

ECSC E-NEWSLETTER



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GREETINGS FROM THE CHIEF JUSTICE

It is with pleasure that I bring you Greetings on behalf of the Eastern Caribbean Supreme Court for Christmas 2001. As I review the ending year I must express my thanks and appreciation to all of you who have made the year the success it has been for our judiciary in many ways. In looking back it is oftentimes felt that more could be accomplished. I too share those feelings sometimes but have to be thankful for what we have achieved during the year.

The implementation of the new *Civil Procedure Rules [CPR 2000]* may be considered as the most significant achievement of the year. The computerization of our Court Offices and the seminars, trainings, workshops and conferences that both judicial officers and non-judicial staff participated in evince the determination to keep our judiciary current.

This season has brought immense cheer to the Judiciary, which will be benefited by all. The end of the year witnessed the selection of seven new Justices of the Eastern Caribbean Supreme Court. Quite a fitting end to a year filled with activities and advancements as we stand on the threshold of a new year filled with hope and aspirations.

EASTERN CARIBBEAN SUPREME COURT NEWS

New Judges Selected to the Eastern Caribbean Supreme Court

The Judicial and Legal Services Commission has selected seven persons to fill positions of High Court Judge of the Eastern Caribbean Supreme Court. The selection completed the newly instituted judicial selection process, which is an integral part of the judicial reform program that has been embarked upon by our court under the leadership of the Honourable Chief Justice, Sir Dennis Byron. Selections were made on a merit-based consultative system. The Judiciary, the Bar Association within the jurisdiction and the Chief Justices in other jurisdictions were consulted.

Vacancies for new judges were advertised throughout the region and interested persons were invited to apply. Thirty-one persons applied and fifteen applicants were short-listed by the Commission. The short-listed persons were interviewed by a selection panel and seven were selected to fill positions of High Court Judge.

Those selected are Davidson Baptiste a private practitioner in Dominica who acted previously as a High Court Judge and former Solicitor General of Dominica; Mr. Samuel Bulgin, Solicitor General in the Cayman Islands; Ms Ola Mae Edwards a former Magistrate and Acting Director of Public Prosecutions in Dominica; Ms. Rita Joseph, a private practitioner in Grenada; Master Charmaine Pemberton, Master of the Eastern Caribbean Supreme Court; Master Hugh Rawlins, Master of the Eastern Caribbean Supreme Court and Mr. Ronald Wilson, a Senior Lecturer at Sir Hugh Wooding Law School in Trinidad & Tobago. The new Judges will take up their appointments shortly.

The selection of the new Judges will end the short- term appointments of acting Judges that was occasioned by retirement of several judges between 2000 and 2001.

CAT Reporting Piloted in Dominica

During the month of November, Ms. Janice Stoutt of the British Virgin Islands Academy of Court Reporters spent two weeks in Dominica conducting a two week training programme for the Court Reporters in Dominica.

The equipment used by the Court Reporters and the costs associated with the conducting of the training programme have been provided by the USAID as a part of their Administration of Justice Program for the Caribbean.

Once this exercise is complete, the staff will be fully equipped and prepared to produce transcripts of the proceedings of the court.

We would like to use this opportunity to recognize the contribution which the USAID has made to the Eastern Caribbean Supreme Court.

Gift - OECS / CIDA Judicial Legal Reform Project



*Ms Jennifer Astaphan (l)
presents gift of a Multimedia Projector and
a DELL Inspiron 4100 Laptop
to acting Chief Registrar, Ms Evelina Baptiste
while members of the Court's look on.*

The Eastern Caribbean Supreme Court received a gift from the OECS / CIDA Judicial Legal Reform (JLR) Project in the form of a Sharp Model PG-C20XU Multimedia Projector and the DELL Inspiron 4100Laptop.

A special handing over ceremony was held at the Court headquarters. Members of the Court's staff were on hand to witness the official presentation by Ms Jennifer Astaphan, Project Coordinator of the JLR Project. Below we see a photograph from the ceremony.

This donation will be of tremendous value to our Judicial Education Institute in particular and the Eastern Caribbean Supreme Court in general. It will facilitate the planning and organization of our activities more effectively, since we will no longer need to rent this equipment.

Chief Justice Addresses Guyana's Judiciary

On December 1st and 2nd 2001, Eastern Caribbean Supreme Court, Chief Justice, Sir Dennis Byron, participated in the Republic of Guyana's Judicial Conference held at Baganara Island Resort in the Guyana. The Chief Justice was invited to address the Conference by Guyana's new Chancellor, Chancellor Desiree Bernard. Sir Dennis made a presentation on "Introducing Case Management and Alternative Dispute Resolution in Civil Proceedings. After his presentation a lively and interesting discussion on the issues raised took place.

