularly of a state political power character.

In consequence, in October 1983, differences that were simmering within the New Jewel Movement broke out into the open: And the revolutionary party which, united, took power on March 13th 1979, split into two main factions.

Despite efforts to mend these differences the conflict heightened, and on October 19th 1983 the then Prime Minister of Grenada and others died during circumstances of civil disorder. Prior to those

tragic events several members of the government had resigned and at least one was absent from the island. Thereafter, in the vacuum created by the non-functioning of the government, a Revolutionary Military Council was formed to restore peace, stability and good order.

Arrest, Detention And Torturing Of The Grenada Seventeen

On October 25th 1983, despite the fact that calm had returned to Grenada (there had been no other acts of violence or armed confrontation since October 19th) and that no American or foreign citizens or foreign owned property was in any danger, or had suffered any injury or damage, the United States' armed forces together with small contingents of forces from eight (8) Caribbean countries invaded Grenada and overwhelmed the small local army with superior forces.

This armed intervention into Grenada was roundly condemned by the United Nations General Assembly as an illegal act.

During the invasion the members of the Grenada 17, several of whom were leaders of the (NJM) New Jewel Movement, were captured. They were first held as prisoners of war (POW's). Later their official status was changed to that of Political Detainees. Later still they were charged with the murders of Maurice Bishop and seven (7) others.

During the period when they were prisoners of war and/or political detainees several of the Grenada 17 were taken away from the prisoner-of-war camps and other detention centres to interrogation centres manned by members of the invading forces now turned occupation forces. In each case they were denied access to legal counsel, and forced to sign 'confessions' after several hours of torture.

In all, confessions were extracted from seven (7) of the Grenada 17 between November 1st and November 22nd. During that period there were 10,000 foreign troops in and around Grenada. At no time did any of the seven (7) applicants have access to counsel despite requests for such access. And indeed the government of the US has conceded that such requests for access to counsel were made and denied, and that the Grenada 17 were only granted access to legal counsel in December 1983. Despite these facts during their trial in 1986 the trial judge ruled that all the alleged 'confessions' were freely and voluntarily given and could be used as evidence in the trial.[1]

Propaganda War Against The Grenada 17 By US Psychological Warfare Battalion

A significant fact is that, as part of the invading forces, the U.S. landed a psychological warfare battalion in Grenada. That battalion quickly got to work. They took full advantage of the traumatized and vulnerable state in which the Grenadian people were caught. And they completely and totally poisoned the minds of the Grenadian people against the Grenada 17 with the most vicious propaganda campaign ever unleashed in these parts. They thoroughly, systematically and comprehensively embedded into the minds of Grenadians the view that the 17 were fully responsible for the deaths of the widely beloved Prime Minister, Maurice Bishop. That they 'conspired' to kill him. That they were 'power hungry' 'criminals' and 'murderers'.[2]

At the end of 1983 (early 1984) the Reagan Administration provided a further $8 million US to be spent in Grenada for the purpose of justifying the invasion to the Grenadian people.

With this injection of capital and riding on the wave of the job already done by the Psy-ops battalion, the propaganda war against the Grenadian 17 was sustained for a period of eight years.

At the time of the commencement of the trial in 1986, the adverse publicity against the 17 was at a crescendo.

In the context, the seventeen were therefore extremely concerned and worried as to whether they would receive a fair trial. Their concerns centred on the issues of:

(a) Whether they would be tried by an independent court; one that was free of the influence of those who assumed power in Grenada and which was not vulnerable to their manipulation; and

(b) Whether a jury could be found to impartially decide the facts in issue.

From March to December 1986 (the period of the trial) there was a battle inside and outside the court around these issues. The trial itself descended into a farce. The Seventeen instructed their lawyers to withdraw from the trial. Upon the lawyers announcing their intention to withdraw there was an uproar of disapproval from the assembled array of jurors then present in court. These potential jurors, clearly under the influence of the propaganda onslaught carried on in every division of the media, turned their wrath on the Seventeen. Before one word of evidence was heard in the case, they shouted at the Seventeen that they were 'criminals' and 'murderers' and that 'we go get all you'.

The issue of the court in which the Seventeen would be tried was a live issue because in theory there were two different court systems with jurisdiction in Grenada in March 1986. There was the OECS Supreme Court which was the court provided for under the constitution; and there was the Grenada Supreme Court which was set up in 1979 following the revolution.

The Seventeen desired to be tried by the court of the constitution because that system provided for a final appeal to the Privy Council. The Seventeen were convinced that given all the politics in which their matter was enmeshed, and given the necessity of securing convictions against them to justify the invasion of Grenada, they could only be assured of justice from a court completely independent of local and regional politicians.

Genesis Of The OECS Supreme Court

On 22nd February 1967, Her Majesty in Council made the Grenada Constitution Order 1967, Statutory Instrument No. 227 of 1967. This order came into operation on the 3rd day of March 1967. By virtue of this Order, Grenada received a new Constitution which conferred upon the state internal self-government.

On February 22nd Her Majesty also made two other Orders. The first of these was the 'West Indies Associated States Supreme Court Order 1967 No. 223 herein after referred to as the Courts Order'. The second of these Orders was the 'West Indies Associated States (Appeals to the Privy Council) Order 1967 Statutory Instruments 1967 No. 244'. Both of these Orders came into operation on 27th February 1967. By the Courts Order, was established a Supreme Court for the West Indies Associated States Supreme Court. This court was established as a superior court of record and consisted of a Court of Appeal and a High Court of Justice. The West Indies Associated States (Appeals to Privy Council) Order 1967 conferred a right of appeal to Her Majesty in Council from decisions of the Court of Appeal established by the Court's Order, in such cases as may be prescribed by or in pursuance of the constitution of a state.

By the 3rd March 1967, Grenada had acquired a new political status under the West Indies Act 1967, a new constitution under the Grenada Constitution Order 1967 and a new judicial system under the Courts Order.

The Constitution that Grenada received on March 3rd 1967 was based on the Westminster model. Under it there was separation of powers between the Legislature, the Executive and Judicature. The Judicature was established by the Courts Order which was made a part of the Constitution. The Constitution also provided for the Protection of Fundamental Rights and Freedoms and their enforcement.

The Supreme Court established by the Courts Order was the Constitutional Court of Grenada. It was the only Supreme Court that the Constitution recognised as having or being capable of having any jurisdiction in and over Grenada.

Various entrenched provisions in the new Constitution protected the existence of this Court.

The Courts Order did not set the details of the jurisdiction of the new Supreme Court which it created. Section 9 (1) of the Court's Order provides that the High Court shall have such 'jurisdiction and powers as may be conferred on it by the Constitution or any other law of the state'.

At the time when the constitution came into force on the 3rd March 1967, the general jurisdiction of the Supreme Court was based on the Supreme Court Ordinance Chapter 289 of the laws of Grenada.

On the 16th of April 1971 the West Indies Associated States Supreme Court (Grenada) Act 1971 Act No. 17 of 1971 came into operation. It repealed Chapter 289 but vested the repealed jurisdiction in the Supreme Court of Grenada established by the Courts Order.

On the 16th April 1971, the position was that there was a special jurisdiction vested in the courts by the Constitution, namely Section 16 (Enforcement of Protection Provisions), Section 37 (Determination of Questions as to Membership of the Legislature) and Section 103 (Appeals). And in addition thereto there was the general jurisdiction vested in the courts by virtue of Act No 17 of 1971.

The existence of the Supreme Court established by the Courts Order, the Jurisdiction of the Supreme Court conferred by Sections 16 and 37 of the Constitution and certain parts of the Courts Order were all fully entrenched and protected by the Constitution.

On February 7th 1974, Grenada's status of association with the United Kingdom was terminated. This was effected by the Grenada Termination of Association Order 1973, which was made by Her Majesty in Council on the 19th day of December 1973.

On the said February 7th a new Constitution came into force in Grenada. This was by virtue of the Grenada Constitution Order 1973 that was passed by Her Majesty in Council on the 19th day of December 1973.

This new Constitution involved very few changes from the 1967 Constitution. The Supreme Court established by the Courts Order remained fully protected by means of entrenched provisions. And the jurisdiction of the Supreme Court created by Sections 16 and 37 of the Constitution also remained fully protected.

Genesis Of The Grenada Supreme Court

Although the majority of Grenadians welcomed the Grenada Revolution, Grenada's neighbours including those with whom Grenada shared the W.I. Associated States Supreme Court were opposed to it. And from a very early date they adopted a hostile stance.

In response to the Revolution the leaders of the other states with whom Grenada shared the West Indies Associated States Supreme Court ordered the court to withdraw its services from Grenada. That this is how that court was rendered inoperable in Grenada was confirmed by Justice Archibald Nedd, who was the resident judge in Grenada at the time of the Revolution, during his judgement in Suit No. 303 of 1984.

As a result of the withdrawal of the West Indies Associated States Supreme Court Grenada was put out in the cold judicially. It had no judicial system.

It was against this background that the new government, the People's Revolutionary Government, set up, by way of People's Laws Nos. 4 and 14 of 1979, the Grenada Supreme Court.

Under People's Law No. 14 the judges of the Grenada Supreme Court were to be appointed by the Governor General (which the Revolution retained both in terms of office and personnel) acting on the advice of the Prime Minister.

It should be noted that one of the effects of the withdrawal of the West Indies Associated States Supreme Court was that Grenada was *ipso facto* deprived of the services of the Privy Council since by virtue of the West Indies Associated States (Appeals to the Privy Council) Order 1967 Statutory Instrument 1967 No. 224, appeals to the Privy Council were to be from decisions of the Court of Appeal established by the Courts Order.

However, later in 1979, by virtue of Peoples Law No. 84 of 1979 the PRG in recognition of the reality that Grenada was deprived of the services of the Privy Council, for the avoidance of doubt and obviously for other tactical reasons, enacted that no appeals to the Privy Council would be from Grenada.

Post October 1983 Machinations By The New Powers To Keep Out The Court Of The Constitution; Efforts By The Seventeen To Secure Its Restoration

Once the Revolution had been defeated and the foreign troops had gained dominance, they set out to establish and consolidate their rule. In pursuit of this objective the Governor General, His Excellency Sir Paul Scoon, was co-opted by the invading forces: Backed by the military might of the invading forces he formally assumed power. On October 31st 1983 by proclamation he invoked Section 57 (2) of the Grenada Constitution Order 1973. Section 57 (2) provides.

> *Subject to the provisions of this Constitution, the executive authority of Grenada may be exercised on behalf of Her Majesty by the Governor General either directly or through officers subordinated to him.*

The Governor General proclaimed that

> *Until a government is duly elected under the provisions of the constitution of Grenada set out in schedule 1 to the Grenada Constitution Order 1973 and pursuant to subsection(s) of section 57 of the said Constitution I shall exercise the executive authority on behalf of her Majesty in consultation with Advisory Council…*

The Governor General therefore formally assumed power in the name of the Constitution. This exercise of power was, according to the Governor General, to be temporary and facilitative of Grenada's return to constitutional rule and in accordance with the Grenada Constitution Order 1973.

Between October 31st and November 12th 1983, the Governor General issued several other proclamations which *inter alia* had the effect of keeping in place the Grenada Supreme Court set up under the People's Laws Nos. 4 and 14 of 1979.

Once it became clear that the Grenada 17 would be charged and tried for murder arising out of the events of October 19th 1983, the issue of which legal system would try them became of critical importance.

The new powers in Grenada were bent on trying the 17 in the Grenada Supreme Court.

This despite their pronouncements that they were politically and philosophically committed to a full return to constitutional rule under the independence constitution, which has the Court's Order as one of its entrenched provisions.

The 17 were convinced that in the new political reality any trial under the Grenada Supreme Court system would be nothing but a show trial. The Grenada Supreme Court system, it would be remembered, was set up in response to the withdrawal of the West Indies Associated States Supreme Court from Grenada. It was therefore set up as an act of political expediency and necessity, to fill the judicial vacuum left by the withdrawal from Grenada of the court set up by the Court's order. It is true, as Nedd C.J. said in his judgement in Suit 303 of 1984, that the PRG manifested an intention and desire to 'maintain as far as possible a judicial system approximating as closely as possible in practice and procedure and in the appointment of officers of the court and the like to what obtained in Grenada by virtue of the West Indies Associated States Supreme Court Order and the Grenada Act No. 17 of 1971'. However, the court system set up under People's Laws Nos. 4 and 14 was still vulnerable to misuse and abuse because

- The judges had no security of tenure and were politically appointed, and on top of that
- There was no mechanism or provision in place for appeals from, or review of the decisions of, that court.

