



## GREETINGS FROM THE CHIEF JUSTICE

### Dear Readers:

As we approach the end of another eventful year I take the opportunity to review briefly some of the major events of 2005.

In the course of the year we experienced some further changes in the personnel of the Court, with my appointment in March to act as Chief Justice, on the departure of Justice Saunders in preparation for his swearing in as a Judge of the Caribbean Court of Justice. We once again congratulate him on this important milestone, not only for him, but for our Court and the legal history of the entire CARICOM region. Also on the judicial front, we welcomed Justices Denys Barrow and Hugh Rawlins as Justices of Appeal. Both these gentlemen have already made their mark through their erudite and learned contributions to the jurisprudence of the Court, first at the trial level and now at the appeal level. At the High Court there were new judicial appointments in the persons of Justices Gertel Thom, assigned to St. Vincent, and Justice Sandra Mason Q.C. assigned to St. Lucia. Both these judges bring to their posts tremendous experience and different strengths, which will enhance the overall capacity of the judiciary. Also appointed to act as a judge for an extended period was Chief Registrar Ianthea Leigertwood-Octave, assigned to St. Kitts and Nevis, Montserrat and Dominica. Justice Octave's experience as Chief Registrar is reflected in the quality of judicial service which she is providing in these jurisdictions.

The Court Restructuring programme which we are currently undertaking has put, and is expected to continue to put great demands on the human, intellectual and organisational resources of the ECSC Headquarters. I wish to acknowledge the tremendous support of the Government of St. Lucia for this programme, designed to provide improved judicial services first to St. Lucia, then to be replicated in the other States and Territories within the jurisdiction of the ECSC. The work on establishing the Criminal Division is well advanced, and we expect to progress on the Civil and Family Division exercises this year. I thank the consultants and the members of staff of the ECSC who are working on these initiatives for their enthusiastic commitment to moving the process forward. On the Criminal Division reforms, we also acknowledge the significant contributions made by the trial judges, the members of staff attached to the Criminal Division, and the office of the Director of Public Prosecutions (the Crown Prosecution Service) of St. Lucia. The members of the Bar who contributed to the revisions of the Rules, and the Police officers who have committed themselves to advance the productivity and efficiency of the Division, also come in for their share of thanks.

The coming year will be extremely challenging, but I have full confidence that our team is up to the task, and I look forward to continued commitment to meet our objective of providing independent, competent, efficient, effective judicial services at all levels to the people within the jurisdiction of the Court.

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

## Judicial Statistics

The last judicial term ending 31<sup>st</sup> July 2005, saw an improvement in the availability of the quantity of judicial statistics published in the 2004-2005 Annual Report. The visit by the Court Statistician to almost all the Registries and Magistrates offices to collate and compile data from JEMS, or manually in some cases, was one of the main reasons for this improvement.

In the case of the High Courts, data were available, and published from almost all the Member States with the exception of the Commonwealth of Dominica. Only one Member State provided partial data, that is the data was not completed for the entire reporting period.

The statistical data provided from the Magistracy also improved significantly from previous judicial periods. Data from the Commonwealth of Dominica was not reflected in the report since it was not received within the timeframe to facilitate the publication of the annual report. Data provided for Saint Lucia and Montserrat were incomplete. In the case of Saint Lucia, data provided only reflected activities of the second District Magistrates Court.

The Magistrates Courts of St. Vincent and the Grenadines and St. Kitts must be commended for their timely and frequent submission of statistical data. The Family Court of St. Vincent and the Grenadines must also be commended for their reporting frequency and timeliness.

The establishment of JEMS in the Magistracy should result in the production of timely and relevant judicial data which will assist in the enhancement of reporting capabilities of the Magistracy.

The update of JEMS should facilitate the widening of the scope of data provided to reflect, for example information such as, adjournments, delays, and manner of dispositions for any specified period.