Chief Justice Sir Dennis Byron Is New Head of the Commonwealth Judicial Education Institute



The Eastern Caribbean Supreme Court Chief Justice, Sir Dennis Byron has been elected President of the Commonwealth Judicial Education Institute [CJEI]. Sir Dennis was elected to lead the Commonwealth body at its 2001 Annual General Meeting held on Wednesday December 5, 2001 in Halifax, Nova Scotia Canada.

The Institute is located at the Dalhousie Law School in Halifax, Nova Scotia. However, Sir Dennis will be able to effectively carry out his duties as head of the Institute from his base in St. Lucia.

Sir Dennis becomes the first person from our region to head the Institute and his election is a living testimony to the quality of leadership that our Region produces. Also attending the CJEI's annual meeting was Justice Adrian Saunders the Chairman of the Eastern Caribbean Supreme Court Judicial Education Institute.

Above: His Lordship the Honorable Chief Justice Sir Dennis Byron, President of the Judicial Education Institute and the Chief Justice of Pakistan

Chief Justice Was Keynote Speaker At United States Virgin Islands' Bar Association Conference

Chief Justice Sir Dennis Byron was the featured Guest Speaker at the United States Virgin Islands Bar Association conference held in St. Croix December 6th to 8th 2001. Under the theme "Bridging the Gap" "Understanding the practice of law in the United States Virgin Islands and the Eastern Caribbean", the conference *inter alia* sought to have a better understanding of the mechanics of the Eastern Caribbean Judiciary.

Sir Dennis was invited to give the Keynote Address at the Conference's luncheon. The Chief Justice also was a panelist discussing "Establishing Supreme Courts in the U. S. Virgin Islands and the Eastern Caribbean.

JUDICIAL AND LEGAL SERVICES COMMISSION

Legal Appointments

Commonwealth of Dominica

- [1] Miss Sabriya Ali has been appointed in the office of State Attorney with effect from 24th November 2000.
- [2] Ms. Joan F. Joyner has been appointed in the office of Chief Magistrate with effect from 1st November 2001 for a period of two [2] years.
- [3] Mrs. Valerie D. Khorran has been appointed to the office of Magistrate with effect from 1st November 2001 on contract for a period of two [2] years.
- [4] Mr. Reginald Winston has been appointed to continue to act as Registrar, Registrar General and Provost Marshall with effect from 27th November 2001 to 4th January 2002.
- [5] Mr. Anthony Commodore has been appointed as Senior State Attorney from 16th October 2001 to 30th June 2002.

Grenada

- [1] Mr. Robert Branch has been appointed to continue to act as Registrar, Supreme Court of Grenada for a further period of three [3] months commencing 1st December 2001.
- [2] Mr. Lloyd St. Louis has been appointed to act as Magistrate of Grenada's Western and Northern Districts on a month to month basis with effect from 1st January 2002.
- [3] Ms. Lisa Telesford has been appointed to the vacant post of Deputy Registrar of the Supreme Court of Grenada with effect from 1st January 2002.

Saint Christopher & Nevis

Mr. Wayde Floyd Bardswell has been employed as Crown Counsel in the Ministry of Justice and Legal Affairs with effect from 7th November, 2001.

CONFERENCES, SEMINARS AND WORKSHOPS

Judicial Education Institute Hosts Sentencing Workshop in Grenada

On Saturday December 15, 2001 the Judicial Education Institute of the Eastern Caribbean Supreme Court, in conjunction with the OECS/CIDA Judicial and Legal Reform Project, hosted a one-day workshop on sentencing at the Rex Grenadian Hotel, in Grenada.

Participants were drawn from the Judiciary of the Eastern Caribbean Supreme Court, including newly-selected High Court Judges and retired High Court Judge, Justice Stanley Moore.

Chief and Senior Magistrates of the OECS, Registrars, Court Administration Staff, the Chief Justice of Jamaica, representatives of the Judiciary of Trinidad & Tobago and Guyana, the Principal of Sir Hugh Wooding Law School also attended.

In his opening remarks, Justice Adrian Saunders, Chairman of the Judicial Education Institute, gave the background information on the workshop and of CIDA's financial support.

