Welcome Address

Hon. Minister,
Hon. Parliamentary Secretary,
Excellencies, High Commissioners and Ambassadors,
Colleagues and Friends,
Ladies and Gentlemen:

It is my great pleasure this afternoon to welcome you to this hall to commemorate the third anniversary of the official launching of the Judicial Studies Committee. It is an even greater pleasure to welcome among us the Rt. Hon. Sir Igor Judge who has kindly accepted to take time off from his very busy schedule as President of the Queen's Bench Division to be with us for this occasion and to address us on the subject of judicial training and judicial independence.

Sir Igor needs very little introduction. Although the last British judge to preside over a Maltese court – an Englishman from Salisbury, Sir John Stoddart – had his commission as Chief Justice of Malta very uncerimoniously terminated in 1838 , we, on our part, have always claimed, irrespective of whatever the laws on nationality say, that since 1976 a Maltese has been presiding over an English court in the person of Igor Judge. Most of us will also remember Sir Igor from a video, produced by the Judicial Studies Board of England and Wales, that we had seen a couple of years ago on the examination of children in court using the video-conferencing technique, a technique that we, especially magistrates, now take for granted, but which many of us until a few years ago would have thought unnecessary or a waste of time. And this is precisely the scope of ongoing judicial training – not only to sharpen the knowledge of judges and magistrates in the field of law, but also to familiarise them with methods and practices, and thereby to equip them with the necessary skills, to enable them to administer justice not only correctly but also efficiently.

When I became Chief Justice in 2002, I was faced by the then Minister of Justice, Dr Austin Gatt, with his plan to set up an Academy for the Training of Judicial Personnel, which would have included in its remit judges and magistrates. I discussed the matter with Mr Justice Joe David Camilleri, who as far as I was aware was, until then, the only member of the judiciary who had shown a sustained interest in judicial training and had already established contacts with various institutions abroad dealing with judicial training; and I got back to the minister with the counter-proposal that the judiciary should be responsible for, and manage, its own training programme independently of the Academy. Our counter-proposal was accepted from the Executive end. And that is really how the Judicial Studies Committee, acting under the general direction of the Chief Justice, came into being. Joe David Camilleri was the natural choice for Chairman, and I was more than pleased last year to renew his appointment for a second term of office. Throughout this period -- which includes, of course, also the period before the official launching -- he has been assisted by the Deputy Chairman, Magistrate Dr Silvio Meli, and I am extremely grateful to both of them for the time they dedicate to the Committee over and above the time that they have to dedicate to their ever increasing judicial duties – unfortunately in Malta, unlike in other jurisdictions, the members of the Judicial Studies Committee cannot

take time off from their judicial duties while serving on the JSC – we simply cannot afford that luxury. I would also like to thank the non-judicial members of the Committee – the two persons appointed from time to time by the Minister to sit on the Committee. In particular I would like to single out two persons who were instrumental in setting the ball rolling in the early days of the JSC even before it was officially launched: Mr Alfred Theuma and Dr Kevin Aquilina. Last but not least, I would also like to thank Judge William Rose who, notwithstanding health problems and pressing duties as a Circuit Judge in England, gave some much of his time and put so much effort in preparing for the official launching of the JSC just over three years ago.

The beginning for the JSC was not easy – and I am sure that Joe David will have something to say on this in his address. It was only last year, in fact, that the JSC was officially recognised by the Government by having a budget – a small sum of money – allocated to it. The Ministry has always, of course, been supportive of the idea behind the setting up of the JSC – and so the Minister's and Parliamentary Secretary's insistence, last year and also this year, with the mandarins in the Ministry of Finance for a small budget for the JSC is a step in the right direction for which I thank both honourable gentlemen. Joe David, Silvio and I, however, believe that there is still much to be done before we can claim to have a judicial training set-up worthy of a member state of the EU and that the Executive must play a more supportive but non-patronising role in this as well.