Given the glaring vulnerability of the Grenada Supreme Court, the significance of the intention of the post-invasion powers to try them under the Grenada Supreme Court system, while at the same time paying lip service to the desire and necessity of restoring full constitutional rule to Grenada, was not lost on the 17.

It was evident that the new powers in Grenada did not face the kind of problem which forced the PRG into setting up the Grenada Supreme Court. In March 1979, within days of the Revolution, the political leaders of the other states with which Grenada shared the West Indies Associated States Court, had ordered the court to withdraw its services from Grenada. This was clearly aimed at expressing their displeasure at the advent of the revolution and to create difficulties for the revolutionaries as a way of pressuring them. But it is notorious fact that the very countries which ordered the withdrawal of the services of the court from Grenada in 1979 were participants in the invasion along with the United States, waving the banner of the 1973 Constitution of which the Courts Order is a deeply entrenched part.

It therefore seemed striking in the extreme that the new powers in Grenada preferred to keep in place the Grenada Supreme Court rather than immediately restore the court of the Courts Order with all its checks and balances. The inference seemed irresistible: that there was an ulterior motive involved here; that this was an act of political expediency; that those who controlled power were not interested in justice but solely in verdicts of a particular nature; and that they were convinced, not without good cause, that their only guarantee of obtaining the verdicts they favoured, in particular against the former revolutionary leaders, was to try them in a court vulnerable to manipulation and whose decisions were not subject to review by any independent body.

On December 3rd 1984 elections were held in Grenada and a new parliament was elected.

Prior to the December 3rd elections, namely on November 9th 1984, the Governor General promulgated the Constitution of Grenada Order 1984 published in the Official Gazette on 9th November 1984. In effect it set out that the Constitution Order 1973 was fully in force save and except the provisions relating to the Courts Order.

In February 1985 the new parliament passed an Act cited as: People's laws, Interim Government Proclamations and Ordinances Confirmation of Validity Act, 1985, herein after referred to as Act 1 of 1985.

Act 1 of 1985 provides that:

> *For the avoidance of doubt it is hereby enacted that the following laws, rules and proclamations are in force, and shall remain in force until otherwise enacted:*
>
> 1. *Laws and rules made by the People's Revolutionary Government;*
> 2. *Proclamations made by the Governor General during the period of Interim Government, namely the period between the military intervention and the appointment of the Prime Minister on the 4th day of December, 1984;*
> 3. *Laws and rules made by the Governor General on the advice of the Advisory Council established by him in advisory council proclamation, 1983.*

Act 1 of 1985, therefore, inter alia, purported to validate the continued suspension of the provisions of the Constitution relating to the Courts Order.

As was naturally the case, given their conviction that it was impossible to get a fair hearing under the Grenada Supreme Court System in the post-invasion political reality, the 17 sought at every turn to challenge the validity of the court to hear their matter.

In 1984 they filed Suit No. 303 of 1984, in which they sought *inter alia* a Declaration that the Grenada Supreme Court is unconstitutional and invalid and an Order that all further proceedings on their matter be stayed until the indictments which they face can be heard and determined by the court established by the Courts Order.

After hearing arguments Nedd C.J. dismissed Suit 303 of 1984 on the grounds that the PRG had by 1983 attained *de jure* status and therefore all its laws including People's Laws Nos. 4 and 14 were *de jure* valid: thus the Grenada Supreme Court was constitutional not by virtue of the 1973 Constitution Order but in a Kelsenian sense, and hence could validly try the 17.

On appeal, however, the Court of Appeal by a majority reversed Nedd C.J. The Court of Appeal held that there was no evidence before the court upon which the court could make a finding that the PRG had achieved de jure status. It was pressed upon the court in argument that the PRG had only suspended the Constitution Order 1973; and that the PRG had pledged in the Declaration of the revolution

> *" ... to return to constitutional rule at an early opportunity and to appoint a Consultative Assembly to consult with all the people for the purpose of the establishment of a new Constitution which will reflect the wishes and aspirations of all the people of Grenada. The new Constitution will be submitted for popular approval in a referendum. All classes and strata will be involved;"*

and that by October 1983 there was a Constitutional Commission in place and in the process of drafting the new constitution: thus even then the Grenada Constitution Order 1973 still remained the Constitution of Grenada albeit suspended.

Since the Court of Appeal held that the PRG had not achieved *de jure* status it also held that the independence Constitution was always in existence even though suspended, i.e. it was never abolished.

The Court of Appeal next looked to see whether the action of the Governor General to keep the Courts Order in suspension was constitutional.

The Court of Appeal held that suspension of the Courts Order and its purported replacement by the Grenada Supreme Court amounted to a purported alteration of the Constitution within the meaning of Section 39 of the Constitution; and that for such an alteration to be constitutional it must comply

with the provisions of Section 39 which require the concurrence of a 2/3rd majority of the House of Representatives and of 2/3rd of the votes validly cast in a referendum duly summoned.

The Court of Appeal however went on to hold that though unconstitutional Act 1 of 1985 was legally valid when passed on the basis of the law of necessity and therefore the Grenada Supreme Court was temporarily valid.

But valid for how long? To this question the President of the Court of Appeal J.O.F. Haynes in his lucid judgement replied:

> *" Until either effective steps shall have been taken to resume the state's representation in the pre-revolution Supreme Court or constitutional legislation shall have been passed in compliance with Section 39 of the Constitution to establish another Supreme Court in its place."*

President Haynes then said

> *" Of course it is to be assumed the government will act with reasonable dispatch."*

The ruling of the Court of Appeal was challenged by the 17 before the Privy Council. The 17 were dissatisfied with the granting of temporary validity to the court since that meant that the temporary court could proceed on the indictments pending against them.

The Privy Council declined to hear the appeal of the 17 on the ground that the Grenada Parliament could validly approve the abolition of appeals to the Privy Council provided for under Section 104 of the constitution. Since the repeal of that clause did not require the holding of a referendum it was sufficient that 2/3rd of both Houses approved the Bill. The Privy Council also held that in any case it never had jurisdiction to hear appeals from the Grenada Supreme Court, but only from the Court of Appeal established by the Courts Order. The way therefore seemed clear for the commencement of the trial on the indictments.

By May 1986, the prolongation of the temporary jurisdiction of the Grenada Supreme Court was becoming a source of embarrassment. In that month the Court of Appeal expressed dissatisfaction with the failure of the Government to restore constitutionality to the court system as the said Court of Appeal in its judgement more than 1¼ years before had directed should be done expeditiously. The Court of Appeal ordered the government in the person of the Attorney-General to appear before it so as to inform the court of the government's timetable for returning to a constitutional court system. In compliance with the order of the court the government informed the Court of Appeal that the OECS Supreme Court would be operational in Grenada again from 1st January 1987.

Thus while the 17 were disappointed that the Court of Appeal had condoned the trial in the unconstitutional court system, there was a clear and legitimate expectation based on the government's promise that their appeal(s) would be allowed to go forward within the constitutional court system. This however was not to be.

March 1988: The Compton Letter

(*See Appendix 1, Page 65, for a copy of this letter)*

In the period 1st January 1987 to March 1988, as far as the Seventeen were then aware, no steps had been taken by the government of Grenada to return Grenada to the Constitutional Court System. The Appeal Court of Necessity remained operational even though the conditions of necessity giving temporary sanction to the said court had long expired. The 17 therefore had no alternative but to take

their appeals before the unconstitutional court.

When the Appeal commenced in March of 1988 the Seventeen and their counsel learned that a new basis was put forward to justify the continued existence of the unconstitutional court. It was not a basis in law but politics.

In March 1988, the OECS Heads in a letter signed by then-chairman, PM Compton of St. Lucia, to the government of Grenada, stated that the OECS Supreme Court, which is the court of the Grenada Constitution, would not be allowed to resume function in Grenada ***until the Maurice Bishop Murder Trial (actually named) was disposed of***. This letter was read into the record of the appeal proceedings and amazingly it was used as the 'jurisprudential' basis for the continued existence of the unconstitutional court. In other words, the politicians of the various OECS islands were openly declaring that they, and not the judges of the OECS Court, would determine if and when the Court of the Grenada Constitution would be permitted to exercise its legal jurisdiction in Grenada.[3] It was one thing for the politicians to so declare; it was another thing for the judges who had the power of life and death over citizens to concede this authority to the politicians. The question therefore of the legal validity of the unconstitutional court previously premised on the operation of the doctrine of state necessity, was no longer to be determined by accepted principles of law. It was now to be determined by political fiat. Everything was wrong with that. More naked political interference in the judicial process is hardly imaginable! But that was not the end of the matter.

Appeals Nos. 4-20 were proceeded with before the unconstitutional court. Several months after the commencement of the appeals the President of the Court of Appeal died after a short illness. The appeals had to recommence under a newly constituted court. This court heard arguments until September 1990. The court promised a judgement within three months.

However, after the expiry of three months no judgement was forthcoming. The explanation given was that the court was delayed because it had decided to produce a full written judgement.

In the period during which the judgement of the court was being awaited information was revealed in the Parliament, in answer to a question from an opposition senator, which showed that the judges of the Appeal Court were paid approximately $3 million EC for their services with regard to the case of the 17.

Shortly before the Court of Appeal handed down its ruling in July 1991, the Grenada parliament passed the Constitutional Judicature (Restoration) Act 1991, Act No. 19 of 1991. The Act was assented to by the Governor General on July 19, 1991.

This Act facilitated the return of the OECS Supreme Court and also restored the jurisdiction of the Privy Council to Grenada.

However, the very Act 19 of 1991 that brought back the OECS Court and Privy Council to Grenada contained a provision—Section 7 (4)—preventing any case finally determined by the unconstitutional appeal court from being taken to the Privy Council. Put in simple terms, the case of the Grenada 17 was to go no further!

There is obviously no doubt that S7 (4) of Act 19 of 1991 was aimed at stopping the Grenada 17 from getting an independent review of their matter. When this section is taken against the background of the aforementioned Compton letter of March 1988 that much is clear.

The issue was put beyond doubt by events which unfolded at the end of July-early August 1991. Act 19 of 1991 was due to take effect on August 1st 1991. Five of the 17, among them former Deputy Prime Minister Bernard Coard, were scheduled to be hanged on July 30th 1991. The date for the hangings was postponed following an international outcry. On July 29th lawyers for the 17 filed an action before the unconstitutional Court of Appeal for a re-hearing of the appeals. It would have meant that under the provisions of Act 19 of 1991, to wit S7 (3), this motion would have had to be heard by the OECS Court of Appeal since it would be pending in the defunct Court of Appeal on August 1st. With this the 17 would get into the constitutional stream and be able to take their matter to the Privy

Council.

The government reacted to this situation swiftly and in a most dubiously lawful manner. By executive action the date for the return of the constitutional court was pushed back. The unconstitutional court was hurriedly reconvened. The matter was heard and swiftly dismissed by this unconstitutional court. And shortly thereafter the constitutional court was allowed back into Grenada.

This determination to prevent the Grenada 17 from having their matter heard and/or reviewed by an independent court (in this case the Privy Council) is a clear admission by those in power that the case cannot stand up to scrutiny. That the only way they could achieve their political objective of convicting the 17 for murder and having those convictions upheld was in a kangaroo court system.

It is therefore not surprising that to this day, almost 9 years after upholding the convictions for murder and the sentences of death, the judges of the court of the defunct court of appeal have not submitted a written judgement. For very 'good' reason they are afraid of anyone reading their judgement(s) and exposing their bankruptcy.

The Jury

In addition to the issue of the independence of the court the issue of an impartial jury was fundamental to a fair hearing. As aforementioned the Seventeen were extremely concerned and doubtful as to whether it was at all possible to empanel an impartial jury given the massive and all pervasive nature of the propaganda to which they were subjected over a period of 2 rd years by the time of the trial.

As such the Seventeen and their lawyers filed a matter in court alleging that by virtue of the deliberate and massive pre-trial publicity it was impossible for them to get a fair trial in Grenada; and they requested relief for this violation of their rights.

This motion was however instituted within the unconstitutional court system. Counsel for the Seventeen were however of the view that being a constitutional issue, by virtue of s16 of Grenada's Constitution, the Constitutional Court was the proper court to hear and determine that issue, and that the Grenada Supreme Court, was under an obligation to refer the issue to the Constitutional Court.

The court of trial however rejected the preliminary arguments of counsel seeking referral and ruled that it had the power to try, hear and determine the matter.

Whereupon counsel for the Seventeen applied for a stay of proceedings to allow them to appeal the decision of the court refusing to refer the matter. The court refused the stay and ordered that the matter be proceeded with.

The Seventeen saw the refusal of the stay as part of the plot by the state to railroad them into a trial within the unconstitutional court system. This development combined with a previous ominous development forced their hands. They decided that they were not going down like lambs. They instructed their lawyers to withdraw from the trial and concentrate on taking the appeal.

