



GREETINGS FROM THE CHIEF JUSTICE

Dear Readers:

As the New Year unfolds, we are making a concerted effort to push forward with the implementation of the Court Restructuring pilot project in the Criminal Division in Saint Lucia. We have completed our internal review of the proposed new procedural rules, including consultations with the Director of Public Prosecutions, the Crown Prosecution Service, the Police and the Bar, and we are awaiting the comments of the office of the Attorney-General before enacting the Rules. We have to express our profound gratitude to CIDA and the Government of Saint Lucia, which provided the funding that enabled us to undertake these important reforms, to our consultant, Ms. Sharon Walters, and to all the other individuals and groups that assisted us in developing this project. It is intended that, once the pilot project has been successfully implemented in Saint Lucia, we would seek the support of the other governments within the jurisdiction of the ECSC to implement the reforms in the other countries.

The Criminal Division Reform pilot project is part of the overall restructuring project for the Courts in the OECS, submitted to the Heads of Government in January 2004, involving the establishment of separate Divisions of the Court and integrating the Magistrate/District Courts administratively into the Supreme Court structure, to achieve greater efficiency and effectiveness in the processing of litigation at all levels, and to enhance the independence, status and image of the Magistracies as an important part of the judiciary, in recognition of the fact that the Magistrates (the lower judiciary) handle approximately 90% of all litigation within the jurisdiction, and is therefore in a real sense the predominant public face of the judicial system in our islands.

Several years ago, draft Small Claims Rules were circulated to the judiciary for study and comment. This was related to the adoption of the new Civil Procedure Rules 2000. However, this matter yielded priority to the reform of the criminal practice and procedure, in light of the urgency of tackling the growing volume and changing nature of crime, the perceived inability of the existing system to deal with criminal trials in a timely manner, the pressures which delay imposed on the crime-fighting, prisons and correctional facilities and infrastructure of our countries, and the injustice suffered by both victims and accused persons as a result of delays in the processing of criminal trials.

The reforms involve the elimination of the preliminary inquiry as a step in the processing of indictable charges, and the substitution of a form of case management of all charges, summary and indictable. No one familiar with the present system would doubt that the preliminary inquiry is a, if not *the*, principal cause of delay in the processing of indictable charges.

Please send comments, suggestions and contributions to the newsletter at appeal@candw.lc

INSIDE THIS ISSUE

Greetings from the Chief Justice
p. 1

Eastern Caribbean Supreme
Court News
p. 3

Conferences, Seminars
& Workshops
p. 5

JLSC Appointments
P. 10

Written Judgments
p. 11

GREETINGS FROM THE CHIEF JUSTICE [continued]

It is not uncommon for delays of up to three years in the processing of preliminary inquiries, before the matter can come on for trial before a jury. I will not emphasise the obvious problems that inevitably arise from such delays. There will be those, of course, who will insist that the preliminary inquiry provides an essential protection for those accused of serious crime. We do not agree. It is our view that the limited advantages that may be realised are far outweighed by the benefits of bringing matters to trial as quickly as possible without compromising the opportunity of either prosecution or defence to thoroughly prepare their respective cases.

The *Criminal Courts (Delay Reduction) Act* of St. Lucia, Act No. 17 of 2004, provides, essentially, for the Chief Justice to make rules of practice and procedure to expedite the flow of criminal cases, including, in particular, rules for the elimination of preliminary inquiries and the substitution of proceedings in the High Court to determine whether there is sufficient evidence to put the accused person on trial by a jury. The **sufficiency hearing** would of course be conducted in the presence of the accused and his attorney, who would be fully involved in the process. The process could also serve to route appropriate cases away from trial by jury to summary trial, and even to divert matters to non-judicial alternative disposition in special circumstances. The process would also facilitate plea offers (not plea bargaining) and sentencing hearings for early guilty pleas.

It is our hope and expectation that this initiative will contribute greatly to the more efficient and effective processing of criminal trials, without in any way prejudicing the quality of justice, and in that way assist in the fight against growing criminality in the region.

In my next message I intend to look in some more detail at the proposed Delay Reduction Rules.

