



## GREETINGS FROM THE CHIEF JUSTICE

Dear Readers:

Over the last couple of months we at the Eastern Caribbean Supreme Court Headquarters have been giving a great deal of thought to the regional Magistracy and its proper administration. At the 41<sup>st</sup> meeting of the Heads of Government of the OECS held in Dominica earlier this year, we were mandated to examine the legislation governing the Magistracy in the sub-region and to make recommendations for improvement in the context of the various studies on regionalisation of the Magistracy. The Heads of Government expressed grave concern regarding the very substantial delays in the delivery of justice, especially in criminal matters, in some of the States. Attention was drawn to very severe criticism by the public regarding the delivery of justice, and its impact on public confidence in the judiciary and in the administration of justice. It was recognised that these delays contribute to the growth of serious crime in our societies.

The very successful Magistrates' Conference held in Tortola in late September discussed some of these issues, and determined to support and participate fully in efforts to develop in the OECS a lower judiciary of acknowledged independence, competence, effectiveness and efficiency. For the success of this enterprise, the full support and participation of the respective Executives, the ECSC and the individual Magistrates is crucial.

The Magistracy of the OECS has its own peculiar character. Indeed it is a misnomer to call it the Magistracy of the OECS. Each of the nine States and Territories has its own separate national Magistracy, without the unifying features of the Eastern Caribbean Supreme Court, which has its existence under a single legislative instrument, the Courts Order, which has been incorporated into each of the national Constitutions. Unlike the Magistracies, the Supreme Court also has a central administrative structure, so although it serves nine separate States and Territories as their respective national higher judiciary, it is at the same time a unified institution.

Issues of administration and accountability arise in these circumstances. Historically the Magistracy is part of the civil service of the State. At the same time, well established and recognised Constitutional principles require the Magistracy to be independent of the national Executive under the doctrine of the separation of powers. Magistrates are appointed by or after consultation with the Judicial and Legal Services Commission, which is intended to assure independence in the appointment process. However, having been appointed, they then enter into a contractual relationship with the Government (the Executive), typically on a short-term contract of 2 years, and on terms set by the Executive or negotiated by the Magistrate with the Executive.

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## Greetings from the Chief Justice [continued]

Different Magistrates, sometimes of the same status in the same country, sometimes serve under significantly different terms and conditions than their peers, because they have been able to negotiate more favourable contracts. This tends to create the perception, if not the reality, of a collaborative relationship between the Executive and some members of the Magistracy and to undermine confidence in the independence of the Magistracy.

This is only one of the myriad issues involved in the restructuring of the Magistracies. Issues of accountability, productivity, even integrity, arise, at least in the public perception. It is recognised that the office of the Chief Justice needs to be more closely engaged in a supervisory role over the functioning of the Magistracies, not, of course, in relation to their judicial decisions, over which only the appeal courts can legitimately exercise any jurisdiction. Efforts are being made, and measures are being developed, to improve the ability of the office of the Chief Justice to effectively supervise the functioning of the various Magistracies, and thus to tackle matters which are of growing concern to the Governments and the people, as well as the Judiciary, of our various States and Territories. This exercise is one of the most important undertakings of the office of the Chief Justice in the coming years.

## EASTERN CARIBBEAN SUPREME COURT NEWS

The 42<sup>nd</sup> OECS Heads of Authority meeting was convened at the Maliohauna Hotel in Anguilla on November 7 & 8, 2005. The Acting Chief Justice, the Hon. Justice Brian Alleyne, SC. was in attendance, accompanied by the Court Administrator, Mr. Gregory Girard.

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The Judicial and Legal Services Commission met for the final time for the calendar year, at the Auberge Seraphine Hotel, St. Lucia. The meeting was convened on 21<sup>st</sup> November 2005.

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Justice Denys Barrow and Justice Sandra Mason of the Eastern Caribbean Supreme Court attended a consultation on the *Draft Protocol for the Management of Child Abuse and Neglect in St. Lucia* on Thursday 24<sup>th</sup> November 2005 at the Training Room, Ministry of the Public Service, Castries, St. Lucia. This consultation was one in a series organised by the Ministry of Health, Human Services, Family Affairs and Gender Relations in collaboration with UNICEF.

The objectives of the consultation were: to promote and better understand child abuse and neglect; to promote best practices in child abuse intervention and management; to build consensus on the development of a protocol for the management of child abuse and neglect; and to strengthen interagency collaboration. The proposed outcomes included: early identification of child abuse cases; increase in reported cases of child abuse; reduction in cases of child abuse; effective and efficient child abuse management; professional development; and improved interagency collaboration.

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**Judicial Appointments for the period  
October 1 – November 30, 2005**

[1] **Eastern Caribbean Supreme Court**

1. **Mr. Lewis Hunte, Q.C.**, Barrister-at-law, Tortola, BVI has been appointed to act as a High Court Judge, Eastern Caribbean Supreme Court with effect from 3<sup>rd</sup> to 28<sup>th</sup> October, 2005 and from 14<sup>th</sup> to 30<sup>th</sup> November, 2005. Mr. Hunte is assigned to the Commonwealth of Dominica.
2. Revocation of the acting appointment of **His Lordship, the Hon. Justice Albert Matthew**, Retired Judge of the Eastern Caribbean Supreme Court, St. Vincent & The Grenadines.