When the lawyers for the Seventeen, through the leader of the defense team, informed the court of their instructions, and applied for leave of the court to withdraw, such leave was angrily denied by the judge. He not only denied the leave, he also threatened to cite all the lawyers for contempt of court. And he immediately adjourned for fifteen minutes.

This dramatic development sparked off an uproar in the court amongst the over 100 potential

jurors who had been summoned. As the court rose, the array of potential jurors clearly agitated by developments in the court turned their attention on the 17 and in an unprecedented display of anger, hurled abuses at them calling them 'criminals' and 'murderers' and vowing that 'we go get all you'. Not one word of evidence had been as yet adduced but already the jurors had convicted the Seventeen.

This drama confirmed the worst fears in the minds of the 17 and the ominous development aforesaid, came to the fore.

Prosecution Lawyer/Registrar

On March 3rd 1986, the trial of the Seventeen had opened. On that day as was to be expected, an array of jurors was present in court. That array of jurors was drawn up by the person who held the post of Registrar.

On March 4th after a few preliminary matters had been dispensed with, the prosecution complained that the array of jurors was not drawn up in accordance with the provisions of the Jury Act. On this basis they applied for the array to be dismissed.

The Registrar was brought before the court to explain. He insisted that the array was drawn up according to law and that any apparent discrepancy could be easily explained.

The Seventeen would later learn that the real bone of contention was the refusal of the Registrar to co-operate with the prosecution. The prosecution wanted the Registrar to provide them with a list of jurors' weeks before so that they could do background checks. The Registrar refused, as he was entitled to do under the law.

Despite the insistence of the Registrar that the array was properly drawn up, the trial judge dismissed the array and ordered that a new array be struck.

Later the very March day, the Registrar was dismissed from his post. A new Registrar was appointed within 24 hours.

Who was the new Registrar? A member of the prosecution team! A person who had appeared for the prosecution in several preliminary motions and who sat as a member of the prosecution team at the opening of the trial on March 3rd.[4]

This whole development with the dismissal of the array, the sacking of the Registrar and the speedy appointment of a prosecution lawyer to fill the position sent one clear, frightening message to the Seventeen: The prosecution wanted to control the jury selection machinery. That this was clearly the case was later confirmed by the fact that as soon as the trial of the Seventeen was completed, the prosecution lawyer resigned as Registrar and Mr. St. Louis was reinstated.

So on April 11th 1986, the date the defense lawyers informed the court of their intention to withdraw from the trial, it was the new array of jurors selected by the prosecution lawyer which was involved in hurling abuses at the Seventeen, and calling them murderers and criminals.[5]

Ironically, it would be later revealed to the court that the prosecution lawyer violated the law in the drawing up of the array of jurors – the very reason given for dismissing the original array selected by the original Registrar.

Grenadian law lays down a method for choosing prospective jurors so that no jury could be 'fixed'. The emphasis is on random selection. There was not even an attempt by the prosecution lawyer/registrar to follow the procedure set out in the law. Based on the law on jury selection, 11 of the 12 who found the Seventeen guilty, were illegally selected by the prosecution lawyer/Registrar. When all of this was clearly demonstrated to the judge he still refused to dismiss the jury. He had dismissed the panel of the former Registrar on relatively minor grounds based on the same Jury Act. However the proof of overwhelming irregularities could not move him.[6]

Selection And Empanellment Of Jury Behind Backs Of Defendants

The defense lawyers finally withdrew from the trial on April 15th 1986. The court had refused leave for the lawyers to withdraw on April the 11th. Whereupon there was a short adjournment and the aforementioned uproar in court. When the court resumed the judge decided that he was going to adjourn for a few days to give everyone time to reconsider.

On April 15th the judge ascertained from each defendant that it was their instructions for the lawyers to withdraw.

After the withdrawal of the lawyers the Seventeen made it clear to the judge that they were not going to submit to the jurisdiction of the court or co-operate with the trial. They therefore embarked on a course of protest action in the face of the court.

On 18th April 1986, the Seventeen continued their protest. The court was, however, bent on proceeding. The trial judge therefore took what can only be described as an amazing course of action:

(a) He cited the Seventeen for contempt of court;

(b) He tried them on the spot and sentenced them to weekend prison terms; and then

(c) In the enforced absence of the Seventeen, he allowed the prosecution team to effectively install a jury.

The third aspect of the three-part course of action was truly astounding. For having cited and convicted the Seventeen for contempt, and having sentenced them to weekend terms, the judge did not allow them to serve the sentences, or give them time to reconsider, to cool off, to recognize the gravity of their actions, and to purge themselves of their contempt; he immediately allowed the prosecution team to hand-pick a jury.

This hasty course of action must be compared and contrasted with the conduct of the judge when he was informed by the lawyers of the instructions they had received to withdraw from the case. His immediate reaction was to threaten to cite the lawyers for contempt. However he later adjourned the court for a weekend and a Monday to allow the lawyers and the Seventeen time to reconsider. Later in open court he sought and received confirmation from each member of the Seventeen that they had instructed the lawyers to withdraw.

Now, when faced with the even more essential issue of the selection of a jury, the judge was prepared to allow the prosecution team to select that jury by themselves, without giving the defendants any time to reconsider or to cool off or to ‘come to their senses’.

Moreover, the absence of the Seventeen from court was at the time of the selection of the jury not due to any misconduct on their part. When they were brought back before the court one by one, to be tried for contempt, except in two cases, there was no misconduct from them. The trials for contempt took place and they were peacefully led away from court after sentences.

Thus when the Seventeen returned to court on Monday 21st April, the jury was in place and ready to proceed. Even at that time the judge did not see it fit or necessary to allow the Seventeen an opportunity to challenge the jury. Under the law, the 18 defendants, as they were then, would have been entitled cumulatively to 72 peremptory challenges, plus challenges for cause.

Hand-picking Of The Jury

It was stated above that the judge allowed the prosecution to hand-pick the jury. Prima facie the term may appear to be too strong. But this is exactly what happened.

The process of handpicking was facilitated by a law which was passed clearly for the purpose of the Maurice Bishop Murder Trial. The law gave the prosecution the 'right to standby' jurors. And this right was used in a very vulgar and abusive manner by the prosecution.

The selection of each juror is done by balloting. All the names are put in a box then a dipping process much like the lotto is carried out. However, in the case of the Grenada 17, each time a name came up which the prosecution was not satisfied with, clearly based on intelligence reports, they would simply have the person 'standby'. In the selection of the jury, there were 66 dippings. Five persons asked to be and were excused mostly because they stated that they were opposed to the death penalty and would have difficulties deciding the case impartially as a result. Eighteen were accepted to form the panel of jurors (12 jurors and 6 reserve jurors). And the prosecution exercised the right to standby 43 times![7]

While the prosecution was hand-picking the 18 jurors in this way, (from an array, it should be recalled, drawn up by a prosecution lawyer) the judge did not see it fit to question the 18 selected so as to be satisfied that they were not biased, and therefore fit to try the case.

At the appeal the lawyers for the Seventeen submitted that the judge should have taken that course, because the court was on notice by way of the interlocutory motion which was not argued, that there existed widespread all pervasive prejudice in the community against the Seventeen. Indeed, the defense lawyers argued that such screening by the court should have taken place even if all the defendants and their lawyers were in court. The fact that they were not in court compounded the error of omission 1000 times.

Indeed, the court was not only on notice by way of the motion filed before it. A few days after the selection of the jury, one juror had to be dismissed because it was discovered by the prosecution, that he was the father of someone who had died in the October 19th Tragedy, the very event from which the charges against the 17 arose. Even after this discovery the judge still did not see it as prudent to carry out some kind of screening with a view to determining impartiality.[8]

In the face of this development of selection of the jury behind their backs, coming on top of all that went before, the Seventeen decided to continue their protest in the face of the court. The protest also took the form of their refusal to cross-examine any witness.

However, within days of the commencement of the trial, the Seventeen indicated to the court that they were minded to change their stance, and would co-operate with the court if the process was restarted. They therefore moved the court to declare what had taken place so far a mistrial and restart the process *ab initio (from the beginning)*. The prosecution objected very strongly to this motion on the ground that the defendants were trying to get 'a second bite of the cherry'. The judge declined to terminate the trial, then in it's early stages, as a mistrial.[9] The most he was prepared to offer was to recall those witnesses the defendants had previously refused to cross examine so as to allow them to do so. He was not prepared to dismiss the jury and select a new one.

In the context the Seventeen felt locked in. They felt their backs were up against the wall and they had to hold their ground. They decided to continue their protest and effectively they took no part in the trial. They did not cross-examine any of the witnesses presented by the prosecution. However, some of the Seventeen made unsworn statements from the dock, which they termed indicative defense statements.

The Jury Shaken

Over a period of several weeks those of the Seventeen who addressed the court, demolished the prosecution case. They unravelled it thread by thread, and laid it bare as a tissue of lies, contradictions and inconsistencies. The jury that was installed by the prosecution and came to court, hostile, was shaken. The chemistry of their interaction with the defendants underwent a sea-change in a matter of those weeks. The impact was obvious to anyone. People in court started to whisper and then speak what would have been unthinkable a few months before: the Seventeen would be freed.

When defendants are unrepresented before a court, it is the practice for the prosecution to refrain from making a final address to the jury. And this is whether or not the defendant exercises his right to a final address.

Not so in the case of the Grenada 17. When informed of their right to a final address to the jury, the Seventeen declined. They then argued that the prosecution should not make or not be allowed to make a final address, given that they were unrepresented; that the judge should move to summing up the case and then hand the matter over to the jury.

However, the court allowed the prosecution a final address. The chief prosecutor spent 3 weeks addressing the jury to try to piece their case back together. Then the judge summed up. This summing-up was heavily criticised by defense lawyers at the appeal, as being unfair. Some described it as a prosecution summing up.

The Jury Intimidated

One day before the jury was to retire, in a public display, hundreds of foreign troops, helicopters, and all, were brought back into Grenada. It was a clear act of intimidation.

But the intimidation did not end there. As the jury was about to retire, the judge pulled out what some have termed the masterstroke to finally nail the 17. The jury was handed a verdict sheet. Each juror had to state on the sheet the verdict he came to on each of the 164 counts and sign his/her name next to it. This was like putting a gun to the heads of the jurors to ensure they did what those in power wanted them to do.[10] Never before in the hundreds of years of jury trial and in the millions of such trials in the British Commonwealth had such a jury sheet been used. It meant that anyone who wished to find the defendants ‘not guilty’ would be known by name. This smashed totally the confidentiality of the jury deliberation and decision process. Everyone would know who voted for whom to be found guilty or not guilty. This guaranteed for the foreign invaders and occupiers of the country the placing of the trial verdicts beyond doubt: they would achieve victory in stage one of the plan for the judicial murder of the Grenada 17. They would get the guilty verdicts they needed.

Notes

[1] The OAS Inter-American Commission for Human Rights has ruled that the United States violated the rights of the Grenada 17 when they detained them and held them incommunicado following the invasion. The United States claimed that they were responsible for holding members of the Grenada 17 only for a period of nine (9) days or so and thereafter they were handed over to local authorities. This is untrue because several of the prisoners were held in a U.S. run Prisoner of War camp at Point Salines in St. George's, near Grenada's airport, up until November 14th 1983.

In a response to questions from the ICHR asking for comments on the allegation of the Grenada 17 that they were denied access to lawyers, despite repeated requests for such access, for a period of six weeks following their detention, the U.S. conceded that the Grenada 17 were denied access to lawyers but justified such denial on the grounds that it was unreasonable for such access to be granted during the 6 weeks period when there were still serious security implications. Yet it was during those same six weeks that all of the 'confessions', which were used against the Grenada 17, were obtained.
cf: Organisation of American States Inter-American Commission on Human Rights Report No. 14/94 of February 7, 1994; Report No. 13/95 of September 21, 1995; and Report No. 109/99 of CASE 10.951 COARD ET AL. vs UNITED STATES, September 29, 1999.

[2] A sample of propaganda material used against the Grenada 17 listing posters, pamphlets, newspaper articles, songs, etc., was presented to the court along with supporting affidavits from several Grenadians, in support of an interlocutory motion which was filed before the court of trial.

[3] Based on the OECS Treaty, decisions of the Authority require unanimous agreement. So it must have meant that the government of Grenada concurred in the decision to keep the court out despite having previously undertaken to return the court to Grenada by 1st January 1987.