EASTERN CARIBBEAN SUPREME COURT NEWS

Study Tour of the New Jersey State Courts

A four-member delegation from the Eastern Caribbean Supreme Court headed by Acting Chief Justice, the Honourable Brian Alleyne, SC conducted a study tour of the State Courts in the State of New Jersey in the United States February 27 & 28, 2006. Other members were Court Executive Administrator, Mr. Gregory Girard; Acting Chief Registrar, Ms. Heather Franklyn and Deputy Court Administrator, Mr. Mac Clure Taylor.



Mr. Collins Ijoma, Trial Court Administrator, Superior Court of New Jersey [far left] accompanied by the ECSC delegation: [L to R] Ms. Heather Franklyn, Acting Chief Registrar; Mr. MacClure Taylor, Deputy Court Administrator; Mr. Gregory Girard, Court Administrator and Acting Chief Justice Brian Alleyne, SC.

The two-day study tour was designed to give officials of the Eastern Caribbean Supreme Court, who are directly involved with the restructuring and modernization of the Justice System, the opportunity to observe close-up the

functioning of the New Jersey State Courts with particular emphasis on the operation of the Trial Courts in Divisions, namely Criminal, Civil, and Family. The opportunity was also taken to speak to the Judges of the New Jersey Courts to gain an understanding of the role which they play in administering the Trial Courts.

The Eastern Caribbean Supreme Court is for the last several years in the process of reform and modernization. The ongoing reform is influenced by the work of Court Structures Consultant, Mr. Robert D. Lipscher, of Court Management Associates (a New Jersey based firm) who served as the Lead Consultant to the Court for the past two years, under sponsorship from the Canadian International Development Agency (CIDA). Mr Lipscher assisted the Court in its efforts at modernizing the judiciary and increasing efficiency and effectiveness as well as providing greater public accountability.

The Government of Saint Lucia has readily agreed for St Lucia to be used as the pilot jurisdiction in the ongoing restructuring. Reform initiatives developed in Saint Lucia are subsequently to be replicated in the other Member States of the Eastern Caribbean Supreme Court.

The CIDA Judicial and Legal Reform Project provided the assistance for the study tour.

[More details in March Newsletter]

CONFERENCES, SEMINARS & WORKSHOPS

4th International Conference on Crime and Justice in the Caribbean New Challenges in Crime and Justice - From Research to Policy

8th to 10th February, 2006 - Trinidad

The 4th International Conference on Crime and Justice in the Caribbean was organised by the Centre for Criminology and Criminal Justice in collaboration with the Ministry of the Attorney General, Government of the Republic of Trinidad and Tobago. The Conference ran from 8th to 11th February, 2006 and was held at the St Augustine Campus, UWI, except for the last day which was conducted on the island of Tobago.

There have been three Caribbean Conferences held thus far. The first was held in Barbados at UWI Cave Hill in 1998, the second and third were hosted by UWI, Mona in Jamaica in 2001 and 2004 respectively.

The objectives of the Conference were:

- ❖ To share research findings and facilitate cross-cultural comparisons on crime in the Caribbean and in international contexts;
- ❖ To discuss important criminological issues in both regional and international contexts and the challenges which now face scholars, practitioners and policy makers;
- ❖ To explore new issues and directions for criminological research and policy development in the Caribbean;
- ❖ To establish a research network among persons and institutions with an interest in crime, justice and policy development in the Caribbean.

The Conference commenced with an Opening Ceremony on Wednesday 8th February, 2006 in the Learning Resource Centre of the UWI, St. Augustine Campus with an audience of just over 600 persons comprising delegates from the Caribbean, internationally and specially invited guests.

Professor Ramesh Deosoran, Director for the Centre for Criminology and Criminal Justice at the St. Augustine Campus officially welcomed everyone. Professor Gurmohan Kochar, Deputy Campus Principal and Professor E. Nigel Harris, Vice-Chancellor, UWI also delivered addresses. Senator, The Hon. John Jeremie, Attorney General of Trinidad and Tobago gave the keynote address, and particularly welcomed and highlighted the efforts of Professor Deosoran and his

Department in organizing another conference of this kind, but this time in Trinidad and Tobago.

At the close of the ceremony, everyone was invited to partake in a luncheon held on the grounds of the Campus and to take the opportunity to peruse some of the reading material in the tents erected in the immediate area. The tents housed some of the departments involved in the Criminal Justice System i.e. Police, Probation and Parole etc.