Master Hugh Rawlins, in welcoming the newly selected judges to their first training program acknowledged the work of Justice Albert Matthew, the first Chairman of the JEI and the Honourable Chief Justice, Sir Dennis Byron, in the development of the Institute and called for continued support of its programmes.

The workshop heard a presentation from Criminological Researcher and Crime Consultant with the government of Barbados Christopher Nuttal, who examined the effect of sentencing on recidivism. Joy Hutcheon, a senior civil servant in the British Government in her presentation explored the policies regarding principles regarding minimum and maximum sentences and the movements towards sentencing guidelines.

Ms. Jennifer Astaphan, Project Manager, OECS/CIDA Legal and Judicial Reform also addressed the seminar. Ms. Astaphan gave background information on the Project and the expected outcomes. She also discussed the complementary measures and the National Consultations that had taken place in Antigua & Barbuda and St. Kitts & Nevis.

Chief Magistrate Josephine Mallalieu of St. Kitts & Nevis informed the participants about the national consultation under the OECS/CIDA Project which has recently been held in that jurisdiction.

The seminar ended with retired High Court Judge Stanley Moore and Justice Suzie D'Auvergne thanking the programme's sponsors, organizers and participants.

Judiciary Participates in Anti-Money Laundering Seminar in Grenada

On December 13 and 14, 2001 the Caribbean Anti-Money Laundering Program [CALP] based in Trinidad & Tobago and the Eastern Caribbean Judicial Education Institute of the Eastern Caribbean Supreme Court based in St. Lucia sponsored a two-day anti-money laundering seminar for members of the Judiciary, at the Rex Grenadian Hotel in Grenada.

The Honourable Chief Justice, Sir Dennis Byron, in his opening remarks, highlighted the timeliness of the seminar, the problem of money laundering and the fast pace of developing legislation in the islands.

Mr. Fitz-Roy Drayton, CALP's Legal /Judicial Adviser gave an overview and historical perspective of money laundering and a presentation on Restraint Orders while Mr. Andrew Mitchell, Q.C. gave presentations on the "Human Rights Implications of Asset Forfeiture", "Financial Investigation Tools" and "Confiscation Hearings". Mr. Nyron Davidson, CALP's Financial Sector Adviser presented on "Money Laundering Typologies and the Bank of new York Case" The day concluded with Mr. Mitchell, Q.C. introducing a number of practical exercises to the participants.

The second day of the seminar commenced with an open discussion and feedback on the practical exercises lead by Mr. Mitchell Q.C and Mr. Drayton. The day continued with presentations by Mr. Mitchell, Q.C. on "Money Laundering Prosecutions" and "Receivership Orders". Mr. Drayton also gave a presentation on "Terrorists Financing".

The seminar concluded with an open discussion where the participants asked a number of questions and discussed issues that may arise out of money laundering prosecutions.



Participants in the Anti-Money Laundering Seminar in Grenada

WRITTEN JUDGMENTS

Court of Appeal Judgments

The following are written Court of Appeal judgments available for the months of November and December 2001:

British Virgin Islands

Elton Beazer et al v The Queen

British Virgin Islands

Crim. App. No. 1/01

Delivered: 17/09/01

Byron CJ

Grenada

In the matter of the West Indies Associated States Supreme Court of (Grenada) Act Cap 336 of the Laws of Grenada, 1990 And In the matter of the Application of Cajeton Anthony Kelvin Hood ...

Grenada

Civ. App. No. 2A of 2001

Delivered: 04/07/01

Archibald JA (Ag.)

High Court Judgments

The following are written High Court judgments received during the month of November and December 2001:

Anguilla

In the matter of an Exparte Application by the Director of Social Welfare for Orders of Certiorari and Mandamus And In the matter of the decision by Magistrate Homer Richardson ...

Anguilla

Civ. Suit No. 50/01

Delivered: 18/12/01

D'Auvergne J

National Bank of Anguilla Limited v Clive Carty

Anguilla

Civ. Suit No. 84/96

Delivered: 21/12/01

Rawlins M

Panda Corporation Limited v Talisman Securities Limited et al

Anguilla

Civ. Suit No. 54/00

Delivered: 21/12/01

Rawlins M

Antigua & Barbuda

Candace Peters v Rosita Peters

Antigua & Barbuda

Misc. Suit No. 7/01

Delivered: 16/11/01

Rawlins M

British Virgin Islands

Jonah Jerome v Prestige Imports Ltd. et al

British Virgin Islands

Civ. Suit No. 108/99

Delivered: 23/11/01

Matthew J (Ag.)