[4] The trial record reveals that Ms. Denise Campbell appeared in Court on March 3rd, 4th, and 5th, 1986 as a member of the Prosecution team of lawyers. [Ms. Campbell's appointment as Registrar was gazetted on March 5th 1986. She was, therefore, **both a prosecution lawyer and Registrar on March 5th**, a point which was made by defense counsel Mr Howard Hamilton Q.C. during the appeal hearings.] On March 6th 1986 the court was informed that she no longer appeared for the Crown. On March 11th 1986 Ms. Campbell turns up in court as the newly appointed Registrar and subsequently selects the panel from which the final jury was drawn.
cf: pp 1, 6, 10, 24, and 25, Trial Record, Vol. 1, Part 1.

[5] This incident was attested to by five lawyers, two of them Queens Counsel. A third of the five is currently the Attorney-General of Jamaica. These lawyers all issued affidavits detailing what they witnessed on that April 11th 1986, day. Subsequently they gave evidence and faced cross-examination during the hearing of Civil Suit 191 of 1986. Yet, the Kangaroo Court rejected their clear and uncontroverted evidence and held that no prejudice had resulted to the Grenada 17. This judgement was upheld by the Kangaroo Court of Appeal during the last days of its existence.

[6] cf: pp 84-129, Trial Record, Vol. 2, Part 1. The arguments contained in that section of the Court Record were extended on by the defence lawyers on appeal. No one knows what response the Court of Appeal had to those arguments since to this date no written judgement has been issued.

[7] cf: pp 243–247, Trial Record, Vol. 1, Part 2.

[8] cf: p 248, Trial Record, Vol. 1, Part 2

[9] cf: pp 541–547, Trial Record, Vol. 1, Part 3

[10] cf: p 5487, Trial Record, Vol. 4, Part 4.

THE CASE OF RICHARDSON, MITCHELL & JOSEPH

5

Letter From The Grenada 17
To The Prime Minister of St. Lucia,
The Hon. Dr Kenny Anthony,
In His Capacity As *CARICOM Prime Minister*
Responsible For Justice And Good Governance

Richmond Hill Prisons
St. George's
Grenada
1st October 2001

Hon. Dr Kenny Anthony
Prime Minister Of St Lucia
And CARICOM Prime Minister
Responsible For Justice And Good Governance

Dear Dr Anthony,

We, Hudson Austin, Dave Bartholomew, Callistus Bernard, Bernard Coard, Leon Cornwall, Liam James, Vincent Joseph, Ewart Layne, Colville McBarnette, Andy Mitchell, Cecil Prime, Lester Redhead, Cosmus Richardson, Selwyn Strachan, Christopher Stroude and John Ventour customarily referred to as the *Grenada 17*, hereby write to you in your capacity as CARICOM Prime Minister responsible for Justice and Good Governance. While we are not unmindful of the principle of the separation of powers, we are perforced to draw your attention to certain recent disturbing developments connected with the functioning of the OECS judiciary as it relates to our case.

Background

You would be undoubtedly aware:

- That we have been in prison for the last eighteen years.
- That the entire legal process to which we were subjected was conducted in an unconstitutional court of necessity, kept in place for eight years after democracy and constitutional rule were allegedly restored to Grenada.

- That the sole purpose for keeping the unconstitutional court in existence for the aforementioned eight years after the alleged restoration of constitutional rule was to deny the *Grenada 17* access to the Constitutional Court and in particular the Privy Council.

- That this much was admitted in 1988 by the then leaders of the OECS when they went on record (through an official letter from the OECS Authority delivered to the Court of Appeal) as stating that the Court of the Grenada constitution would not be restored to Grenada until the case of the *Grenada 17* was disposed of.

- That true to form, one day after the disposal of our matter, the constitutional court resumed operation in Grenada.

- That simultaneous with the return of the Constitutional Court to Grenada, a law (Act 19 of 1991) was passed debarring the *Grenada 17* from taking our case before the Privy Council. Hence, all other Grenadians have had the right for the last 10 years to take their matter to the Privy Council save and except the *Grenada 17* and a handful of others who have been denied that right as part of the collateral damage in the targeting of the *Grenada 17* for special treatment.

- That to this day we have not been given reasons as to why the defunct Court of Appeal rejected our criminal and other appeals, since no written judgement has been produced by the Justices of Appeal.

- That this failure to provide any written judgement is both strange and suspicious given that the President of the defunct Court of Appeal once described the case as the biggest case in the history of the English speaking Caribbean.

- That it is a matter of public record (***Hansard***) that the Justices of Appeal who decided the case against us were promised millions of dollars, over and above what they were entitled to under their contracts, for handing down their judgement.

The Role Of Byron J

You may of course be wondering how all this background information concerns you, since none of the current leaders of CARICOM were around as leaders between 1983 and 1991 when all the aforestated matters were unfolding.

This background information is however very pertinent for the reason that the person who was the trial judge in the *Maurice Bishop Murder Trial*, and who, as Byron J, was a key player in the legal/political events of the period, is now the Chief Justice of the OECS Supreme Court. Because of his historical role he has a deeply vested interest in any effort to re-open our case, since his conduct would automatically come under scrutiny. It is in this regard that our concerns arise.

Efforts To Re-Open Case Of The Grenada 17

In the latter half of 2000, the *Grenada 17* retained an attorney, Mr Keith Scotland, out of the jurisdiction of Trinidad and Tobago to institute legal action to re-open our case and thereby test the legality of our continued detention. From the moment we did so all hell broke loose, and every conceivable obstacle has been put in our way.

Firstly, the executive branch of government refused permission for our lawyer to see us. We were told that we had exhausted all our appeals and so we had no right to see a lawyer. After several months of denials, our lawyer instituted legal action in the High Court. The matter came up before Mr. Justice Brian Alleyne in April 2001. After hearing the matter, Mr. Justice Alleyne issued an order granting our counsel access to his clients. He also awarded costs against the state.

Significantly, the state did not appeal the decision of Mr. Justice Alleyne. Nor could it appeal, since at the very hearing, after arguments were presented by our counsel, the Attorney General, in person, conceded that there was no legal basis for refusing access. However, the decision of Mr. Justice Alleyne to award costs against the state was a courageous one. It did not go down well. But such courage and fearless application of the law by Mr. Justice Alleyne was not unprecedented.

Based on his track record as judge in the hundreds of cases he has handled, Mr. Justice Brian Alleyne has gained a reputation for fairness and impartiality, for upholding the constitution and for deciding cases on the basis of the law, whether or not those decisions go against the government or other authority structures. However, because of his fearless application of the law, he has been the target of attacks by state agents, and, indeed, in a clear effort to pressure the judge, legal action accusing him of bias has been instituted by those agents.

On June 28th 2001, our lawyer filed an action in court on behalf of three of us, namely, Andy Mitchell, Vincent Joseph and Cosmus Richardson. In that motion it is contended that Byron J (now Chief Justice Byron) greatly exceeded his sentencing authority and sentenced the three to a total of seventy-five (75) years more than he had the power under the law to sentence them. The motion is contending that because of the *ultra vires* exercise of sentencing power by Byron J, each of the three has been in prison for five years in excess of the time they could have been lawfully kept and that they are at risk of being unlawfully denied up to fifteen (15) more years of liberty in the case of one of them, and thirty years (30 years) each in the case of the other two.

This error by Byron J is only one of hundreds of errors and irregularities which we will contend that he committed while presiding over our matter.

The motion for the Three came up for mention before Mr. Justice Brian Alleyne on July 12th 2001. Mr. Justice Brian Alleyne said that because the matter concerned the liberty of the subject and was of such gravity he wanted to deal with it before the end of the law term, on July 31st 2001. On the said 12th July, the court was put on notice that other matters relating to the rest of the *Grenada Seventeen* and dealing with the very validity of the trial presided over by Byron J (now Byron CJ) would soon be brought before the court. However, the state succeeded in stalling and thereby prevented the matter of the Three from being heard and determined before the end of the law term. The matter is due to come up before Mr. Justice Alleyne on 11th October 2001.

The Removal Of Justice Alleyne By Chief Justice Byron

We have now been informed that Mr. Justice Brian Alleyne is being transferred out of the jurisdiction. We have read press reports stating that this transfer is on a temporary basis. We affirm that this transfer is a sinister attempt to get Justice Brian Alleyne out of the way so that he cannot hear and determine the matter already before him or any matter related to the *Grenada 17*. We are convinced that this sudden removal of Justice Brian Alleyne represents a misuse of administrative power vested in the Chief Justice and that it is part of an attempt by Chief Justice Byron to deny us justice and thereby to protect himself from being exposed. We are convinced that the Chief Justice is well aware that a thorough ventilation of the issues connected to the trial of the *Grenada Seventeen* and related matters would bring his conduct as Byron J under scrutiny, and that the ensuing exposure could spell the end of his obvious ambition to be a founding member of the pending Caribbean Court of Justice.

The Case Of The Grenada 17 Misuse Of Judicial Power And The Caribbean Court Of Justice

The legal process to which the *Grenada Seventeen* have been subjected has been a very sorry matter. It has been swept under the carpet for the last ten years. We know that none of the current Caribbean political leaders had anything to do with it. But we wish to humbly warn that you ought not to turn a blind eye, especially at this time when a Caribbean Court of Justice as a final appellate court for the entire region is being contemplated. True, there were very special circumstances in Grenada. True, you may have your own political opinion as to what went on in Grenada during the relevant period. But we urge you: do not allow this to cause you to lose sight of the profound lessons arising out of the manner in which the court was used as a tool in Grenada to achieve political objectives. It would be a disservice to the people of the Caribbean, in particular at this critical juncture in our history, to allow political emotions and short term political objectives to cause these lessons to elude you.

We well recall the words of our former lead counsel, Mr. Ian Ramsey QC, of the Jamaican Bar. During the period 1985-1991, under death threats and threats of imprisonment for contempt of court, he heroically carried on with his duty of defending us and in taking issue with the perverted judicial conduct of Byron J and others. When he was asked why he was putting himself at such risk, why not just turn away, he said, “I am not doing this just for my clients. I am doing this to ensure that this kind of conduct by a court can never take place in Jamaica.”

Many years have passed. **All we are now trying to do is to utilize the constitutionally available avenues to correct the record and, moreso, to vindicate our constitutional right to liberty which we have been denied for the last 18 years without ever being afforded due process of law. We are not asking for any favours. We are only asking for a fair hearing and for justice according to law.** It is precisely such a fair hearing and justice according to law that we were denied by Byron J. And hence the reason why we are deeply suspicious of the intervention by Chief Justice Byron to transfer the judge before whom our matter is pending.

Given that Chief Justice Byron has a vested interest in the outcome of our matter, it is wrong that he should be using his office to decide who can and cannot hear our matter. Indeed, the proper thing for him to do is to recuse himself from having anything to do with our matter, including in determining, whether directly or otherwise, which judge can and cannot hear our matter. Natural justice demands

such recusal. In a recent case, the House of Lords took the unprecedented step of nullifying its own proceedings in a matter, when it was revealed that the wife of one of the law lords who decided the case was a fund raiser for Amnesty International. Amnesty International was an interested party in the particular matter. It was held that in the interest of fairness the matter had to be reheard by a different panel of judges. Consistent with the principle of natural justice so dramatically vindicated in that case, Chief Justice Byron ought to recuse himself from having anything whatsoever to do with our matter given that his conduct, as Byron J, is in essence the subject of our complaint. But then again some may say that that is asking too much of a man who, as Byron J, allowed a prosecution lawyer in our very case to take up the role of Registrar and to decide, based on whim and fancy, who would and who would not be on the jury panel from whom the final twelve were chosen. [cf. Court Record of Case No. 19 of 1984: Vol. 1, Part 1; Vol. 2, Part 1; and Vol. 2, Part 19.]

We are concerned that if Byron CJ is now allowed to misuse the office of Chief Justice so as to prevent a full and fair ventilation of the sorry matter of the case of the *Grenada 17*; if in this way, what was done in Grenada by Byron J and others is allowed to stand; and if Byron CJ and other judges willing to do the bidding of those who hold power were to become judges of a Caribbean Court of Justice, a final court for all Caribbean people, then one day the failure to pay heed to the lessons of Grenada may come back to haunt the entire Caribbean.

Given the nature and importance of the matters raised herein we will be sending this letter to governments, human rights organisations, legal agencies and other interested bodies and individuals throughout the world.

Respectfully,

Hudson Austin
Dave Bartholomew
Callistus Bernard
Bernard Coard
Leon Cornwall
Liam James
Vincent Joseph
Ewart Layne
Colville McBarnette
Andy Mitchell
Cecil Prime
Lester Redhead
Cosmus Richardson
Selwyn Strachan
Christopher Stroude
John Anthony Ventour

6

Letter From Bernard Coard
To The Prime Minister of St. Lucia,
The Hon. Dr Kenny Anthony,
In His Capacity As *CARICOM Prime Minister*
Responsible For Justice And Good Governance

Prime Minister Kenny Anthony,
Prime Minister's Office,
Castries,
St. Lucia.