Saint Lucia was represented in the persons of Magistrate Anne Marie Smith, First District Court; Mrs. Tessa Dawes, Clerk of Court I; Mr. Roland Francois, Bailiff; Ms Carlene Giraudy, Clerk of Court I; Ms Lindell Calixte, Typist, First District Court and Ms Cynthia David, Project Coordinator, Criminal Division Pilot Project.

Among the specially invited guests at the Opening Ceremony was His Lordship, Hon. Mr. Justice Adrian Saunders, former Acting Chief Justice, Eastern Caribbean Supreme Court. In attendance also was Mr. Norton Jack, former Director of Public Prosecutions of Saint Lucia.



The St. Lucia delegation, accompanied by former Acting Chief Justice Adrian Saunders [far right]

Coordinator, Mr. Roland Francois - Bailiff,
Lindell Calixte - Typist,
p, Hon. Mr. Justice Adrian Saunders

The first session commenced at 1.30 p.m. in the Learning Resource Centre, following a luncheon that was enjoyed by all. This took the form of panel discussions conducted simultaneously, and delegates were given the opportunity to attend their preferred session.



Second Row [Left to Right]: Magistrate Anne Marie Smith, Mrs. Tessa Dawes, Clerk of Court I; Mr. Roland Francois, Bailiff; Ms Carlene Giraudy, Clerk of Court I; Ms Cynthia David, Project Coordinator and Ms Lindell Calixte, Typist

Sessions for the duration of the Conference included:

Criminal Deportees: Implications for the Caribbean Society

This discussion focused primarily on how the Trinidadian government re-integrated deportees back into society, the challenges of deported nationals to their “mother land” and the considerable increase in the number of deported Caribbean nationals over the past five years.

The main countries identified for deporting Caribbean nationals were Canada, the United States of America and England. Interestingly, among the delegates at this session was a female Trinidadian national, who had resided in the United States of America with her four children for some years. In the year 2000, she was deported back to Trinidad for a shoplifting offence which she had committed in the United States in 1996. This national was very vehement about the treatment that she had received upon arrival in Trinidad; she was very angry towards the government of Trinidad and Tobago and strongly challenged earlier statements made by one of the panelists, Mrs. Wendy-Ann Wattie, a representative of the Government of Trinidad and Tobago, who had highlighted the provisions made for deported nationals.

The majority of delegates, to put it lightly, were up in arms at the account that the Trinidadian national had given of her treatment, and in her defence a very heated question and answer session ensued between the panelists and delegates. The deported national went on to inform the delegates that she was currently

pursuing a Bachelor's Degree, which was being funded by her family and upon her conclusion she would be representing deported Trinidadian nationals.

At the end of the afternoon session, delegates were attended a cocktail at the President's residence. The highlight of the evening was the musical entertainment, inclusive of a steel pan band and a local dance group. Delegates enjoyed the fare of finger food delights which ranged from rotis, seafood and fruits dipped in chocolate.

Corrections, Restorative Justice and Sentencing

This discussion also proved very informative and enlightening. Like the afternoon session of Wednesday, the question and answer session was very interesting. The questions arose from a delegate who had served a term of 20 years imprisonment and was now, in his own words a "reformed man." This gentleman was of the strong opinion that prison was not the ideal form of correction or rehabilitation; and in his experience, made him worse. However, he went on to state that had it not been for the application of religious teachings upon his release, he would have continued to engage in criminal activity.

He urged those who had the power to act, to do so and for persons to refrain from referring to ex-prisoners, "as dem people", but to genuinely embrace all such persons back into society and to introduce religious programmes into the correctional institutions, if changes were to be made in the lives of prisoners. The gentleman's statements were met with a round of applause, from the majority of the delegates, who appeared to be in agreement.

Crime, Community Policing and Civic Partnerships in Jamaica

This session was very insightful and gave a panoramic view of how a gang leader aka "a Don" operated and controlled areas in Jamaica, their benevolence towards the lower class citizens who lived in these areas and how the "Dons" benefited. The use of undercover Police Officers was also highlighted.