[2] **Antigua and Barbuda**

1. Revocation of the appointment of **Mr. Anthony Armstrong** as Director of Public Prosecutions, with effect from 17<sup>th</sup> October, 2005; and Appointment of **Mr. Anthony Armstrong** as Director of Public prosecutions, with effect from 21<sup>st</sup> November, 2005.
2. **Mr. Lebrecht Hesse** has been appointed as Solicitor General, Ministry of Justice and Legal Affairs on contract for a period of three [3] years from 1<sup>st</sup> May, 2004 to 30<sup>th</sup> April, 2007.

[3] **Commonwealth of Dominica**

1. **Ms. Gloria Augustus** has been appointed to act as Magistrate, with effect from 1<sup>st</sup> July to 31<sup>st</sup> December, 2005.
2. **Ms. Donille Blackmoore**, Senior Clerk has been appointed to act as Secretary, Public Service Commission with effect from 19<sup>th</sup> July, to 19<sup>th</sup> September, 2005 vice Eleanor Ferrol who has been granted vacation leave for the said period.

[4] **Saint Lucia**

1. **Mr. Leslie Mondesir and Ms. Raquel Willie-Trotman** has been appointed to the post of Crown Counsel III, Crown Prosecutions Service, on contract for a period of one [1] year with effect from 4<sup>th</sup> January, 2006
2. **Mr. Harold Gayle** has been appointed to the post of Magistrate 1 on contract for a period of one [1] year with effect from 1<sup>st</sup> November, 2005.

[4] **St. Kitts & Nevis**

1. **Ms. Allison A. Isaac** has been appointed as Parliamentary Counsel, Ministry of Legal Affairs on contract for a period of two [2] years from 1<sup>st</sup> November, 2005.
2. **Ms Mavis Marongue** has been appointed as Parliamentary Counsel, Ministry of Legal Affairs, St. Kitts on contract for a period of two [2] years with effect from 1<sup>st</sup> November, 2005.

## **WRITTEN JUDGMENTS**

The following are written judgments delivered in the months of **October & November 2005**:

### **COURT OF APPEAL JUDGMENTS**

#### **ANTIGUA & BARBUDA**

##### **FBO 2000 (Antigua) Ltd v Vere Cornwall Bird Jr. et al**

Antigua & Barbuda

Civil Appeal No. 30/2003

Barrow, J.A.

Delivered: 10/10/05

#### **BRITISH VIRGIN ISLANDS**

##### **Terry Smith v The Queen**

British Virgin Islands

Criminal Appeal No. 01/2005

Barrow, J.A.

Delivered: 28/11/05

#### **GRENADA**

##### **Michael Jeffrey v The Queen**

Grenada

Criminal Appeal No. 04/2004

Barrow, J.A.

Delivered: 10/10/05

#### **ST. LUCIA**

##### **Horace Fraser v Judicial and Legal Services Commission et al**

St. Lucia

Criminal Appeal No. 03/2005

Barrow, J.A.

Delivered: 10/10/05

**Cendra Charles v Justin Surage et al**

St. Lucia

Civil Appeal No 33/2005

Gordon, J.A.

Delivered: 27/10/05

**Fabian Sylvester et al v The Queen**

St. Lucia

Criminal Appeal No. 04/2004

Barrow, J.A.

Delivered: 28/11/05

**JLSC v Horace Fraser and AG**

St. Lucia

Criminal Appeal No. 24/2005

Barrow, J.A.

Delivered: 28/11/05

**ST. VINCENT**

**Harry Wilson v The Queen**

St. Vincent

Civil Appeal No. 30/2004

Rawlins, J.A.

Delivered: 28/11/05

**Kenneth Samuel v The Queen**

St. Vincent

Civil Appeal No. 07/2005

Barrow, J.A.

Delivered: 28/11/05

## HIGH COURT JUDGMENTS

### ANTIGUA & BARBUDA

**Vernon Dickenson v Goldine Hughes**

Antigua & Barbuda

Claim No ANUHCV1995/0091

Blenman, J.

Delivered: 11/11/05

**Charles Southwell v Cletus Christopher and Cletus Christopher v Charles Southwell**

Antigua & Barbuda

Claim No ANUHCV2003/0241 & ANUHCV2003/0368

Blenman, J.

Delivered: 16/11/05

**Hraold Joseph v Ewart Thomas**

Antigua & Barbuda

Claim No ANUHCV2003/0364

Blenman, J.

Delivered: 21/11/05

**Glentis Goodwin v Hon. Winston B. Spencer et al**

Antigua & Barbuda

Claim No ANUHCV2005/0108

Blenman, J.