19th February 2002

Dear Prime Minister,

I am forced to write to you again, in your role as CARICOM Head responsible for justice and good governance. This is because the situation of the Grenada 17, with regard to judicial misconduct in the handling of our case – stimulated by open and naked political interference by the Grenada government – has reached new heights of scandal AND LAWLESSNESS.

I ask you, Sir, to please read the enclosed three documents, which together, will provide vital information in support of my above statement. To the contents of these documents I now add the following facts – all of which can be easily independently checked for veracity and accuracy:

1) Three members of the Grenada 17 – Andy Mitchell, Vincent Joseph, and Cosmus Richardson – having won their case in the High Court sitting in its constitutional jurisdiction; the court having declared their continued imprisonment to be unconstitutional and illegal, continue to be illegally detained at Richmond Hill Prison.

2) Officials of the Grenada government ***ordered*** the Registrar of the Court to hold on to the judge's order and refuse repeated requests of our counsel to serve the order on the prison so that the men could be released.

3) ***While they thus frustrated the execution of the Court Order, the government representatives got Appeal Court Judge, Satrohan Singh – the most senior judge after the Chief Justice on the Appeal Court – to grant an oral stay of execution of the High Court Order based on an overseas telephone call*** (as Justice Singh was in Antigua, several hundred miles away, at the time). **Justice Singh broke the law – knowingly (as he is no novice to the procedures and the law) – in several respects**:

i) ***At the time that he granted the stay over the telephone, there was no appeal filed by the government/prosecution/state!*** Their own documentation, served on the men 30 hours after the High Court Judge's Order, reveal this to be the case! The stay came first, and the filing of an appeal against the judge's Order came one day later!

ii) The state could not provide any persuasive arguments or evidence that there was a real possibility of the government winning the case. This is because this is objectively impossible. [The lead counsel for the government has been privately telling everyone that the government – his client – has no case].

iii) The state could not show – since this is quite impossible – how the men being set free [they have served in excess of six years of the lawfully permitted sentence under Grenadian law] would in any way cause irreparable damage – or any damage whatsoever – to their case, while the appeal was heard and determined in the ordinary way. **All the above are requirements of Grenadian law for the granting of a stay.**

It is worth further pointing out that lawyers we have consulted can find no precedents for a stay of execution ***to prevent*** the freedom of the citizen when this is ordered by a High Court. It is also worth noting that the prosecutors deliberately left the legal counsel of the men in the dark at every stage of their seeking, and getting, a stay of the Judge's Order to free the men. And legal counsel was only served with the stay about 90 hours after it was granted, *exparte*, by overseas phone call.

The attached documents providing critical information about Justice Singh may explain his illegal grant of a stay of execution so as to help a government to achieve its POLITICAL objectives vis a vis the Grenada 17.

Prime Minister, what the above shows, along with my previous letter to you detailing the conduct of Chief Justice Byron – the trial judge in our Kangaroo trial – ***is that there is a grave crisis facing the OECS Court System – and this has serious consequences for the Caribbean Court of Justice,*** since, presumably, the personnel of this impending court will be largely filled from among the most senior and experienced judges of the various Appeal Courts of the participating jurisdictions. ***We find ourselves with three permanent judges of our OECS Appeal Court, two of whom (and the most senior two) are seriously morally challenged – to put matters as diplomatically as possible.*** Moreover, it is the Chief Justice, and, in his absence, the one who normally acts for him (Justice Singh) who heads the Judicial and Legal Services Commission which selects and appoints new judges, who assigns which judges will go to which island (and hear which case(s), in consequence), and so on.

Prime Minister, this picture is quite frightening, and I do not believe that the CARICOM Heads can anymore turn a blind eye to the political interference in the Judiciary on the part of the Grenada Government; and the growing judicial misconduct by senior elements in the OECS judiciary in the handling of our case, the case of the Grenada 17.

I hereby formally call on both **OECS** and **CARICOM** (as a whole) **Heads** to immediately and resolutely investigate the manner in which the case of the Grenada 17 is being handled by senior members of the Eastern Caribbean (OECS) Appeal Court. I wish to stress that neither myself nor any other members of the Grenada 17 are seeking any special favours from anyone. **All we desire is that our case be heard and determined by independent and impartial judges; and that our case/motion(s) be determined strictly on its merits, and in accordance with the law and the constitution.** That is all. Nothing more, and nothing less.

Prime Minister, unless and until we get justice, our matter will not go away. We will never stop fighting until we receive **a fair hearing.** It is not in the interest of either the OECS sub-region, or the wider CARICOM region, for us to continue to be illegally and unconstitutionally detained. Any further efforts by the Grenada government and its judicial co-conspirators to deny us justice will lead to our withdrawing our (until now) strong objections to our overseas support groups launching a massive

North American and European tourism boycott. We will have no choice. Those who demonstrated the extraordinary desperation in preventing the freedom of three of my colleagues in recent days, and are showing even greater desperation in continuing to detain my colleagues and myself, may find themselves paying a far greater price, therefore, than they ever bargained for. **After all, what choice will we have when the rule of law is abandoned whenever the case of the Grenada 17 is involved? Does anyone seriously expect us to roll over and die?**

Prime Minister, this is our nineteenth (19^{th}) year of incarceration, during which time every trick inside and outside of the book has been used to deny us **a fair hearing.** ***It is time – more than time – for CARICOM HEADS to step in decisively, and bring this madness to a speedy conclusion.*** The growing corruption of the judicial process to achieve a political result will ultimately destroy the moral fabric of our region. Shall we wait until it is too late? Frankly, it may already be too late.

I remain,
Yours respectfully,

Bernard Coard.

7

Statement from Bernard Coard

Member of the Grenada 17
(February 18th 2002)

1. On Thursday last (14th February), three members of the Grenada 17 – Andy Mitchell, Vincent Joseph, and Cosmus Richardson – were ordered freed by the High Court in Grenada, sitting in its constitutional jurisdiction. The court ordered the three men freed '**forthwith**,' that is, immediately. Based on defense submissions and evidence, the consideration of over 100 pages of documents submitted by attorneys on both sides over several months and the citing of many precedents, the court decided that these men had already been illegally held under Grenadian Law for a period of several years. This is the reason, in all likelihood, for the Judge ordering their immediate freedom with written reasons to follow: their continued detention for even a few hours being legally and constitutionally intolerable.

2. It took thirty (30) hours for the men to be served with a stay of execution of the order of the High Court, during the whole of which time they were kept in prison.

3. One of the State's prosecutors claimed on GBN TV, live by telephone, that a stay of execution of the High Court order was granted at 6.30 p.m. that day. The High Court ordered the men's immediate release since 10.20 a.m. This means that, even if we believe this prosecutor, the order of the High Court was flouted for a full eight hours, and the men were detained against their will for this period.

4. It is my understanding that during those crucial 8 hours the Acting Registrar of the court held on to the court order and refused to have it executed on the prison so as to secure the release of the 3 men in accordance with the order of the judge.

5. Incidentally (or by design), the Registrar functions in an acting capacity and is on a short term contract which makes him vulnerable to pressure from the State. His contract comes up for renewal soon. This undermines the independence of the Judiciary.

6. The issue must arise as to whether The Chief Justice had anything to do with the assignment of the particular Appeal Court Judge to handle this matter. At the time the stay was sought the Court of Appeal was sitting in Antigua under Chief Justice Byron. Chief Justice Byron was the same person who handed down the illegal sentences in 1986. Moreover, in all the circumstances, there are solid reasons why the particular Judge who gave the stay of execution of the order, should have recused himself from this matter.

7. The application for the stay was made by overseas telephone call to this Judge in Chambers in Antigua. It was made in the absence of the legal representative of the three men and without even contacting him.

8. The following disturbing questions arise:

(1) Whose orders were the Registrar of the Court obeying during those crucial hours prior to the granting of the Stay; Those of the Court, or that of prosecutors in the case or other State officials?

(2) What emergency was there in the case to justify the Court of Appeal considering the application by overseas telephone call rather than in the normal way?

(3) Is the court not supposed to be the guardian of the constitutional rights of citizens?

(4) **Should a political objective by a government to keep certain people locked up justify the use of the court in this way? Has not the court by its conduct allowed itself to be used as an instrument to fulfill the political agenda of a sitting government?**

(5) Is the State bent on flouting the law at every turn, and seeking in the process to corrupt judicial institutions and the Judicial Process? **The Grenadian media reported State officials as saying that the three men will be remaining in prison 'for a long time.' Given the High Court Judge's order to free the men, how do they know this? Does this mean that they feel they have the Appeal Court Judges, or a majority of them, in their pockets? What are the implications of all of this for the Caricom region as a whole?** What will the Grenada Government's seeking to drag elements of the Judiciary into the gutter with them do for the Caribbean people's confidence in the impending Caribbean Court of Justice?

I call on all citizens of the Caribbean to focus on these fundamental questions affecting everyone's freedom, and not let the propaganda against the Grenada 17 blind you to the danger to every citizen of what is happening presently in Grenada. Remember, "Today is the 'Grenada 17' tomorrow it could be you!"

EXCERPTS OF SPEECHES
BY P.M. DR. KEITH MITCHELL
(AND ANALYSES OF THEM)

8

FEBRUARY 21ST 2002
'FACE TO FACE' MEETING

The Keith Mitchell Government
And The Court Order To Free "Forthwith"
Three Members Of The Grenada 17

Below, you will read a newsbroadcast from a pro-government radio station, **WEE/FM**. You will observe the unprofessionalism of the broadcasters, referring to the Grenada Seventeen as the 'Coard Gang' twice in the news item; and to the three ordered released by the High Court as 'The October 1983 Three-Member Firing Squad' based solely on a Kangaroo trial with demonstratively cooked-up evidence and statements signed under extreme torture.

However, our focus is on the implications of some of what Prime Minister Mitchell said, which was broadcast (in his own voice) on **WEE/FM's** noon and 5:45 p.m. newscasts on February 21st, 2002.

Note, firstly, the Prime Minister's praise for the action of the Eastern Caribbean (OECS) Appeal Court in staying the execution of the High Court's order to immediately free the three men. That this action by the Appeal Court Judges was patently illegal can be appreciated by reading the 'Statement from Bernard Coard' of 18/02/02, and the Letter from Bernard Coard to Prime Minister Anthony of St. Lucia of 19th February, 2002; both dealing with this matter in some detail.

Note, secondly, that Prime Minister Mitchell not only praises the illegal stay granted by two Appeal Court Judges of the Eastern Caribbean (OECS) Supreme Court, but goes on to publicly attack (without calling names but with everyone clear as to the target) the High Court Judge, Justice Brian Alleyne, who gave the order to free the men after eight months of the exchange of written arguments by both sides and the consideration of all evidence submitted by both sides plus studying the relevant precedents or case law.

Let us focus on the Prime Minister's own words with respect to both the above points:

'…thank God we have the OECS Supreme Court still there functioning effectively. So no one person can make decisions that could affect the whole country and not be concerned about that particular decision.'

Note, thirdly, that P.M. Mitchell's ire is aimed at the High Court Judge for (implicitly) ruling on the basis of Grenadian Law and the Constitution, rather than ruling, as the P.M. thought he ought to (and as he got the Appeal Court Judges to do, in open violation of the law!) **on the basis of political considerations.**

He accused Justice Brian Alleyne of making a decision to free the three members of the Grenada Seventeen; a decision **'that could affect the whole country and not be concerned about that particular decision'!!**

In other words, the judge should have gone outside the law and taken public reaction and the political impact of freeing the men into consideration, and on that basis not order their liberty!!!

Finally, readers can appreciate for themselves the fact that P.M. Mitchell's concerns are entirely political, and aimed at the outcome of the next general election, and not really his excuse of "National Security" and "Stability of the Country". This can be seen from how he links the freeing of the three men by the High Court Judge to a certain (unnamed) political party competing for office against him in the upcoming general election. Read again the last paragraph of WEE/FM's broadcast-transcript, where the actual words of P.M. Mitchell re this are recorded. **Note carefully that he does not accuse any of the people referred to as 'the plotters for the freedom of the Coard Gang' as seeking to overthrow his government by illegal or unconstitutional means, but rather of (implicitly) seeking to oust him at the upcoming general elections.** Thus, he tells his supporters at the public gathering: **'I hope you ready to deal with their heads with your votes when the time comes**.'

Thus he feels that High Court Judge, Justice Brian Alleyne, owed a duty to his (Mitchell's) reelection chances of refusing to free the three members of the Grenada 17— regardless of what Grenada's Law and Constitution have to say. At the same time, he expresses satisfaction that he can still rely on the Appeal Court judges to do his political bidding. What a sad day for **the Rule of Law** in Grenada! Let us now read the **WEE/FM** broadcast-transcript.

