



## GREETINGS FROM THE CHIEF JUSTICE

Dear Readers:

In the last issue of the Newsletter, I told you how excited I was, and that I have reasons to be optimistic about the reform programme in the Judiciary.

I am pleased to announce that the pilot project to establish the Criminal Division of the High Court is progressing at a very rapid pace.

Monday 22<sup>nd</sup> March 2004 will see the dawn of a new era in the Criminal Justice System in St. Lucia. On that date the trial of summary cases will begin in accordance with the Criminal Justice Programme.



On 1<sup>st</sup> May 2004 the hearing of indictable matters under the new system will commence.

In preparing for this pilot project, we were very fortunate to obtain valuable assistance from Justice Richard Williams, Court of Appeal Judge, New Jersey; Mr. Robert Lipscher, Court Administration expert; Mr. Dennis Bliss, Administration Consultant; Mr. Michael O'Brien, Court Administrator; and Ms. Sharon Walter, Legal and Legislative Consultant. We are most grateful to them for their valuable assistance.

I have no doubt that when this project is fully implemented there will be great improvement in the system.

Please send comments, suggestions and contributions to the newsletter at [appeal@candw.lc](mailto:appeal@candw.lc)

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## EASTERN CARIBBEAN SUPREME COURT NEWS

*Congratulations*



### CHIEF JUSTICE MADE 'MASTER' AT INNER TEMPLE

Chief Justice of the Eastern Caribbean Supreme Court, Sir Dennis Byron, has been appointed a Master of the Bench of the Inner Temple of England.

Inner Temple is one of the Inns of Court – the only institutions permitted to call lawyers to the bar of England and Wales. All students in England or Wales intending to be barristers must join one of the Inns. There are four Inns of Court. They are the Middle and Inner Temples, Lincoln's Inn, and Gray's Inn.

They are called Inns of Court because in the earliest days, the study of law was quite informal and disorganized. Students of law learned their law by sitting at dinner with the judges on their circuits when they stayed at various inns, and asked them questions. Until recently, no matter how well you had done at your exams, you were not permitted to be called to the bar unless you had eaten a prescribed number of dinners at your Inn.

The barristers who practise in the Royal Courts of London occupy chambers in or near to one or the other of these Inns of Court. The four Inns are clustered around the Royal Courts, within easy reach for the barristers.

Since at least the time of Queen Elizabeth I, these Inns of Court have formed a set of colleges for the study of the law. They are not called a University because they

have never been incorporated. Each is an independent institution with an ancient history.

The Inns are governed by the Masters of the Bench, or "benchers." There are some 200 benchers who run the Inner Temple. Among them are some of Britain's best known lawyers. Benchers devote a considerable portion of their time to the Inn. Specifically, they manage the property, they lease office space to sets of barristers, and ensure compliance with heritage regulations, while, say, accommodating net IT projects. Others oversee training courses, and the remainder apply themselves to allocating scholarships.

Sir Dennis may not have many opportunities to join his fellow benchers as they sit at their high oak table in the great hall, looking down on the members of the bar and mere students as they dine; but it is hoped that on his occasional visits to London he will be able to take his seat among the other eminent members of the profession, to whom have been granted this special honour and recognition.

## USE OF TECHNOLOGY IN THE COURT SYSTEM

History was created in the Eastern Caribbean in early February, when an appeal in a civil case was heard and determined by teleconference in record time.

Justice of Appeal Honourable Adrian Saunders and acting Justice of Appeal Honourable Michael Gordon presided over the procedural appeal of the Attorney General of St. Christopher and Nevis against the decision of a Judge last month to disallow a witness' statement into evidence in a civil case. The ruling of the Justices of Appeal, within three days of the filing by the Attorney General, allowed hearing of the case itself to begin on schedule.

The appeal was filed on February 4 and was heard two days later when it was dismissed. The entire process was conducted via the telephone with all parties contributing to the deliberations. Counsel cooperated with the process by sending written submissions (by fax) before the hearing commenced.