Delivered: 21/11/05

### BRITISH VIRGIN ISLANDS

**Jerome Lettsome et al v Wade Smith et al**

B.V.I

Claim No. BVIHCV2004/0189

Harriprashad-Charles, J

Delivered: 03/10/05

**Warren Callwood et al v Philiciano Callwood**

B.V.I

Claim No. BVIHCV2003/0183

Harriprashad-Charles, J

Delivered: 18/10/05

## **DOMINICA**

### **Benoit John Baptiste v Henry Hillaire et al**

Dominica

Claim No. DOMHCV1996/0273

Belle, J

Delivered: 10/10/05

### **Elora Riley v Attorney General of Dominica et al**

Dominica

DOMHCV2004/0534

Henry-Wason, J

Delivered: 14/10/05

### **Curtis Richards v Anthony Rolle**

Dominica

Civil Suit No. DOMHCV2002/0222

Hunte, J

Delivered: 24/10/05

### **Patricia Shillingford v Mondesire Stephenson et al**

Dominica

Civil Suit No. 32 of 1998

Hunte, J

Delivered: 25/10/05

### **Ricky Rolle v Stanley Daniel et al**

Dominica

Civil Suit No. DOMHCV2002/0447

Hunte, J

Delivered: 26/10/05

### **Ferdinand Frampton v Ian Pinard et al**

### **Claudius Sandford v Kelly Graneau et al**

### **Curvin Ferreira v Vince Hendderson et al**

### **Leonard Newton v Loreen Prevost et al**

### **Julian Prevost v Rayburn Blackmore et al**

Dominica

Claim Nos. DOMHCV2005/0149; DOMHCV2005/0150; DOMHCV2005/0151;  
DOMHCV2005/0152; DOMHCV2005/0154

Rawlins, J

Delivered: 28/10/05

**Derrickson Robin v Mignot Merve' Garage Production Ltd**

Dominica

Claim No. DOMHCV02005/0145

Cottle, M

Delivered: 25/11/05

**Henry Liu et al v The Attorney General of Dominica et al**

Dominica

Civil Suit No. DOMHCV02004/0338 & DOMHCV02004/0441

Henry-Wason, J

Delivered: 25/11/05

**Girlee Belle v Bernita Daniel et al**

Dominica

Civil Suit No. DOMHCV02001/0216

Hunte, J

Delivered: 18/11/05

**Clement Carty v Flaviene Carty et al**

Dominica

Civil Suit No. DOMHCV02003/0282

Hunte, J

Delivered: 18/11/05

**Edward Ravalliere v Police Service Service Commission et al**

Dominica

Civil Suit No. DOMHCV0467/2000

Hunte, J

Delivered: 23/11/05

**Mavis Williams v Dominica Agricultural Industrial & Development Bank**

Dominica

Civil Suit No. DOMHCV0149/2001

Hunte, J

Delivered: 24/11/05

**ST. LUCIA**

**Jennifer St. Cyr v Honourable Attorney General**

St. Lucia

Claim No. SLUHCV2005/0219

Cottle, M

Delivered: 18/11/05

**True Value Building & Hardware Supplies v National Development Corporation**

St. Lucia

Claim No. SLUHCV2005/0265

Cottle, M

Delivered: 18/11/05

**Nelista Rambally et al v Barbados Fire and General Insurance Company Ltd et al**

St. Lucia

Claim No. SLUHCV1179/2000

Edwards, J.

Delivered: 31/10/05

**John Cadette v Raphael Ephraim et al**

St. Lucia

Case No. SLUHCV 2001/0538

Edwards, J.

Delivered: 25/11/05

**ST VINCENT & THE GRENADINES**

**Vulgina Alexander v Nollie Alexander et al**

St. Vincent & the Grenadines

High Court Claim No. 520/2001

Thom, J

Delivered: 04/10/05

**Kathleen Tyrell v Horace John et al**

St. Vincent & the Grenadines

High Court Claim No. 97/2004

Thom, J

Delivered: 21/10/05

**Douglas O'Neal Creese v Vibert Creese**

St. Vincent & the Grenadines

High Court Civil Claim No. 318/2004

Thom, J

Delivered: 24/10/05

**Yvonne Lewis v Anselm Lewis et al**

St. Vincent & the Grenadines

Claim No. 541/2002

Blenman, J

Delivered: 15/11/05

**Cheryl Diana Greaves v Goaland Eloux Greaves et al**

St. Vincent & the Grenadines

No. 471 of 1990

Cottle, M

Delivered: 03/11/05

**Diana Fussee-Durham v Rodger Fusee-Durham**

St. Vincent & the Grenadines

No. 19 of 2003

Cottle, M

Delivered: 03/11/05

**Andrew Popely v Ayton Ltd et al**

St. Vincent & the Grenadines

High Court Civil Claim No. 1/2005

Thom, J

Delivered: 08/11/05

**SVG Green Party et al v The Attorney General et al**

St. Vincent & the Grenadines

High Court Claim No. 420/2005

Thom, J

Delivered: 18/11/05

# EASTERN CARIBBEAN SUPREME COURT

As at 30<sup>th</sup> November 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 – 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 - 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