**Murray Switzer et al v The Owners and Persons Interested in the Sailing Vessel of
“HOLGA”**

British Virgin Islands

Civ. Suit No. 1/01

Delivered: 30/11/01

Matthew J (Ag.)

Edward C. Crooke v Elsie Patricia Baptiste Crooke

British Virgin Islands

Civ. Suit No. 42 /01

Delivered: 30/11/01

Matthew J (Ag.)

Carol Joan Denniston Arneborg v Michael Howard Arneborg

British Virgin Islands

Civ. Suit No. 21/99

Delivered: 06/12/01

Matthew J (Ag.)

Bruckner Limited et al v Soria Inc.

British Virgin Islands

Civ. Suit No. 30B/01

Delivered: 06/12/01

Matthew J (Ag.)

BFI (BVI) Limited v Biggles Production Limited

British Virgin Islands

Civ. Suit No. 94/01

Delivered: 06/12/01

Matthew J (Ag.)

Shawn Harrigan v Melvin Pickering

British Virgin Islands

Civ. Suit No. 51/00

Delivered: 19/12/01

Matthew J (Ag.)

G. W. Martin Inc. v Little Dix Bay Hotel Corp.

British Virgin Islands

Civ. Suit No. 16/00

Delivered: 20/12/01

Matthew J (Ag.)

**Teyning Investments Ltd. v Insinger Corporate Services (BVI) Ltd. et al And
Saanichton Investments Ltd. v Insinger Corporate Services (BVI) Ltd. et al**

British Virgin Islands

Claim Nos. 16 & 17/01

Delivered: 23/11/01

Benjamin J

Woodfield Company Limited et al v Tropic Island Properties Limited et al

British Virgin Islands

Civ. Suit No. 66/01

Delivered: 05/12/01

Benjamin J

Dominica

Duke Severin v Vernon Anthony

Dominica

Civ. Suit No. 72/96

Delivered: 04/12/01

Chong J (Ag.)

Stephanie Anna James v Lennard Peters Moise

Dominica

Civ. Suit No. 37/96

Delivered: 04/12/01

Chong J (Ag.)

Felix Raford Giraud v Isobel Ann Giraud

Dominica

Civ. Suit No. 130/98

Delivered: 12/12/01

Chong J (Ag.)

Montserrat

Orange Personal Communication Services Limited v The Registrar of Trade Marks

Montserrat

Civ. Suit No. 22/01

Delivered: 15/11/01

Matthew J (Ag.)

Clement Cassell v The Commissioner of Police et al

Montserrat

Civ. Suit No. 29/01

Delivered: 30/11/01

Matthew J (Ag.)

Shirley Williams v John Williams

Montserrat

Civ. Suit No. 30/01

Delivered: 30/11/01

Matthew J (Ag.)

Repson Limited v The Commissioner of Police

Montserrat

Claim No. 26/01

Delivered: 30/11/01

Matthew J (Ag.)

Saint Christopher and Nevis

David Stevens v Sylvester Evelyn et al

Saint Christopher and Nevis

Civ. Suit No. 40/98

Delivered: 02/11/01

Bruce-Lyle J

Cowelby E. H. R. Blake v Government Owned Radio Station ZIZ

St. Christopher & Nevis

Civ. Suit No. 1/96

Delivered: 12/12/01

Rawlins M

In the matter of the Nevis International Exempt Trust Ordinance 1994 And In the matter of Queensway Trustees Limited and The Cardinal Trust And In the matter Part 67.4 of the Rules of the Supreme Court

St. Christopher & Nevis

Civ. Suit No. 84/00

Delivered: 27/12/01

Rawlins M

Saint Lucia

Agatha Henry v Eagle Air Services Ltd. And Felicia Andrina George v Eagle Air Services Ltd.

Saint Lucia

Suit No. 375/93 & No. 411/93

Delivered: 11/12/01

D'Auvergne J

Colonial Life Insurance Company (Trinidad) Limited v Peter Eustace Alexander

Saint Lucia

Civ. Suit No. 742/94

Delivered: 07/11/01

Saunders J

Saint Lucia Civil Code – Land held in community of property – Order made by High Court for partition – Claim by third party to intervene and assert claim to portion of community property – Res judicata – Whether order can be set aside by third party.

Noellina Marie Prospere nee Madore v Frederick Prospere et al

Saint Lucia

Civ. Suit No. D62/99

Delivered: 10/11/01

Saunders J

Adjoining land owners – Trespass to land – Who can institute action for trespass – Defence of Prescription – Land Registration Act – Saint Lucia Civil Code Articles 2057 and 2070.