Commenting on the case, Chief Justice Sir Dennis Byron said: "What it all meant is that we were able to dispose of a case without going into a courtroom and this is a novel way of reaching judicial decisions as far as the Eastern Caribbean court is concerned".

Sir Dennis made the point that normally an appeal in a civil case would take several months before it is heard, but on this occasion Justices of Appeal were able to hear the case within two days of it being filed in the Court.

Sir Dennis has pioneered tele- and video- conferencing in the work of the Eastern Caribbean Supreme Court, as part of a wider process of reforms being introduced into the court system.

## CHIEF JUSTICE MEETS WITH ST. LUCIAN LAWYERS



*Sir Dennis in conversation with Marcus Foster (middle) and Hilford Deterville (President of the St. Lucia Bar Association)*

Chief Justice Sir Dennis Byron, in addressing a meeting of the St. Lucia Bar Association Friday, February 20, challenged the professionals to live up to the high standards of integrity and dignity which their profession demands.

Sir Dennis also expressed his disappointment at what he said were the levels of ignorance which comments from sections of the legal profession revealed, about the independence of the Judicial and Legal Services Commission, the body responsible for the governance of the Eastern Caribbean Supreme Court. He declared: "Once a Chief Justice is in place, there is absolutely no political involvement in the Constitution or operations of the Commission."

He noted that the Constitutions of the various Member States have given the Commission the power to appoint and exercise disciplinary control over Magistrates, Registrars and Legal Officers in the Departments of the Attorney General and the Director of Public Prosecutions.

The same Constitutions gave the Commission the power to remove such persons from office. "The Commission is the only body charged with those functions", Sir Dennis told the Bar meeting.

He noted that as recently as 2000, former Trinidadian lawyer and diplomat Reginald Dumas had made "substantial recommendations" for the improved functioning of the Commission.

Sir Dennis said that the transparency of the Commission's functions in relation to the appointment process and the disciplinary process was of paramount importance.

He said the Commission had implemented the Dumas recommendations to establish uniform criteria for the appointment of panels in the States to conduct interviews with applicants on its behalf.

The Chief Justice, who is also the Chairman of the Commission, said that every State had given full support for these procedures and St. Lucia's was one of the first governments to take steps to ensure that the recruitments and appointments were entirely managed by the Commission.

This, Sir Dennis said, continued to be the case. Applications from persons interested in an appointment were handled by the Commission and were subject to the approved Commission processed.

Further, another report by retired Judge Albert Matthew detailed fully the guidelines for the recruitment and selection of judicial and legal officers which had been approved by the Commission.

"I would venture to say that there is no political involvement in any way in the appointment process of judicial and legal officers", Sir Dennis declared.

The Chief Justice also used the occasion to take lawyers to task for shoddy practice. He noted that in recent times lawyers were being frowned upon and glared at in a negative manner by the public. This was unfortunate, Sir Dennis said, because their purpose and role as advocates was to assist in the alleviation of situations when persons found themselves in legal distress.

He said it was imperative that standards of integrity and nobility were maintained in the public eye. He reminded the lawyers that the Legal Profession Act of 2000 clearly sets out rules, which govern professional practice, etiquette, conduct and discipline of attorneys.

Said Sir Dennis: "An attorney is expected to maintain his integrity, dignity and honour of the profession, both in his professional and private life. Nothing should be done which would be detrimental to the profession and tend to discredit it".

Noting that each lawyer was required to take an oath upon admission to practice, the Chief Justice said the only way this oath could be maintained was by the maintenance of high standards of integrity and dignity.

In relation to the State and the public, Sir Dennis said an attorney owed a duty to maintain its integrity, constitution and laws and in no way should he or she counsel or assist anyone to act contrary to those laws.

He urged lawyers to act always in the best interest of their clients, ensuring that they were represented honestly, competently and zealously, and endeavour, by fair and honourable means, to obtain every remedy and defence which is authorized by laws.