Prime Minister Mitchell's Response
Re: Court's order to free three
of the "Grenada 17"
Place: Grand Roy, St. John's, during
The government's "Face to Face" Programme

Date: 21st February 2002
Carried on WEE/FM Radio (93.3 FM)
Anchor: Calistra Farrier

'Grenada's Prime Minister and National Security Minister has reacted strongly to suggestions that his government may be linked to current moves to free the Coard Gang. Dr. Mitchell says the people of the country will have to be involved in such a major decision, especially since it involves a security risk.

WEEFM *News* caught up with the Prime Minister in the village of Grand Roy at a 'Face to Face' Wednesday night, following the Appeal Court decision earlier in the day to continue the stay of execution of the judge's order to release the October 1983 three-member firing squad.

Dr. Mitchell says his government will not support a situation that threatens the national security and stability of Grenada. He says there are individuals using the situation to try and discredit his government by linking it to such an unpopular idea that could throw the country into an uproar.

> **"…all games that have been played and you heard all kinds of nonsense being said by some people how the government is doing this, and the government is doing this, the government has done nothing so far that has undermined the security of this country".**

While the state did not defend the action brought in the High Court to free Andy Mitchell, Cosmus Richardson and Vincent Joseph, Dr. Mitchell says the fact that an appeal has been filed by the state is a clear indication of where his government and the state stands on the issue.

> **"It moved to have stay of execution of any order to release anybody at this time. And clearly, that must be the government's position. If it wasn't the government position you would not have seen that. So I think that is sufficient (*applause*). If the state had not wanted to do this then clearly you would not have seen it, because the order was given. The state had to move to counter that order. And thank God we have the OECS Supreme Court still there functioning effectively. So no one person can make decisions that could affect the whole country and not be concerned about that particular decision. So then it is the judicial system and I am not supposed to make comments on judicial actions. But I think I have said enough to send a message to where this government stands. Nothing that affects the stability of this country will be done by this government".**

The state is appealing on the grounds that Justice Brian Alleyne's interpretation of the law under Section 80 of the Criminal Code is wrong and that the men had already appealed against their sentencing and conviction for manslaughter in the 1983 Fort Rupert tragedy.

In 1988 [sic] the OECS Appeal Court [sic] upheld the conviction and sentencing of the 1984 [sic] trial judge of 30 and 45 year jail sentences for the three former PRA soldiers.

Trinidad and Tobago attorney Keith Scotland says his clients will take their matter to the Privy Council if it becomes necessary.

Dr. Mitchell is suggesting that the public look to another political party, which he did not name, for the plotters for the freedom of the Coard Gang.

> **"The Revolution came, people spent their time in destroying even what they say that they believe in. That's what happened. And don't forget the same people are still around. Some of them may forget that some of the same people who destroyed what they supposed to believe around. Don't forget the thing about the Gairy ticket; don't forget. The people who did printed that ticket in the name of Eric Gairy is still around and they are part of a serious political party today—of a certain part …I shouldn't say serious, I made a mistake, forgive me. They are part of a certain political party, not a serious political party. They are there and some of them are emerging now in top positions. They have hijacked a party and they are involved in top positions in a political organization. Now they want real political power now. They not behind the scene anymore; they have surfaced. All their heads are above water now, today. But I hope you ready to deal with their heads with your votes when the time comes. That is how you have to deal with their heads. You don't want to do like them to execute people."**

9

FEBRUARY 24TH 2002
NNP GENERAL COUNCIL MEETING

The Prime Minister Of Grenada Speaks—Again—About The Freeing Of The Grenada 17

When you take the two recent speeches of the Prime Minister, Dr. Keith Mitchell, together, the following things stand out:

(1) The Prime Minister is expressing his views, not once but twice, on a matter which is still before the courts for determination. In other words, the matter is still ***Sub Judice***, but that does not deter the Prime Minister. His speeches on this matter have been aired repeatedly on Radio and TV, and printed in the press.

(2) The Prime Minister is clearly aiming to intimidate the judiciary: 'I repeat…the judiciary cannot operate against the interest of the society. And it cannot find excuses in law to destroy the society.' The Prime Minister, in Mugabe-style, uses the carrot and the stick approach to the judiciary. He praises those judges who rule the way he wishes them to rule, and publicly attacks those who don't, hinting that he will only obey those orders that he agrees with.

(3) He repeats the position he has expressed several times in recent times: the freeing of any or all members of the Grenada 17 'Is a decision to be made by the Grenadian people.'

(4) In other words, not the courts, not the law, but ' The people as a whole' — i.e., a referendum, will decide the question of the freedom of the Grenada 17 political prisoners. This is a very strange doctrine in an alleged democracy, governed allegedly by THE RULE OR LAW!!

(5) What the Prime Minister's repeated interventions in a matter before the courts (i.e. the freedom of the Grenada 17 by the courts) demonstrates conclusively, for the few who still had any doubts, IS THAT THE DETENTION—AND CONTINUED DETENTION—OF THE GRENADA 17, IS A POLITICAL, NOT LEGAL, QUESTION. **THAT THE GRENADA 17 ARE POLITICAL PRISONERS**!!

Excerpt From
Prime Minister Mitchell's Address
At The General Council
Of The New National Party (NNP)
Held In Gouyave, St. John's,
On February 24th 2002

Carried on the Grenada Broadcasting Network (***GBN***) radio
On 1st March 2002 on the 12 noon and 6:00 p.m. news broadcasts,
and on ***GBN TV*** at 7:00 p.m.
Anchor: Tony Julien.

'… And the Prime Minister was very firm when he spoke about the freeing of [the Grenada 17] inmates from the Richmond Hill Prison. **He says this is a decision to be made by the Grenadian people.**

> "*...so* ***the people must be involved in any serious decision that you make that involves the future of the country; particularly when it is an issue involving national security it becomes even more important****... You cannot have forgiveness if you do not learn to mend your ways and learn to behave yourselves.*" [This part was carried on both ***GBN TV*** and ***MTV*** as part of an NPR programme on the General Council Meeting.]
>
> *"...we did not go to the people for vote to make decisions against the interest of the people. Let me repeat that... I don't take it on myself to release anybody.* ***This a decision for the Grenadian people****, Sisters and Brothers. The Grenadian people would have to be satisfied that whatever happens in that particular area* [freeing the Grenada 17] *has to be in their interests. And it is only then, sisters and Brothers, that I would do what the people say. Let us be very clear that no man, no smart men, no bright boys, no godless men who refuse to stand up and pray to the Lord in Parliament, no smart men, would be able to force the hand of this government [re freeing the Grenada 17].*
>
> *"I want to make it clear, the constitution is clear, that there are two branches of government. There is the Executive; there is also the Judicial [*sic*]. No one is supposed to impose its will on the other one without--without due reason. I repeat, the ju…the judiciary cannot operate against the interest of the society. And it cannot find excuses in law to destroy the society. Because the society is…is import…is important pillar of the constitution. So no smart man can use the judiciary to destroy the society. Ah speaking in tongues. I am not saying Peter, I am not saying Paul. Who could understand, understand."*

U.S. GOVERNMENT INVOLVEMENT IN THE CASE OF THE GRENADA 17

10

Overview Of The U.S. Declassified Documents On Grenada

BACKGROUND

In 1996 Dr. Richard Gibson, a Professor of Education at Wayne State University, Michigan, USA, and a Fulbright scholar, visited Grenada. He was interested in studying the social and political effects of the US invasion on the tiny tri-island-state of 344 sq. km and population of 100,000 people.

During his six months stay in Grenada, Dr. Gibson did scores of interviews with people from all walks of life. Of course the tragic events of October 1983 and fate of the Grenada 17 prisoners was a recurring issue.

Among other things, Dr. Gibson found that prejudice against the 17 prisoners was widespread. On probing deeper he recognised that as widespread and apparently intense as the prejudice was, when questioned, people could not back up their positions with facts and arguments. Given his training he recognised that he was dealing with a population which was thoroughly brainwashed by the professional job done by the US Psychological Operations Battalion (PSYOPS) which in 1983 formed part of the invading forces and which carried out an eight-week campaign aimed at discrediting the surviving leaders of the Grenada Revolution 'for the next 1000 years'.

Given this prejudice, Dr. Gibson was able to situate what the trial of the Grenada 17 would have been like ten years before 1996. He was able to understand how the overwhelming majority of the 17 could have been convicted and sentenced to death on the flimsy and dubious evidence presented in court; evidence that could not cross the preliminary hurdle in a US court or, for that matter, any independent and impartial court.

When he interviewed leading figures in Grenadian society, including a former Chief Justice, prosecutors, government ministers and others, he was astonished when nearly all of them told him that they believed that many of the Grenada 17 members were innocent, but because the Revolution in their view did terrible things, the men should be made to stay in jail indefinitely. [cf: pp 13, 15-16 of Dr. Gibson's 1996 Report, subsequently published, in part, in the ***Grenadian Voice*** newspaper.]

DOCUMENTS REQUESTED

These discoveries and his experience in Grenada peaked Dr. Gibson's interest, and on his return to the US he filed under the Freedom of Information Act for access to all the following documents:

1. All documents relating directly or indirectly to covert U.S. involvement in Grenada from the day of the 1979 Revolution in Grenada; all documents relating directly or indirectly to the period from 1979 to 1983 when Maurice Bishop served as Prime Minister; and all documents relating directly or indirectly to the U.S. military invasion in October 1983 and the subsequent U.S. military occupation of Grenada.
2. Documents provided to and/or created by President Reagan and any documents provided to and/or created by the Secretary of Defence Casper Weinberger concerning all phases of covert activity in Grenada from 1979 through 1983 concerning the planning of the U.S. invasion.
3. Documents relating to and inquiries into the causes and circumstances of the assassination of Maurice Bishop in October 1983.
4. Documents provided to and created by President Reagan concerning the death of Maurice Bishop.
5. Documents relating to the trial of Hudson Austin or any other person accused of the assassination of Maurice Bishop.
6. Any and all records regarding Cletus St. Paul, a person who was a witness in the trial regarding the assassination of Maurice Bishop.

Initially, the US government agencies either denied that they were holding documents as described above or they stated that they were exempted from releasing them.

Faced with this difficulty, Dr. Gibson went to court and in 1999 he obtained a Court Order to compel release of the documents. Even with this court order, the US agencies have been able to invoke a number of exemptions under the FOIA and they have been able to employ other delaying tactics to make the obtaining of the documents both immensely time consuming and expensive. To date they have released only a specimen of documents described as only 'the tip of the iceberg'.

No documents have been released regarding points 1,2,3,4, and 6 above. No documents have been released regarding the controversial trial of the Grenada 17 by judge and jury. The documents released relate only to the appeals process and to miscellaneous matters. Efforts will continue in the US courts to force them to hand over all of the rest of the documents.

ORGANISATION OF THE DOCUMENTS

The documents so far released have been organised into seven (7) folders. They are:

1. Correspondence between Dr. Gibson and his lawyers on the one hand and U.S. government agencies on the other hand.
2. Documents reporting on conversations/communications/contacts between U.S. Embassy officials and the Director of Public Prosecutions in Grenada during the period of the case of the Grenada 17.
3. Documents reporting on the preparation of the court transcript in the case of the Grenada 17 in preparation for the appeal.

4. Documents reporting on the legal proceedings in the case of the Grenada 17 and related matters including information on matters being considered by the Justices of Appeal while they were in the process of arriving at their final decision in the appeal.
5. Documents reporting on the security situation in Grenada and related matters including U.S. control and involvement in security arrangements inside the courtroom during the delivery of the Court of Appeal's decision.
6. Documents outlining the U.S. government's consistent position of defence of the legal process in the case of the Grenada 17 as being free and fair.
7. Miscellaneous items.

SOME REVELATIONS

Some of the revelations in these documents are quite shocking. Still, bear in mind as you read them, that only a very small specimen of the documents requested has been released. Although some documents have been released concerning the legal process, it is a striking omission that not a single document covering the 9-month period of the trial process has been released.

CHIEF JUSTICE JAMES PATTERSON

You will see in Folder No. 3 at pp 1369-70 where the U.S. political officer reports on a meeting with the Chief Justice of Grenada. Therein the CJ is reported as expressing the expectation that the hangings of the Grenada 17 defendants would take place in 1988. He said that the Commissioner of Police had informed him that 2 gallows are ready. This discussion was taking place at a time when the CJ had a motion pending before him that was capable of nullifying all the convictions!

