



The American and Caribbean Law NEWS

Vol. I, No. 2

News and Information from the American and Caribbean Law Initiative

Eugene Dupuch Law School

Hosts Second ACLI Summer Law Conference in Nassau

by Jane E. Cross and
Patricia McKenzie

On July 6-8, 2006, the ACLI presented its second summer law conference at the British Colonial Hilton in Downtown Nassau, Bahamas. Entitled **Trade and Legal Aid: Tools for Economic Development**, the conference was a collaborative effort of ACLI and Northeast People of Color Legal Scholarship Conference (NEPOC). In particular, two ACLI member schools provided tremendous support: Eugene Dupuch Law School, which hosted the conference and Nova Southeastern University Shepard Broad Law Center, which provided funding for the conference. In addition, the Ronald H. Brown Center for Civil Rights and Economic Development at St. John's University Law School gave significant conference support and funding.

Over eighty persons participated in this conference spanning three days.

continued on page 4



From the Top: Hon. Vashiest Kokaram, Justice, High Court of Justice of the Republic of Trinidad and Tobago; Middle: Profs. Darryl C. Wilson, Stetson College of Law and Jane E. Cross, Shepard Broad Law Center; Bottom: Prof. John C. Knechtle, Florida Coastal School of Law and Hon. Fred Smith, President, Grand Bahamas Human Rights Association.

ACLI Caribbean Law Clinic

Cayman Islands Law School Hosts Students

by Mitchell Davies

The next meeting of the American and Caribbean Law Initiative Law Clinic will take place in George Town, Grand Cayman during the period March 21- 25, 2007, and will be hosted by the Cayman Islands Law School.

As is more fully described elsewhere in this Newsletter, the last ACLI clinic was hosted by Stetson University College of Law and took place on November 1- 4, 2006 in Gulfport, Florida. It served as a rewarding and challenging experience for all the participating law students from the Caribbean and the US.

The Cayman Islands (consisting of Grand Cayman, Cayman Brac and Little Cayman) is a British Dependent Territory located in the Western Caribbean Sea. Grand Cayman is by far the largest of the three islands, with an area of 76 square miles. Grand Cayman is located some 480 miles south of Miami, 150 miles south of Cuba and 180 miles northwest of Jamaica. The latest population estimate of the Cayman Islands (April 2006) is 57,800, representing in excess of 100 nationalities. All three islands were formed by large coral heads covering submerged Ice Age peaks of western extensions of the Cuban Sierra Maestra range and are predominantly flat.

The Cayman Islands Law School is a formally affiliated institution of the University of Liverpool in the United Kingdom. As such, all lecturers are

continued on page 3

Caribbean Law Clinic Visits Stetson Law School



From left, front: Unidentified staff of the United States Attorney's Office in Tampa, FL, Tanya Bastian Galanis, Dorothea Beane, Mitchell Davies, Carol Aina. Back: John C. Knechtle, unidentified participant, Fitzgerald Alleyne, and Jane Cross. See related story on page 8.

Caribbean Leaders Agree

On Blueprint for Region's Future Trade Relations

by Pat Roxborough-Wright

MONTEGO BAY, St James - The Caribbean Community's inaugural joint sub-committee meetings on external trade negotiations and the single market economy ended on a high note on early February with consensus by four of the region's heads on a blueprint for the region's future trade relations.

"Our discussion proceeded against the backdrop of the Bicentennial anniversary of the abolition of the TransAtlantic Slave trade, our determination to eliminate poverty in the shortest possible time and to provide an improved quality of life for our Caribbean people, in particular the poor," Prime Minister Portia Simpson Miller told the press in a briefing following the close of the two-day talks.

The consensus, which centred on a report published by the University of the West Indies'

continued on page 12

President's Column

Exceptional Boards

With no paid staff, the driving force behind the ACLI is its board of directors. ACLI board members not only fill the roles of the officer positions, but also develop and run the various programs of the ACLI and recruit others for vital roles. It has been an unqualified privilege working with the talented board members of the ACLI. Indeed the importance of the board to the ACLI raises the reflective question, what makes for exceptional boards?

Exceptional boards add significant value to their organizations, making a discernible difference in their advance on mission. Good governance requires the board to balance its role as an oversight body with its role as a force supporting the organization. The difference between responsible and exceptional boards lies in thoughtfulness and intentionality, action and engagement, knowledge and communication. An empowered board is a strategic asset to be leveraged. It provides board members with a vision of what is possible and a way to add lasting value to the organization they lead.

A group of experts in the field of nonprofit management came up with a list of twelve principles that power exceptional boards and of which I will mention eight.¹

MISSION DRIVEN - Exceptional boards shape and uphold the mission, articulate a compelling vision, and ensure the congruence between decisions and core values.

STRATEGIC THINKING - Exceptional boards allocate time to what matters most and continuously engage in strategic thinking to hone the organization's direction. They not only align agendas and goals with strategic priorities, but also use them for assessing programs, driving meeting agendas, and shaping board recruitment.