Each panel discussion had its own flavour, but unfortunately the panelists of this session, were unprepared for the ensuing question and answer session, which was steamed by a delegation that had a large Jamaican representation. The Jamaican nationals stated that some of the commentary that was made alongside the photographic material presented, was un-factual. This related in particular, to the mention of the attendance of a Minister of Government, at the funeral of one of Jamaica's famous "Don's". The panelist who presented this information apologized, but went on to state that was what his research showed.

Juvenile Delinquency and Juvenile Justice in Trinidad and Tobago

The decrease in the age of young offenders and the need for new rehabilitative programmes were highlighted. This session was attended by a large Trinidadian delegation, which during the question and answer session raised concerns over the institution which currently housed the juvenile boys, and the need for better programmes.

Sex Crimes, Race and Juvenile Delinquency

The first panelist presented a paper on the effect that thinking violent thoughts and watching violent movies had on juveniles and its leading to violent behaviour in schools (especially amongst boys). The second panelist looked at the make up of a pedophile, their tendencies and rehabilitation needs. The third panelist, a Rastafarian and teacher by profession presented a paper on racial discrimination in Ontario Public Schools. He was of the view that he had been racially discriminated against because as a teacher, he wore a tam. He was of the opinion that schools should be grouped together by religion, therefore allowing a person to practice whichever clothing habits their religion prescribed. His views generated great discussion among the delegates, during the question and answer session. The majority of the delegates were of the opinion that the introduction of such schools would fuel racism and would be in the same vein as that of apartheid in South Africa.

The Conference ended on Friday 10th February, 2006 with a very short morning session as delegates were invited to Maracas Beach.

The Conference was interesting and extremely informative. Many good ideas were formulated but only a few presenters made the crucial link of evidence-based research to implementation, and explained how policy-makers could actually use the data, research and findings to assist in the fight against crime or in the rehabilitation of offenders.

Additionally it would have been of great value if some recommendations could have been formulated at the Conference and submitted to the various regional governments and agencies for consideration.

**Judicial Appointments for the period
February 1 - 28, 2006**

1. **Antigua and Barbuda**

[1] **Mrs. Cecile Hill**, has been appointed as Registrar of Lands, Land Registry Division with effect from 2nd February, 2006 on contract for a period of two [2] years.

[2] The following persons have been appointed:

[i] **Mrs. Sandra Marcella Julien**, as Registrar, Registrar's Division with effect from 1st February, 2006 on contract for a period of one [1] year in the first instance;

[ii] **Mr. Charlesworth Tabor**, as Deputy Registrar, Registrar's Division with effect from 1st February, 2006.

2. **Commonwealth of Dominica**

[iii] **Ms. Gail Royer**, has been appointed as Magistrate with effect from 1st February, 2006 on contract for a period of one [1] year.

3. **St. Vincent & The Grenadines**

[iv] **Mr. Carlyle Dennis Dougan, Q.C.** has been appointed as Temporary Magistrate, on a month-to-month basis with effect from 1st February, 2006.

[v] **Mrs. Tamara Gibson-Marks** has been appointed to act as Registrar, High Court, St. Vincent & The Grenadines from 15th February, 2006 and until further notice.

WRITTEN JUDGMENTS

The following are written judgments delivered in the month of **February 2006**:

COURT OF APPEAL JUDGMENTS

ANTIGUA & BARBUDA

Attorney General of Antigua & Barbuda v The Estate of Cyril Thomas Bufton

Antigua & Barbuda

Civil Appeal No 22/2004

Barrow, J.A.

Delivered: 06/02/06

BRITISH VIRGIN ISLANDS

Leanne Forbes v Ulbana Morillo

BVI

Civil Appeal No 03/2005

Alleyne, C.J. [Ag]

Delivered: 20/02/06

ST. LUCIA

Michael Ramjeawan et al v Development Control Authority

St. Lucia

Civil Appeal No 21/2005

Barrow, J.A.

Delivered: 08/02/06

David Carol Bristol v Dr. Richardson St. Rose

St. Lucia

Civil Appeal No 16/2005

Rawlins, J.A.

Delivered: 20/02/06

ST. VINCENT & THE GRENADINES

Dale Sylvester Horne v Annis Anita Horne

St. Vincent & the Grenadines

Civil Appeal No 16/2005

Barrow, J.A.