DPP VILMA HYLTON

You will see from the contents of Folder No. 2 that the DPP was in regular contact with the political officer of the U.S. Embassy, reporting on the case and, at least on one occasion, undertaking to act as an intermediary between the U.S. government agents and the judges on a security matter.

It should be noted that under the Grenada Constitution the powers and independence of the DPP is provided for by a deeply entrenched clause. To alter that section of the Constitution requires the support of 2/3 of the voters in a duly called referendum. It is clear that, at a minimum, the spirit of the Constitution would forbid the DPP to report to the government of Grenada on a particular case. Yet, the contents of Folder No. 2 show that the holder of that position was reporting to a foreign power in a political case. And this was not just any foreign power. This was the power which militarily invaded Grenada to put an end to the political process in which the defendants were key participants. The defendants were all captured by this foreign power. This is a matter of judicial record cf: OAS Inter-American Commission On Human Rights Report No. 109/99 of September 29, 1999 (**Case No. 10.951: Coard et al versus United States**). That foreign power's agents took part in the interrogation of several of the defendants and facilitated the interrogation and torturing of several of the defendants – something that, as expected, that power denies. The President of that foreign power publicly referred to

the defendants as 'murderers', 'criminals, 'goons', and 'thugs'. A psychological warfare battalion of that foreign power vilified the defendants over an eight-week period as criminals, murderers and as being responsible for the very deaths for which they were on trial. And it is also a mater of record that the government of that foreign power assigned millions of dollars to be spent on propaganda in Grenada and the Caribbean region immediately following the invasion to justify the invasion to the Grenadian and Caribbean people.

So effectively, the defendants were being put on trial by the very foreign power to which the DPP was reporting.

Indeed, although there is no smoking-gun document so far released to show that the U.S. government was directly financing the trial of the Grenada 17, there is clear evidence that, at a minimum, the trial was indirectly financed by the U.S. government. It can be easily ascertained by a viewing of the appropriate documents that in the period up to 1991 the U.S. government provided budgetary assistance to the government of Grenada to finance its deficit on the recurrent budget. This budgetary support would have allowed the government of Grenada to spend the millions of dollars to stage the long trial and appeal process. [Such budgetary support ceased once the trial and appeal process was completed.]

PREPARATION OF THE TRIAL RECORD

Folder No. 3 is also very interesting in that it reveals the extent to which the U.S. government was supervising the legal process, down to supervising and exerting clear influence to have the trial record produced. Meetings were held with the Chief Justice and there was regular contact with the secretary of the Chief Justice to get the matter moving. This level of ‘interest’ is truly amazing.

US $650,000 FOR APPEAL JUDGES: A BRIBE?

Then there is the issue of the additional fees negotiated by the judges while they were in the middle of determining their verdicts. This is a truly amazing revelation which, it is submitted, taints the entire process.

There is no smoking gun document showing any direct U.S. agent contact and discussion with the judges of the Court of Appeal on the case itself. However, bear in mind that not all the documents have been released; and secondly, the U.S. government was clearly consistently aware of the thinking of the judges. It is clear that DPP Hylton's report of August 1990, at page 0742 et seq. was premised on a knowledge of the thinking of the judges or some of them. Then the Jan 1991 report at page 0677 shows that the U.S. was aware as to the thinking of the judges down to the fact of the judges' awareness of a Malaysian precedent. So it is clear that the U.S. government was well informed as to the thought processes of the judges, including at the critical period when they were considering their verdicts. Remember we are talking about judges who enjoyed no security of tenure and who were on a special contract to do the case. We are also talking about judges who were part of a judicial system headed by a Chief Justice whose conduct with regard to the case of the Grenada 17, as aforementioned, was totally unethical. It is in this context that, once again, the issue of the US$650,000 must arise.

WHY NO DOCUMENTS ON NINE MONTH TRIAL

Folder No. 6 shows that the U.S. had a consistent record of defending the trial as free and fair. This is important in that the extent of interest in the case cannot be explained on the basis of the U.S. having any human rights violation concern. So why the detailed interest and supervision of the case? And if the trial was free and fair why then has the U.S. government refused to release any documents relating to the 9 month trial from March-December 1986? Why don't they just let all come to light and leave it up to fair-minded and independent observers to come to their own conclusion? If the trial was free and fair, **and the U.S. government played no role in directing, influencing or manipulating its proceedings and outcome**, what could possibly be the grounds for refusing to hand over these documents to Dr. Gibson under the FOIA, **on grounds of U.S. 'National Security'**?

We of the *Committee To Free The Grenada 17* submit that this specimen of documents released leaves the clear impression that the legal process against the Grenada 17 was being guided by an invisible hand; a hand that we further submit could become visible if all the documents related to all aspects of the case of the Grenada 17 and, in particular, the trial process, are released.

We ask you to read and form your own view. After reading the U.S. documents we ask you to visit the Grenada 17 web site, **www.grenada17.cwc.net**, and read the other documents on the case of the Grenada 17 which appear on that web site.

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Article on The U. S. Declassified Documents, by Alan Scott, Secretary Of The Committee For Human Rights In Grenada (CHRG), UK

Dear Editor,

CHRG(UK) has recently obtained copies of all of the documents released so far by the American Security forces to Dr Gibson as a result of his successful Court action under the American Freedom Of Information Act. Despite the order of the District Court, the American Security Services are claiming exemption for the bulk of the documents in their possession. In particular, they have failed to release any documents on the subject of covert action in Grenada, the trial of the Grenada 17 or the evidence of Cletus St Paul. What is it in these documents that the Security Services are so desperate to hide? If the documents support the view that the 17 are guilty, and that there has been no political interference with the trial by the US Government, why are they refusing to make them public?

The documents which have been released to Dr Gibson show that a number of state officials were in regular contact with the political officer at the US embassy in Grenada. A number of the documents contain quotes to the political officer by the then Director of Public Prosecution, Vilma Hylton. The independence of the post of the Director of Public Prosecution is enshrined in the Grenada Constitution. It would be inappropriate for the DPP to be reporting to the Government of Grenada on a specific case, yet Ms Hylton was regularly reporting to the embassy of a foreign power. In August 1990 she expressed the view that the conviction of John Ventour and Cecil Prime might be overturned. She indicated that she did not disagree with the former, but would find the acquittal of Prime hard to accept. In July 1991 the Political Officer asked Ms Hylton if she could assist in having the Court to focus on the security arrangements inside the courtroom, particularly on the questions of how many relatives each Defendant should be allowed in the courtroom, how many media observers etc. She is even asked if the Appeal Court announcement would be aired live over Radio Grenada. Ms Hylton said that she would ask prosecution leader Karl Hudson-Phillips to discuss these issues with Justice Smith on July 3rd.

It is also clear that the secretary for the Chief Justice, Ms Gail Slinger-Charles, was also in regular contact with the Embassy over the transcribing of the original trial records. The Political Officer was clearly concerned over the delay in producing the transcript, as the Appeal could not commence until it was ready. The Political Officer was also approached by the Grenada Government legal adviser, Edwin Heylinger, and National Security Adviser Colonel Glenn Mignon who urgently requested information regarding US Supreme Court procedures on hearing appeal cases and in particular how the Supreme Court limits the time for each appeal. The Political Officer advises Washington that the Government of Grenada plans to advise the court to dismiss the present appeal case and introduce legislation that would limit the amount of time available for a specific appeal and prohibit oral submissions. He therefore requests that the Grenada Government be given assistance to research this question on a priority basis.

Incredibly, members of the Judiciary involved in the case of the Grenada 17 were also in contact with the Political Officer in the US Embassy. In a report to Washington dated March 1987 there are two pages of a conversation between Justice Patterson and the Political Officer. Justice Patterson indicates that he still believed that the sentences would be carried out that year, and the Commissioner of Police claimed that three gallows had already been built. On the contempt of court case involving Ian Ramsay, Justice Patterson is quoted as saying "I was hoping I would not have to continue with the case, but as I'm sitting here it looks more and more likely that I will". Patterson said the appointment of a new *Puisne* Judge was imminent, but "I don't think he's capable of handling Ramsay".

There is a reference in a report to Washington dated December 1989 to a discussion between Sir Frederick Smith and the US Embassy in Bridgetown, but what is more disturbing is another report in January 1991 where the reason for the postponement of the appeal decision is explained. The US Embassy were aware that the postponement was necessary so that the written decision of the Appeal Court would be available at the same time as the oral announcement of the decision. The Appeal Court had planned to announce its decision prior to distribution of the written decision. However, the dismissal of an appeal decision from another Commonwealth country (Malaysia) recently was brought to the attention of the court. The Malaysian Appeal Court had delivered an oral decision in a separate court sitting from the presentation of the written decision. The procedure was judged by a higher court as a point for dismissal of the Appeal Court decision and a rehearing at the Appeal level was ordered. To prevent the possibility of such a rehearing at the appeal level in this case, the Appeal Judges have decided to submit their oral and written decisions at the same time. As the Chief Appeal Judge, Sir Frederick Smith, had just returned from England, more time was needed to prepare the written decision. How would an Embassy Official have such detailed knowledge about the conduct of the Appeal unless he obtained it from the Judges hearing the case?

It is clear from the released documents that the written judgement was prepared by the time the Appeal Court announced its decision. In July 1991 Ms Hylton was able to tell her friend the Political Officer that one judgement alone is over 200 pages long, though she does not mention why she has this knowledge before the Appeal decision was known. In August the President of the Court, Sir Frederick Smith, indicated that he was not infallible, he wasn't the Pope, but he had spent too much time in writing the judgement and he saw nothing wrong with it. So the question has to be asked, where is this written judgement that took so long to write? Over ten years later it has still not been published. Or made available to the Defendant's legal representatives.

Finally, the released documents clear up the mystery of the whereabouts of the PRG documents taken by the US following the invasion. The defence lawyers needed these documents for the trial and the appeal, but they were never produced. The message from the Embassy to Washington indicates that all of the PRG documents confiscated in 1983 were subsequently microfilmed and the originals returned to the Government of Grenada sometime prior to August 1985. The Commissioner of Police, Cosmus Raymond, confirmed that the Royal Grenada Police Force has custody of the documents at police headquarters. If these documents were located in Grenada, why were the defence team denied access to them? This failure in itself must surely invalidate the original decision of the Court of Appeal.

The released documents clearly show an incredible level of interference in the case of the Grenada 17 by the United States Government. The DPP, the Secretary to the Chief Justice, even the judges, were in contact with the US Embassy about the case. It is not hard to imagine what the documents the US are refusing to release would show about their involvement in the original trial. That documents denied to the defence were actually under the control of the Grenada police force is clearly a breach of Natural Justice. We demand that the requested documents, together with the various statements made by Cletus

St Paul, be released to the prisoners so that they can seek justice through the courts. We also demand that the original appeal judgement be published, as it was clearly written by the time the Court of Appeal gave its verdict. There can be no excuse for continuing to deny the people of Grenada access to this document for which the Appeal Judges were paid so handsomely to produce.

Alan Scott
Secretary
CHRG (UK)

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The Case of John 'Chalky' Ventour

FREE JOHN 'CHALKY' VENTOUR NOW!

SOME FACTS ABOUT JOHN VENTOUR
YOU NEED TO KNOW

Most Grenadians, not to mention those outside of Grenada, are unaware of the following facts about John 'Chalky' Ventour:

- He was ***not*** a member of the 22-person People's Revolutionary Government (PRG);
- He was ***not*** a member of the 11-person Cabinet of the Government of Grenada;
- Except for the first days and weeks following March 13th, 1979, when, like thousands of Grenadians, he took part in the overthrow of Gairy and consolidation of the Revolution, he was ***not*** a member of the People's Revolutionary Army (PRA);
- He was ***not*** a member of the Revolutionary Military Council (RMC).

Why, then, was he arrested by U.S. soldiers and tried and convicted of killing Maurice Bishop and others? To understand the reasons for this, we must understand two things about Ventour: he was one of NJM's leaders and he was a leader in the trade union movement. Let us start with the first of the two reasons for his frame up:

- John 'Chalky' Ventour is one of the most outstanding Trade Unionists Grenada has produced in the last fifty years.
  - In August 1977, when only twenty (20) years of age, he was elected General Secretary of the Commercial and Industrial Workers Union (CIWU);
  - He was reelected to this position in the CIWU in 1978,1979,1980 and 1981;
  - In July 1982 he was elected President of the CIWU, and reelected President in July 1983;
  - He was elected General Secretary of the Grenada Trade Union Council (TUC), Grenada's umbrella body of trade unions, in March 1980;
  - He was reelected General Secretary of the TUC in 1981, 1982, and 1983.