Elroy Jn. Baptiste v Patrick Charlemagne et al

Saint Lucia

Civ. Suit No. 602/96

Delivered: 29/11/01

Saunders J

Motion to set aside arbitration award as null, void and of no effect - Award made in default of defence - Whether "clear warning" was given by arbitrator of notice to proceed – **Myron (owners) v Tradax Export** [1969] 2 ALL E.R. 1263 cited - Whether proceeding was a nullity or mere irregularity - Award set aside - Remission to same arbitrator.

In the Matter of an application by the Heirs of Stanley Malaykhan ... And in the Matter of the Arbitration Ordinance Chapter 1 And in the Matter of Thomas Walcott et al

Saint Lucia

Suit No. 190/98

Delivered: 26/11/01

Hariprashad-Charles J

Consolidation of actions - Same claimant/same defendant/same counsel - One action concerns debt allegedly owing to claimant - Other action is a petition for winding up of company - Case of **Daws v Daily Sketch & Sunday Graphic Ltd** [1960] 1 All E.R.397 relied upon - Criteria for consolidation considered...overriding objective of CPR 2000 - Actions to be tried consecutively - One following the other preferably by same judge.

David Bickford v St. Lucia Estates Ltd.

Saint Lucia

Suit No. 693 /98 & No. 864/99

Delivered: 29/11/01

Hariprashad-Charles J

Saint Vincent and The Grenadines

Yvonne Elizabeth Williams v Kenneth Sylvester Williams

Saint Vincent and The Grenadines

Civ. Suit No. 123/92

Delivered: 18/12/01

Alleyne J

Charmaine Angela Ruth Francis nee Theobalds v Bradley Everette Francis

Saint Vincent and The Grenadines

Civ. Suit No. 137/97

Delivered: 18/12/01

Alleyne J

Stephanie Seales v Leon Grant

Saint Vincent and The Grenadines

Civ. Suit No. 433/00

Delivered: 28/11/01

Alleyne J

Lawrence Lynford Wyllie v Clair Urban Ottley et al

Saint Vincent and The Grenadines

Civ. Suit No. 575/00

Delivered: 28/11/01

Alleyne J

Samin George v Admiralty Transport Company Limited

Saint Vincent and The Grenadines

Civ. Suit No. 522/99

Delivered: 21/11/01

Alleyne J

Phillip Mark Vaughn v The Commissioner of Police of Saint Vincent and The Grenadines et al

Saint Vincent and The Grenadines

Civ. Suit No. 141/01

Delivered: 14/11/01

Alleyne J



EASTERN CARIBBEAN SUPREME COURT

As at 31st December 2001

Court of Appeal

The Chief Justice

His Lordship, the Hon. Chief Justice, Sir Dennis Byron – Saint Lucia

Justices of Appeal

His Lordship, the Hon. Justice Satrohan Singh – Saint Christopher & Nevis

His Lordship, the Hon. Justice Albert Redhead – Saint Lucia

High Court

Her Ladyship, the Hon. Justice Suzie d’Auvergne – Saint Vincent & The Grenadines; Anguilla

His Lordship, the Hon. Justice Ephraim Georges [Ag.] - Antigua & Barbuda

His Lordship, the Hon. Justice Dunbar Cenac – Dominica

His Lordship, the Hon. Justice Kenneth Benjamin – British Virgin Islands

His Lordship, the Hon. Justice Brian Alleyne, SC – Grenada

His Lordship, the Hon. Justice Adrian Saunders – Saint Lucia

His Lordship, the Hon. Justice Don Mitchell, QC – Saint Vincent & The Grenadines

Her Ladyship, the Hon. Justice Indra Hariprashad-Charles – Saint Lucia

His Lordship, the Hon. Justice Frederick Bruce-Lyle – Saint Christopher & Nevis

His Lordship, the Hon. Justice Othneil Sylvester , QC [Ag.] – Grenada

His Lordship, the Hon. Justice Albert Matthew [Ag.] – British Virgin Islands; Montserrat

His Lordship, the Hon. Justice Odel Adams [Ag.] – Antigua & Barbuda

His Lordship, the Hon. Justice Tyrone Chong [Ag.] – Dominica

Master Charmaine Pemberton

Master Hugh Rawlins

Ms Evelina E-M Baptiste, Chief Registrar [Ag.] Saint Lucia