The goal for 2006, is that monthly judicial statistics for both the Magistracy and the High Courts will be published in the Newsletter, and this can only be accomplished with the submission of timely reports.

It must once more be re-emphasized that timely and reliable data is important, not only as a reporting mechanism but also as a decision making tool of the Court.

## **Court Review – Virgin Islands**

Over the past few years there have been various discussions about the future structure and organisation of the court system in the Virgin Islands. The discussions were prompted initially, in large part, by calls from the financial services sector to create a court dedicated to commercial matters. An examination of how the court system deals with commercial matters requires, however, a wider consideration of the court system over all, in order to ensure that the needs of all users are met. With this in mind, a team from Essex University was engaged by the Government of the Virgin Islands to carry out that examination.

Three reform models have so far been identified, namely:

- Remaining within the Eastern Caribbean Supreme Court, but establishing a separate commercial court within the Virgin Islands.
- Working with the Eastern Caribbean Supreme Court to establish a commercial division of that court which would be based in the Virgin Islands.
- Breaking away from the Eastern Caribbean Supreme Court system entirely and establishing a separate Virgin Islands court system.

The team's task is to assess these models against a set of objective criteria (concerning how court systems should be designed), and to provide advice to the Government as to which model will best secure the long term credibility of the Virgin Islands' court system.

In its continuing effort to carry out research interviews and consultation meetings, the Essex University team met with representatives of the Eastern Caribbean Supreme Court.

On 24<sup>th</sup> October 2005, the team visited the Eastern Caribbean Supreme Court Headquarters in Saint Lucia to have initial discussions and give an overview of the Project. Subsequent visits took place in early December 2005.

Discussions were held as follows: 6<sup>th</sup> December – High Court Judges; 7<sup>th</sup> December – Officers of the Court's Headquarters, inclusive of the Deputy Chief Registrar, the Court Administrator and Deputy Court Administrator, Judicial Education Institute Executive Officer, Accountant, Judicial and Legal Services

Commission Secretary, and Statistician; 12<sup>th</sup> December - Acting Chief Justice and Justices of Appeal. A meeting was also convened with the Attorney General of the island on that same day.

## **Project Team**

### **Essex University:**

*Richard Comes* is a Lecturer in Public Law and Deputy Head of the Law Department at the University of Essex. His area of expertise is constitutional law and in particular judicial system design. He is a graduate of Auckland University (BA/LLB(Hons), 1992) and The University of Melbourne (Graduate Diploma in International Law, 1997). He was admitted as a Barrister and Solicitor of the High Court of New Zealand in 1993.

*Professor Steve Anderman* is currently Birkett Long Professor of Law at Essex University. His area of expertise is commercial law. His academic qualifications include an LLB from Yale Law School in 1960 and an MSc(Econ) from the London School of Economics in 1966.

*Professor Janet Dine* is currently the Director of the Centre for Commercial Law at Queen Mary, University of London. Her area of expertise is commercial and financial services law. She is qualified as a Barrister and has practised in criminal and commercial law.

*Dr Lisa Jack, FCCA* is a qualified accountant and academic in the University's Department of Accountancy, Finance and Management. After obtaining a BSc (Hons) in Mathematics and Classics, she spent ten years as an auditor in both the private and public sectors before moving into research and teaching.

*Ricardo Pereira* is a Brazilian trained lawyer, currently enrolled for a Phd in the Department of Law at Essex University. He provides research assistance to the project.

### **Virgin Islands:**

*Paul Webster, QC* has practised as a Barrister in the courts of the Virgin Islands for over 25 years, primarily in the area of commercial law. He is the senior partner in the firm O'Neal Webster. He was appointed Queens Counsel in 2003.

**Project Consultant:**

*William Wood*, QC (Brick Court, London) is a senior London based Barrister in the commercial and financial services fields. He has studied at Oxford and Harvard universities, and also acts as a mediator and arbitrator in commercial and financial services matters.