The idea of judicial training is really inseparable from that of judicial independence: judges and magistrates cannot assert in practice their independence from the other two branches of Government unless they are equipped with the skills to enable them to administer justice properly and efficiently so that they can really stand out for what they really are – ministers of justice and defenders of the rule of law and the rights of citizens. I suppose I would be preaching to the converted if I were to stress this point – but then I am always struck, no matter how many times I read the sentence, by what St Augustine said in Book XIX of his *De Civitate Dei* – the accusation that *ignorantia iudicis plerumque est calamitas innocentis.* Let me say straight away that in this passage St Augustine is referring mainly to the practice of applying torture to extract confessions, but still one cannot ignore the general cautionary note in the sentence. Judicial training should also equip the judge or magistrate with the necessary skills to enable him or her constantly to determine and recognise the line of demarcation between judicial duties and functions and non-judicial duties and functions. I mentioned earlier on Sir John Stoddart. Most of us tend to remember only one instance when, through what some consider as having been an abuse of power by the Governor, a Chief Justice was forced out of office – the case of Sir Arturo Mercieca. Few, however, know that even Sir John Stoddart was in a way removed from office by having his appointment legally terminated, and the reason was because in the eyes of the Colonial Office he was making a nuisance of himself by getting involved in things in which he should not have got involved, and in particular by taking up the cause of the "Maltese liberals". In an interesting article by Hilda Lee, published in Melita Historica in 1964, the author points out some of the instances in which Sir John, in his enthusiasm and zeal for reform, overstepped what were then regarded as the limits of his functions and duties. She says, among other things:

> **"Stoddart, since his appointment in 1826, had caused considerable embarrassment to the local Government by interfering with the Executive. During**

the absences of Ponsonby, altercations between the Chief Justice and the Chief Secretary, Hankey, had caused disquiet among both the British and the Maltese communities and had prevented the peaceful administration of government. On the issue of the revision of the Codes, Stoddart had maintained an opposition to the policy of Ponsonby; at times resorting to unprecedented action in an attempt to prove the basis of that policy invalid. In November 1835, on the occasion of the opening session of the Court of Special Commission, Stoddart had taken the opportunity of interrogating all the Maltese advocates in their proficiency in the English language. The advocates resented his action and petitioned the Secretary of State. Glenelg criticised Stoddart's action as "distasteful" and maintained that the Bar should be protected from such insults. The exclusion of Stoddart from the Commission to draft a revised Civil Code had been approved by the Secretary of State, but Stephen had noted at the time that if further criticism of the Chief Justice's actions was made, Glenelg could scarcely avoid recalling him. It was not only Stoddart's public criticism of the Penal Code and of the Commissioners in his capacity as Chief Justice that finally determined Glenelg to terminate his appointment, but that in the address Stoddart was seen to be identifying himself with the cause of the Maltese liberals in their demand for the extension of the principle of trial by jury. Stoddart had long advocated this principle and in 1839 had applied a recommendation made by Richardson by introducing trial by jury in criminal cases of a capital nature. The Local Government had been concerned at the anomaly created by the operation of the principle with the Code de Rohan. There is no doubt of Stoddart's popularity with the Maltese mainly because of his outspoken opposition to the Local Government; a popularity which had been sustained despite Stoddart's policy to introduce both the English law and language into Malta's legal system. Trial by jury had become for the Maltese a principle of individual independence. Stoddart had befriended the leader of the Maltese liberals, Camillo Sceberras, with whom he corresponded frequently. It was probably by this association that he first learned of the "sovereignty controversy." Stoddart became convinced himself and supported with learned argument the Maltese theory, that they were independent people throughout the blockade of 1799, that Britain could not have taken possession of the island without their consent and that British sovereign rights over Malta rested upon conditional compact. The Maltese liberals also approved Stoddart's criticisms of their own law Commissioners, Bonnici and Bonavita. To them any Maltese cooperating with the Government was suspect; they believed that such a person had received bribes or advancement. Bonavita and Bonnici were worthy of better support from their own people for they were men of integrity and distinguished lawyers."

Stoddart was eventually removed by the expedient of having his office abolished – something which could easily be done since his appointment was "durante bene placito regis". With subsequent incumbents, their appointments were made, and continue to be made, "quamdiu se bene gesserit". To-day, of course, constructive and measured criticism, in an appropriate setting and context, by the Judiciary of the Executive and vice-versa is a necessary ingredient of good government and a practical application of the checks and balances that must exist between the three branches of Government. I often wonder, however, whether if Sir John had had the benefit of in-house judicial training at the time, he would have been more cautious in his reforming zeal and would therefore have stayed on in office for longer, with the consequence that English common law, which he so fervently advocated, would have been accepted in Malta and become part of Maltese law.

Be that as it may, I think I have said enough by way of a welcoming address, and I therefore now invite the Chairman of the Judicial Studies Committee to make his address for the occasion.