"The interests of the client and the exigencies of the administration of justice should always be the first concern of an attorney at law, and rank before his right to compensation for his or her services", Sir Dennis said.

It was improper, he said, for an attorney to accept a case unless he or she could handle it without delay. "There is a public outcry that lawyers after having received a retainer from clients, delay significantly in handling their cases. This sort of behaviour is totally unacceptable", Sir Dennis said.

The Chief Justice said an attorney was expected to maintain a respectful attitude towards the court and should never ask privately to influence directly or indirectly the favour of Judges or Magistrates.

## CONFERENCES, SEMINARS & WORKSHOPS

### Transforming Criminal Justice Administration Workshop, St. Lucia

A two-day workshop was hosted by the Eastern Caribbean Supreme Court (ECSC) on February 19<sup>th</sup> and 20<sup>th</sup>, 2004 under the theme "*Transforming Criminal Justice Administration*".

The workshop discussed criminal justice administration reforms and the steps to be taken to establish a Criminal Division as a pilot project in Saint Lucia. This endeavour is a part of the Eastern Caribbean Supreme Court Justice Reform Project. It is hoped that a successful pilot in Saint Lucia will lead to the implementation of similar reform measures in the other states and territories served by the ECSC.

A Criminal Division would bring the Magistrate's Courts and the criminal division of the High Court under one administrative umbrella.

Some 30 participants representing various government ministries, the judiciary, magistracy, public and private Bar, police, corrections and probation personnel attended the workshop, the goal of which was to seek consensus on the way forward.

At the conclusion of the workshop, there was unanimous support for the following conclusions:

- [1] The system of criminal justice administration is dysfunctional, some say even broken. It is in need of immediate reform.
- [2] A Pilot Project should be implemented in Saint Lucia immediately to test the reform measures.
- [3] The stakeholders in the Pilot Project are:
  - Public
  - Accused persons
  - Court staff
  - Defence counsel
  - Prosecutors
  - Judges
  - Police
  - Government
  - Investors

- Probation, Parole and Corrections Personnel
- [4] The common expectations of stakeholders are:
- Efficiency, effectiveness, transparency and accountability in criminal justice administration
  - Timeliness i.e. speedy resolution of matters
  - Cost effectiveness
  - Fairness
  - Accurate information
  - Competence
- [5] Reorganization of the criminal courts is desirable, and this should include a merger of the Magistrate's Courts and High Court.
- [6] The elimination of a Magistrate's Court level preliminary inquiry would be a positive step.
- [7] Judicial supervision of indictable matters from the time of laying a charge to conclusion will lead to a system in which the Bar and the public have greater confidence:
- Disclosure will be better managed under a system supervised by a judge;
  - There are benefits to be gained from getting rid of informal plea-bargaining and having it institutionalized and supervised by the court in order to protect the rights of all concerned – the public interest and the accused.
- [8] Computerization of court offices (which has already begun) is essential.
- [9] Bottlenecks and delay points must be identified and new systems and procedures designed to overcome them.
- [10] Specific rules of court are required to support the new processes.
- [11] There is an urgent need to establish a Legal Aid system, as legal aid is an important aspect of transforming criminal justice administration.
- [12] Case management is an integral part of the reformed trial process.
- [13] The new administrative structure will include a Trial Court Administrator, Division Managers, Team Leaders as well as managing and presiding judges.

- [14] Any deficiencies that are identified in supporting structures – the police, the prosecution unit, the defence bar, and the corrections and probation systems – must be addressed as part of the reform process.

## FROM THE OECS

### ST. LUCIA

The February Criminal Assizes commenced with the usual pomp and ceremonial parade, marked with a mounting of the Guard of Honour. This was the first time in the history of St. Lucia, that the Commander was a female - ASP Frances Henry.



*Her Ladyship, the Honourable Justice Indra Hariprashad Charles inspecting the parade.*

There were 28 cases for trial.