Delivered: 20/02/06

Othneil Sylvester v Faellesje

St. Vincent & the Grenadines

Civil Appeal No 04/2005

Barrow, J.A.

Delivered: 20/02/06

Othneil Sylvester v Faellesje [Leave to Appeal]

St. Vincent & the Grenadines

Civil Appeal No 05/2005

Barrow, J.A.

Delivered: 20/02/06

HIGH COURT JUDGMENTS

ANGUILLA

Doreen Hodge v Cable & Wireless (West Indies) Limited et al

Anguilla

Claim No. AXAHCV/1998/0108

George-Creque, J.

Delivered: 06/02/06

Maxine Herbert-Webster v Vernon Viera et al

Anguilla

Claim No. AXAHCV/1996/0089

George-Creque, J.

Delivered: 10/02/06

Michael Fleming v Benjamin Phillips

Anguilla

Claim No. AXAHCV/2004/0063

George-Creque, J.

Delivered: 10/02/06

Milt Mercer et al v Veda Harrigan

Anguilla

Claim No. AXAHCV/2004/0041

George-Creque, J.

Delivered: 10/02/06

Surfside Trading v Landsome Group

Anguilla

Claim No. AXAHCV/2005/0061

George-Creque, J.

Delivered: 20/02/06

ANTIGUA & BARBUDA

Craig Christopher et al v Kenroy Karney

Antigua & Barbuda

Claim No. ANUHCV 2004/0518

Blenman, J.

Delivered: 02/02/06

Ruston Cornwall v Victor Phillips

Antigua & Barbuda

Suit No. ANUHCV 1998/381

Blenman, J.

Delivered: 06/02/06

Lennox Linton v Maureen Hyman

Antigua & Barbuda

Claim No. ANUHCV 2006/0038

Blenman, J.

Delivered: 10/02/06

Adonis Swift v Antigua Commercial Bank Ltd.

Antigua & Barbuda

Suit No. ANUHCV 2004/0315

Blenman, J.

Delivered: 21/02/06

MONTSERRAT

Kevin West v Lagan Holdings et al

Montserrat

Claim No. MNIHCV2004/0059

Leigertwood-Octave, J [Ag]

Delivered: 03/02/06

ST CHRISTOPHER & NEVIS

ST. LUCIA

Andre Edgar v St Lucia Air & Sea Port Authority

St. Lucia

Claim No. SLUHCV 59/2006

Mason, J.

Delivered: 03/02/06

ST VINCENT & THE GRENADINES

Melvina Nanton v Michael Osment

St. Vincent & the Grenadines
Claim No. 181/2005
Bruce-Lyle, J.
Delivered: 15/02/06

Randolph Howard v Aubrey Munroe

St. Vincent & the Grenadines
High Court Civil Claim No. 285/2002
Bruce-Lyle, J.
Delivered: 21/02/06

Maria Thorne-Bramble v Lauriston "Yankee" Primus

St. Vincent & the Grenadines
High Court Civil Claim No. 162/2002
Thom, J.
Delivered: 08/02/06

Joan Joseph v Carl Joseph

St. Vincent & the Grenadines
High Court Civil Claim No. 335/1997
Thom, J.
Delivered: 08/02/06

First Caribbean International Bank (Barbados) Ltd v Dean Clouden et al

St. Vincent & the Grenadines
Claim No. 58/2005
Thom, J.
Delivered: 08/02/06

EASTERN CARIBBEAN SUPREME COURT

As at 28th February 2006

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 – Grenada

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

Her Ladyship, the Hon. Justice Janice George-Creque – Anguilla

Her Ladyship, the Hon. Justice Louise Blenman – Antigua & Barbuda

Her Ladyship, the Hon. Justice Clare Henry – Commonwealth of Dominica

His Lordship, the Hon. Justice Francis Belle - Saint Christopher & Nevis

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.] – Saint Christopher & Nevis/
Commonwealth of Dominica/Montserrat

His Lordship, the Hon. Justice Lewis Hunte [Ag.] – Commonwealth of Dominica

Master Brian Cottle – Saint Vincent & the Grenadines

Master Cheryl Mathurin – Antigua & Barbuda

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