They Jailed Ventour For The Same Reason
They Jailed Humphrey…

- John 'Chalky' Ventour was therefore the President of the CIWU and the General Secretary of the TUC at the time of the U.S. invasion. He was imprisoned by United States invasion and occupation troops for the same reason that ***Chester Humphrey,*** another outstanding Grenadian Trade Unionist, was: BECAUSE he was an outstanding workers' leader, and the Reagan administration wished to replace militant, incorruptible trade union and other leaders with their puppets. In Chester Humprey's case, they had him held in Richmond Hill Prison for two years without bail, while they sought to have him extradited to the U.S. to face arms smuggling charges. In the meantime, they called a meeting of his union (TAWU), at which there was less than a quarter of the number required for a quorum, and illegally elected a ***manager*** in one of the companies represented by TAWU as the new President of the Union to replace Chester Humphrey! When the Grenada Court of Appeal finally dismissed the extradition request against him because of the statute of limitations and other reasons and freed Humphrey, the Occupation Forces and their local puppets tried to keep him from running for reelection as President of his union on the grounds that he was no longer a member of the union (TAWU), as he had missed paying membership dues while in prison (a claim that was in any case false)! [Indeed, they tried the same thing in the case of Ventour's union (CIWU) on January 11, 1984. While he was in his prison cell, the Americans used a Grenadian who had migrated to the U.S. (and had returned soon after the Invasion) to call a CIWU meeting to elect a new President. However, the workers almost bodily removed him from that meeting.]

They Framed Ventour For The Same Reason
They Tried To Frame De Riggs…

- John 'Chalky' Ventour was also singled out for framing on murder charges because of being a leader in Grenada's governing party under the Revolution, the NJM. The proof of this can be seen from what happened to ***Christopher De Riggs.*** He was a member of NJM's leadership, and the Minister of Health in the PRG. He was fortunate to have left Grenada on October 12th , and returned to Grenada on October 24th, 1983. Embarrassingly for the foreign police torturers and foreign prosecutors, none of them was aware of this. ***As a result, they tortured an army Major for twenty three hours to get him to state, in a signed 'confession',*** **inter alia*****, that Christopher De Riggs was in a (mythical) meeting of the CC of NJM in Bernard Coard's home on the morning of October 19th, 1983 – at the very moment when he was several thousand miles away, in Sweden, successfully negotiating with the Swedish government a grant of five million U.S. dollars for Grenada, for the purchase of medicines and the building of health clinics!*** [This false testimony is still part of the official prosecution case against the Grenada 17, and can be found in the 34-volume official Court Record!] ***Had De Riggs not been speaking with the Swedish government, in Sweden, at the time of October 19th, 1983, he too would be still in Richmond Hill Prison, serving a life sentence for murdering Maurice Bishop!*** [Even so, the U.S. Occupation Forces kept him in prison, without charge, for 7½ months before being finally forced to release him.]

In December 1983, U.S. Investigators Declared Ventour Innocent…

- That the U.S. Invasion and Occupation Forces knew of Ventour's complete innocence of the charge of murder, can be seen from the following incident. The Americans had two of their top investigators (who called themselves only by first names: 'John' and 'Forrest') interrogate literally hundreds of Grenadians about the events of October 19th, 1983. They questioned NJM party members, soldiers, members of the public, and took detailed statements from everyone, which they then cross-checked with other people and with documents, etc. In December 1983, they informed Ventour – and several members of the Grenada 17, including Cecil Prime – that they had formally recommended that he (and the others) be freed immediately, as there was ***no evidence*** of his (and the others they spoke to) involvement in the death of Maurice Bishop and others. One week later, with Ventour still detained in prison without charge, one of these two U.S. official investigators returned, clearly embarrassed, to announce that their recommendation had been rejected 'at higher levels', and that these 'higher levels' had taken a political decision to prosecute Ventour for the murder of Maurice Bishop and others.

Now, Secret U.S. Documents Suggest That The Prosecution Believed Him Innocent Too…

- Now, with a U.S. Court Order to the U.S. government and its intelligence agencies to hand over certain documents regarding the case of the Grenada 17, we discover that, towards the very end of the presentation of arguments by both the defense and prosecution before the (unconstitutional) Grenada Court of Appeal, ***the Director of Public Prosecution (DPP) is telling the Political Officer of the United States Embassy in Grenada that she believed that both Ventour and Prime would be freed by the Appeal Court, AND THAT SHE DID NOT DISAGREE WITH A DECISION TO FREE JOHN VENTOUR!!! This could only mean that Hylton never believed that Ventour was guilty! What other reason could there be for saying that she would not disagree with such a decision?*** And this fits in perfectly with the original conclusion of the U.S. investigators, back in October 1983-December 1983 – before their political bosses overruled them.

Who Ever Said Money Can't Talk?…

- At the time that the DPP, Velma Hylton, revealed this information about what the Court of Appeal was likely to do with respect to Ventour and Prime (namely, free them of the murder conviction and send them home) in August 1990, she said that the Court would be giving its ruling 'within six weeks'. But, e***leven months later – having demanded an additional US$650,000 from the government of Grenada to render its verdict, PRESTO!! – the Court found both Ventour and Prime and all the others (surprise, surprise) guilty!!***

Free Ventour NOW!!

In the meantime, John 'Chalky' Ventour who devoted his entire adult life – since age 20 – to trade union work on behalf of the workers of Grenada, remains in prison. He is serving a life sentence for a crime he clearly did not commit – ***and which his accusers have secretly acknowledged he did not***

commit. He has already spent seventeen (17) years behind bars, his family life destroyed, his good character callously assassinated. Successive Grenadian governments have refused to release him, or to repeal an oppressive law – Act #19 of 1991 – which was passed to specifically prevent Ventour and his co-accused having their case heard and determined by the highest court of Grenada's constitution, the Privy Council. ALL OTHER GRENADIANS HAVE THAT RIGHT EXCEPT VENTOUR AND THE OTHER MEMBERS OF THE GRENADA 17.

A CHRONOLOGY OF EVENTS
A Brief History of the Political and Judicial Conspiracy Against the Grenada 17

	Event	Period	Remarks
1.	Capture of government & army leadership by US invading forces	Oct. 29-Nov. 6, 1983	P.O.W. status; Geneva Convention violated
2.	Physical & psychological torture of **Grenada 17** by police officers of the invading forces	Nov. 13, 1983-Mar. 7, 1984	Not a single Grenadian police officer used to charge the **Grenada 17**
3.	Massive Adverse Pre-trial Publicity by US forces [spending US$7 million to do so]		Putting up posters with photos of accused all over Grenada, declaring them "murderers" and "criminals"
4.	Kangaroo Trial Phase 1: the Preliminary Inquiry	April-Aug. 1984	
5.	The Grenada Supreme Court declares itself unconstitutional yet competent to hear the trial	May 1985	
6.	Justice Denis Byron flown in from Antigua and given a special contract to hear the trial of the **Grenada 17**	February 1986	A specially-contracted judge for a case! Unprecedented!
7.	Kangaroo Trial Phase 2: The High Court	Mar 3-Dec 4, 1986	Held in the absence of the defendants
8.	Tampering with the Jury: • Panel of jurors dismissed, the registrar fired, a member of the Prosecution team installed in his place and a new panel of jurors selected by this prosecutor-cum-registrar • New Jury laws passed for the purpose of the trial	March-April 1986	All this is happening during the course of the trial
9.	New panel of jurors publicly shouts at the **Grenada 17** referring to them as "murderers," "killers"; these jurors also threatened the lawyers defending the **Grenada 17**	April 11, 1986	This happened 2 weeks **before** the first witness is called
10.	Several members of the **Grenada 17** beaten by police officers assigned to the court; the latter shouted, "Recognise the court!" while doing this	April 25, 1986	Aimed at preventing their challenges of the court's constitutionality
11.	A constitutional motion, Suit 191 of 1986, filed	June 1986	The main query was about the tampered jury
12.	The High Court 'trial' ends and Justice Byron leaves Grenada a few days later	Dec. 4, 1986	Death sentences imposed on 14 members; unlawfully lengthy prison terms on three soldiers
13.	Brigadier R. Lewis, chief of Barbados Defence Force, together with US Embassy officials in Barbados, selects **Seven** of the **Grenada 17** for hanging	1988	US Declassified Documents reveal this was done <u>three</u> years before hearing & determination of appeal!!
14.	Kangaroo Trial Phase 3: The Appeal	March 1988-July 1991	Each Appeal Judge paid approx. EC$1 million to hear this case
15.	US Embassy plot legal strategy with judges and prosecutor involved in the **Grenada 17**'s case	1987-1991	From Declassified Secret US documents
16.	St. Lucian Prime Minister John Compton, as OECS	March 22,	A clear case of outside political

	Chairman, sends Grenada's PM H. A. Blaize a letter stating that Grenada's Constitutional Court would not be returned to Grenada until the full disposal of the **Grenada 17**'s case in the unconstitutional court	1988	interference in the outcome of the case
17.	The Appeal Court judges withhold their decision, until paid an <u>additional</u> US$650,000 solely for the case of the **Grenada 17**	Sept 1990-July 1991	Some call it extortion; others bribery. You decide!
18.	Appeal Court judges give their decision upholding the High Court convictions. They promised a later written judgement	July 12, 1991	To date, nearly 11 years later, no written judgement given
19.	Act 19 of 1991 passed to return the OECS Constitutional Court system to Grenada; and a **<u>special law</u>**, Section 7 (4) of Act 19 of 1991, passed preventing the **Grenada 17** from taking their appeal to the Privy Council, Grenada's highest and only impartial court	July 19, 1991 [Passed to take effect on August 1st, 1991]	The judgement is not available for public scrutiny. The case can't be further scrutinized. What are they hiding?
20.	The **Grenada 17** file an appeal to the OECS Appeal Court	July 29, 1991	
21.	In response to this action the government suspends the coming into force of the OECS court in Grenada on 1st August 1991	July 30, 1991	Musical chairs so as to prevent the Constitutional court hearing the **Grenada 17** case
22.	Preparing the gallows, hiring the hangman, digging graves, making straight jackets – all meant for the execution of **five** of the **17**	July – August 1991	All five being among the seven selected by the US Embassy 3 years earlier for execution [see # 13 above]
23.	Commutation of death sentences to life sentences	Aug. 15, 1991	Result of international pressure
24.	Several speeches by Prime Minister Mitchell giving the impression that the **Grenada 17** would be released	June 1995-Dec 1999	Political tactics designed to keep the **17** from going to court
25.	Despite talk of reconciliation, the government consistently packed the Mercy Committee with persons hostile to the **Grenada 17**; thus they consistently refused the release of Phyllis Coard and Kamau McBarnette on humanitarian grounds	1996 to present	Even in the case of life-threatening illness Phyllis Coard has been given only a temporary respite
26.	Government instructs the Prison Commissioner to deny the **Grenada 17** access to their lawyer	Aug 2000-April 2001	Fear that the **17**'s court action would free them
27.	Constitutional motion to secure <u>the right to legal counsel</u>	April 2001	The **17** are the only Grenadians forced to take such action
28.	Constitutional motion filed in High Court on behalf of **three** members of the **17** <u>being illegally held in prison for past 6 years</u>	June 28, 2001	A series of delays, for eight months, on part of government
29.	Constitutional motion heard by Justice Alleyne	Feb 14, 2002	Orders their release 'forthwith'
30.	Government orders the Supreme Court Registrar to ignore the High Court Order while they get an Appeal Court judge to grant a stay in violation of the law	Feb 14-20, 2002	PM Mitchell says only "the people as a whole" can free the **17**; not the court, not the law [Feb 21 & 24, 2002 speeches]

Appendix 1

Letter of March 22nd 1988,
From St. Lucia Prime Minister, John Compton,
To Grenada Prime Minister H. A. Blaize

OFFICE OF THE PRIME MINISTER

GOVERNMENT BUILDINGS
CASTRIES,
SAINT LUCIA, WEST INDIES

Communications on this subject should be addressed to:-
THE PRIME MINISTER
and the following Number quoted:

22nd March 1988

The Right Honourable Herbert Blaize
Prime Minister's Office
St. Georges
GRENADA

My Dear Prime Minister

RE: EASTERN CARIBBEAN SUPREME COURT

The Authority of the Organisation of East Caribbean States (O.E.C.S.) note with great interest the expressed desire of the Government of Grenada that Grenada should again participate in the Eastern Caribbean Supreme Court.

While the Authority welcome such a decision on the part of Grenada, they consider the time for the re-admission of Grenada inappropriate until the appeals regarding the murder of Prime Minister Bishop and his colleagues have been disposed of by the Appeals Court of Grenada.

With assurances of my continued esteem.

I remain, my dear Prime Minister,

Yours sincerely,

Prime Minister, and
Chairman of the O.E.C.S.

cc: Director General, O.E.C.S.