This may well be the last Assizes in St. Lucia as the Eastern Caribbean Supreme Court commenced its pilot project on the year round sitting of the High Court in its Criminal Jurisdiction.



*Ms. Racquel Trotman, Crown Counsel; Mrs. Victoria Charles-Clarke, Director of Public Prosecution;  
and Mr. Lesley Mondesir, Crown Counsel - for the start of the Assizes.*

**Judicial Appointments for the period  
February 1 – 29, 2004**

**1. ANTIGUA & BARBUDA**

**Mr. Asquith Riviere**, Magistrate has been appointed as Magistrate for a period of three [3] years with effect from 2<sup>nd</sup> February, 2004.

**2. SAINT LUCIA**

**Ms. Aisha Camille Jn Baptiste** has been appointed as Deputy Registrar, High Court of Justice with effect from 16<sup>th</sup> February, 2004 on contract for a period of one [1] year in the first instance.

**3. SAINT VINCENT & THE GRENADINES**

[1] **Vanessa Tamara Gibson** has been appointed to the post of Deputy Registrar in an acting capacity on contract for a period of one [1] year with effect from 1<sup>st</sup> March, 2004.

[2] **Ms. Coleen McDonald** has been appointed to the post of Registrar, High Court of Justice, St. Vincent & The Grenadines in an acting capacity on contract for a period of one [1] year with effect from 1<sup>st</sup> March, 2004.

**4. EASTERN CARIBBEAN SUPREME COURT**

**His Lordship, the Hon. Justice Hugh Anthony Rawlins** was appointed to act as a Justice of Appeal for the purpose of the sitting of the Court of Appeal in Saint Lucia for the period 17<sup>th</sup> to 21<sup>st</sup> February, 2004.

## **WRITTEN JUDGMENTS**

The following are written judgments available for the month of **February 2004**:

### **COURT OF APPEAL JUDGMENTS**

#### **ANTIGUA & BARBUDA**

##### **Dion Danny Potter v The Queen**

Antigua & Barbuda

Criminal Appeal No. 02/2003

Alleyne, J.A.

Delivered: 16/02/04

##### **Maria Hughes v Attorney General of ANU**

Antigua & Barbuda

Civil Appeal No. 33/2003

Gordon, J.A. [Ag.]

Delivered: 16/02/04

##### **Trevor Santos v Anis Yazigi**

Antigua & Barbuda

Civil Appeal No. 09/2003

Saunders, J.A.

Delivered: 16/02/04

#### **BVI**

##### **Lennie Bowens v Speedy's Delight et al**

BVI

Civil Appeal No 03/2003

Saunders, J.A.

Delivered: 16/02/04

## **DOMINICA**

### **Stephen Trevor Kurt James v The State**

Dominica

Criminal Appeal No 02/2003

Gordon, J.A. [Ag.]

Delivered: 16/02/04

## **GRENADA**

### **Derek Knight v Grenada Electricity Services**

Grenada

Civil Appeal No. 06/2003

Saunders, J.A.

Delivered: 02/02/04

### **Grenada Technical and Allied Workers Union et al v Public Service Commission et al**

Grenada

Civil Appeal No. 11/2003

Saunders, J.A.

Delivered: 02/02/04

## **HIGH COURT JUDGMENTS**

### **ANGUILLA**

#### **Shamari Hodge et al v Commissioner of Police**

Anguilla

Claim No. AXAHCV 2003/0018

George-Creque, J.

Delivered: 18/02/04

### **ANTIGUA & BARBUDA**

#### **Edy Gay Addari v Enzo Addari et al**

Antigua & Barbuda

Suit No ANUHJCV2002/0387

Joseph-Olivetti, J.

Delivered: 05/02/04

#### **Eustace Gordon v Antigua Barbuda Investment Bank et al**

Antigua & Barbuda

Claim No ANUHCV1996/0089

Joseph-Olivetti, J.