## CONFERENCES, SEMINARS & WORKSHOPS

### **Criminal Division Pilot Project, Saint Lucia**

As part of the continuing consultations on the implementation of the Criminal Division pilot project, the Eastern Caribbean Supreme Court convened a workshop on 2<sup>nd</sup> December, 2005 to discuss, and as far as practicable develop a plan of action to facilitate the smooth transition into the final phase of the Criminal Division Pilot Project. The Criminal Division is part of the overall modernisation of the Judiciary in the Eastern Caribbean to provide a more efficient justice system.

Discussions at the workshop were centered around three general themes namely:

1. the imminent introduction of new Rules governing the practice and procedures in proceedings in the new Criminal Division of the Supreme Court;
2. staffing of the integrated trial court; and
3. the administration of the Jury

Attending the workshop were His Lordship the Acting Chief Justice, the Honourable Brian Alleyne; Justices of Appeal: Justice Michael Gordon, Justice Denys Barrow and Justice Hugh Rawlins; High Court judges: Justice Albert Redhead, Justice Ola Mae Edwards, and Justice Sandra Mason; Senior Magistrate Floretta Nicholas; Acting Director of Public Prosecutions, Mrs. Victoria Charles-Clarke; the Court Administrator [Headquarters], Mr. Gregory Girard; the Acting Chief Registrar, Ms. Heather Franklyn; the Deputy High Court Registrar, Ms. Aisha Jn Baptiste; the Deputy Permanent Secretary of the Ministry of Justice, Mr. John Husbands; the Court Administrator [High Court], Ms. Verlinda Stanislaus; Human Resource Consultant, Mr. Victor Poyotte; and the Criminal Division Project Coordinator, Mr. Leslie Prospere.

His Lordship the Hon. Justice Albert Redhead, Presiding Judge of the Criminal Division, led the discussion on the Criminal Court (Delay Reduction) Rules. The Criminal Courts (Delay Reduction) Rules were taken through the final draft and instructions were given for the completed Rules to be forwarded to the Bar Association and the Honourable Attorney General. Promulgation of the Rules is dependent on the commencement of the Criminal Courts (Delay Reduction) Act, 2004 which would suspend the procedural parts of the Criminal Code and authorise the Chief Justice to issue the Rules.

Justice Redhead also gave an overview of the operations of the Criminal Division when it is fully implemented called *Mechanisms and modus operandi of the Criminal Division*. Issues discussed under this topic included: Initial Hearing—Indictable cases; Sufficiency Hearing; Preparation of Scheduling Order; Arraignment; Case Management and Omnibus Conference

Ms. Heather Franklyn, the acting Chief Registrar led the session on Jury Management, including the compilation of Jury Book; Jury Management and the introduction of Jury Management Software. Mr. Mark Ernest, the Information Technology (IT) Manager and Mr. Derrick Agdomar, the Systems Administrator of the ECSC assisted Ms Franklyn in the discussion of the Jury Manager software.

As a result of the discussion, participants with statutory responsibilities relating to the management of the jury system gave undertakings that they would at the soonest possible time start working on the compilation of an updated Jury Book.

Integrating the court offices of the District Courts and the High Court entails extensive reorganisation of staff. Acting Chief Justice Alleyne, Court Administrator Girard and Consultant Poyotte provided the workshop with insights on the proposed structure and staff organisation of the trial court.

Building on a report prepared by the Consultant, Mr Gregory Girard gave an overview of the proposed staff structure that would accompany the establishment of the Criminal Division.

His Lordship, Acting Chief Justice, Hon. Brian Alleyne led a discussion that critically examined in more detail, specific offices that are to be created in the proposed structure.

It is anticipated that the Criminal Courts (Delay Reduction) Act 2004 would come in force, and the Criminal Courts (Delay Reduction) Rules promulgated in the first half of the year 2006.