Delivered: 17/02/04

#### **Charles Walwyn & Donald Ward v Prosper International Ltd et al**

Antigua & Barbuda

Claim Suit No 0204 of 1999 (Misc)

Joseph-Olivetti, J.

Delivered: 20/02/04

### **BRITISH VIRGIN ISLANDS**

#### **Zhu Jiang Finance Ltd v American Dream in Guangzhou Ltd et al**

B.V.I

Intended Claim No. BVIHCV 2003/0121

d,Auvergne, J

Delivered: 13/02/04

**Waterfront Taxi Stand Ltd v Cable and Wireless (WI) Limited et al**  
B.V.I  
Civil Suit No BVIHCV2001/0103  
Mitchell, J.  
Delivered: 18/02/04

**ST CHRISTOPHER & NEVIS**

**Constance Viola Mitcham v Attorney General of Saint Christopher and Nevis**  
St. Christopher & Nevis  
Claim No. 74 of 1999  
Mitchell, J  
Delivered: 13/02/04

**Caroline Hazel v St Christopher Air & Sea Ports Authority**  
St. Christopher & Nevis  
Civil Suit No SKBHCV2001/0016  
Mitchell, J  
Delivered: 13/02/04

**ST. LUCIA**

**Peter Freund et al v William Edgecombe et al**  
St. Lucia  
Suit No. SLUHMT 226/1990  
Edwards, J.  
Delivered: 26/02/04

**Heirs of Francis Harrison Palmer et al v Robert Williams**  
St. Lucia  
Claim No. SLUHCV2002/0958  
Hariprashad-Charles, J.  
Delivered: 11/02/04

**The Queen v Eustace James**  
St. Lucia  
Case No. 63 of 2003  
Hariprashad-Charles, J.  
Delivered: 11/02/04

**Mary Anna Alexander v Augustin Deterville et al**

St. Lucia

Claim No. 80/1998 Consolidated with CLAIM No. 521 of 1999

Hariprashad-Charles, J.

Delivered: 17/02/04

**The Queen v Kenneth Crafton**

St. Lucia

Case No. 74 of 2003

Hariprashad-Charles, J.

Delivered: 24/02/04

## EASTERN CARIBBEAN SUPREME COURT

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As at 29<sup>th</sup> February 2004

The Chief Justice

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

### Justices of Appeal

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

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

His Lordship, the Hon. Justice Brian Alleyne, SC – Saint Lucia

His Lordship, the Hon. Justice Michael Gordon [Ag.] – Saint Lucia

### High Court

Her Ladyship, the Hon. Justice Suzie d’Auvergne – British Virgin Islands

His Lordship, the Hon. Justice Kenneth Benjamin – Grenada

His Lordship, the Hon. Justice Don Mitchell, QC – Antigua & Barbuda

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

His Lordship, the Hon. Justice Frederick Bruce-Lyle – Saint Vincent & The Grenadines

His Lordship, the Hon. Justice Hugh Rawlins – British Virgin Islands

Her Ladyship, the Hon. Justice Charmaine Pemberton – Grenada

His Lordship, the Hon. Justice Davidson Baptiste – Saint Christopher & Nevis

Her Ladyship, the Hon. Justice Ola Mae Edwards – Saint Lucia

Her Ladyship, the Hon. Justice Rita Joseph-Olivetti – Antigua & Barbuda

His Lordship, the Hon. Justice Errol Thomas – Antigua & Barbuda

His Lordship, the Hon. Justice Janice George-Creque – Anguilla/Montserrat

His Lordship, the Hon. Justice Louise Blenman – St. Vincent & the Grenadines

His Lordship, the Hon. Justice Clare Henry-Wason – Commonwealth of Dominica

His Lordship, the Hon. Justice Francis Belle - Grenada

Master Brian Cottle – Saint Lucia

Master Cheryl Mathurin – Antigua & Barbuda

Mrs. Ianthea Leigertwood-Octave, Chief Registrar - Saint Lucia