## **WRITTEN JUDGMENTS**

The following are written judgments delivered in the month of **December 2005**:

### **COURT OF APPEAL JUDGMENTS**

#### **ST. CHRISTOPHER & NEVIS**

##### **Nevis Island Administration v LaCoppoprete Du Navire J31 et al**

St. Christopher & Nevis  
Civil Appeal No 07/2005  
Rawlins, J.A.  
Delivered: 29/12/05

### **HIGH COURT JUDGMENTS**

#### **ANTIGUA & BARBUDA**

##### **Ruston Cornwall v Antigua Barbuda Investment Bank Ltd**

Antigua & Barbuda  
Claim No. ANUHCV 2005/0558  
Blenman, J.  
Delivered: 08/12/05

##### **Noel Joseph v Azariah Russell**

Antigua & Barbuda  
Claim No. ANUHCV 2003/0108  
Blenman, J.  
Delivered: 21/12/05

##### **VT Leaseco Ltd v Fast Ferry**

Antigua & Barbuda  
Claim No. ANUHCV 2004/0082  
Blenman, J.  
Delivered: 21/12/05

## **BRITISH VIRGIN ISLANDS**

### **Caribbean Pacific Energy Corporation v Olympic Peru Inc et al**

British Virgin Islands

Claim No. BVIHCV 2005/0168

Hariprashad-Charles, J.

Delivered: 15/12/05

### **Sibir Energy Plc v Gregory Trading SA et al**

British Virgin Islands

Claim No. BVIHCV 2005/0174

Hariprashad-Charles, J.

Delivered: 23/12/05

### **Pacific International Sports Club Ltd v Comerco Comercial Ltd**

British Virgin Islands

BVIHCV 70/2005

Joseph-Olivetti, J.

Delivered: 20/12/05

### **Allen Wheatley v John Schultheis et al**

British Virgin Islands

BVIHCV 2004/0162

Joseph-Olivetti, J.

Delivered: 21/12/05

## **ST. CHRISTOPHER & NEVIS**

### **St Kitts- Nevis- Anguilla National Bank Limited v The Registrar of Titles**

St. Christopher & Nevis

Claim No. SKBHCV2005/0167

Belle, J.

Delivered: 01/12/05

## **ST. VINCENT & THE GRENADINES**

### **Ermine Charles v Ezra Herbert et al**

St. Vincent & the Grenadines

High Court Claim No. 171/2003

Cottle, M.

Delivered: 02/12/05

**Princess Margaret Diamond v The Attorney General et al**  
St. Vincent  
High Court Civil Claim No. 292/2005  
Thom, J.  
Delivered: 02/12/05

# EASTERN CARIBBEAN SUPREME COURT

As at 31<sup>st</sup> December 2005

## The Chief Justice

His Lordship, the Hon. Chief Justice [Ag.], Brian Alleyne, SC – Saint Lucia

## Justices of Appeal

His Lordship, the Hon. Justice Michael Gordon, QC – Saint Lucia

His Lordship, the Hon. Justice Denys Barrow, SC [Ag.] – Saint Lucia

His Lordship, the Hon. Justice Hugh Rawlins – Saint Lucia

## High Court

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

His Lordship, the Hon. Justice Kenneth Benjamin – Grenada

Her Ladyship, the Hon. Justice Indra Hariprashad-Charles – British Virgin Islands

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

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 – British Virgin Islands

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 – Antigua & Barbuda

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

His Lordship, the Hon. Justice Francis Belle - Grenada

Her Ladyship, the Hon. Justice Gertel Thom - Saint Vincent & the Grenadines

Her Ladyship, the Hon. Justice Sandra Mason, QC - Saint Lucia

Her Ladyship, the Hon. Justice Ianthea Leigertwood-Octave [Ag.] – Nevis/Commonwealth of Dominica/Montserrat

Master Brian Cottle – Saint Lucia

Master Cheryl Mathurin – Antigua & Barbuda

Ms. Heather Franklyn, Chief Registrar [Ag.] - Saint Lucia