CULTURE OF INQUIRY - Exceptional boards institutionalize a culture of inquiry, mutual respect, and constructive debate that leads to sound and shared decision making. They seek more information, question assumptions, and challenge conclusions so that they may advocate for solutions based on analysis.

ETHOS OF TRANSPARENCY - Exceptional boards promote an ethos of transparency by ensuring that donors, stakeholders, and interested members of the public have access to appropriate and accurate information regarding finances,

operations, and results. They also extend transparency internally, ensuring that every board member has equal access to relevant materials when making decisions.

SUSTAINING RESOURCES - Exceptional boards link bold visions and ambitious plans to financial support, expertise, and networks of influence. Linking budgeting to strategic planning, they approve



John C. Knechtle

activities that can be realistically financed with existing or attainable resources, while ensuring that the organization has the infrastructure and internal capacity it needs.

RESULTS-ORIENTED - Exceptional boards are results-oriented. They measure the

organization's progress towards mission and evaluate the performance of major programs and services. They gauge efficiency, effectiveness, and impact, while simultaneously assessing the quality of service delivery, integrating benchmarks against peers, and calculating return on investment.

CONTINUOUS LEARNING - Exceptional boards embrace the qualities of a continuous learning organization, evaluating their own performance and assessing the value they add to the organization. They embed learning opportunities into routine governance work and in activities outside of the boardroom.

REVITALIZATION - Exceptional boards energize themselves through planned turnover, thoughtful recruitment, and inclusiveness. They see the correlation between mission, strategy, and board composition, and they understand the importance of fresh perspectives and the risks of closed groups. They revitalize themselves through diversity of experience and through continuous recruitment.

¹ The Source: Twelve Principles of Governance That Power Exceptional Boards. Washington, DC: BoardSource 2005. For more information or to order a copy of the book, visit www.boardsource.org or call 800-883-6262.

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A Parliamentarian Should Resign When...

continued from page 12

on his wife—in short that he was guilty of domestic violence. My sources informed me that the incident was sparked when another woman either dropped him off or picked him up at his home. His wife understandably became incensed and damaged the car. From there things escalated and violence was used on the wife.

Following a swirl of rumours about the incident the MP issued a statement last week. In it he said he did not condone violence against women but admitted that he had “behaved in a manner unbecoming of a parliamentarian.” Stating that his actions have “brought the party into disrepute” the MP decided that he had no choice but to step down.

The MP however only stepped down as a member of his party’s executive and other committees of the party.

He did not resign as an MP even though his acknowledgment that he had behaved in a manner unbecoming of a parliamentarian seemed to foreshadow this. His concern appeared to be more focussed on the disgrace to his party, which had campaigned on morality in public and private life.

Still one must give Mr. Fullerton credit for taking the bull by the horns and actually admitting that he had behaved in an unbecoming manner as a “parliamentarian, a husband and a man.” Not many Caribbean politicians would have done that possibly seeing such an admission as political suicide.

At home in T&T we have had few instances where Parliamentarians leave the office by choice. MPs who cross the floor

never do, although the Constitution says that an MP having been elected a candidate of a party “resigns from or is expelled by that party” and vacates his seat. Although issues have arisen as to whether that provision can be enforced (in the absence of any Standing Orders identifying and recognising the leader in the House of every party) one would have thought that an MP who swears to “uphold the Constitution” would have complied with its specific intent and vacated his seat if he crossed the floor or joined another party. In T&T where people are not elected on the basis of individuality, to act otherwise cannot be right.

We have also had many examples of people who have been accused of unbecoming conduct not even acknowledging it or acting “wrong and strong.”

Mouthing obscenities

Consider the conduct of Larry Achong who, during a public debate on the smelter issue not only demonstrated an aggressive demeanour but shouted out, “Shut up.”

People who attended the debate and viewers of the televised proceedings indicate that he also mouthed obscenities.

Mr. Achong was defiant that he was not resigning and has not apologised for his crude behaviour. One may contrast this to Minister Ken Valley who in 1994-1995 in the face of recalcitrance by then Speaker Occah. The Speaker burst out as she was leaving the Chamber, “Yuh could run but you can’t hide.”

As I recall, at the next sitting Minister Valley humbly apologised.

Ministers have been charged with criminal offences while they were in office. Both Eric Williams and Franklyn Khan are before the Courts on corruption charges. Khan resigned as Minister of Works and Williams as Minister of Energy, but not as MPs. Should they have resigned as MPs?

If this were England then we might say yes but in T&T where we have had a prime minister before the courts (on a charge before he came to office) this might be too much to expect. I guess what is sauce for the goose is sauce for the gander and one may recall that Dhanraj Singh, a minister, was accused of slapping a senior policeman and breaching the traffic laws, did no such thing.

The recent happenings in the Bahamas and Grenada should be a wake-up call for Caribbean politicians that political behaviour of the past is no longer acceptable and will not be tolerated. I am of course not speaking to the unbecoming conduct or the criminal charges themselves—I am referring to the politician’s response to it.

Matters of impropriety will no longer be swept under the carpet in the hope that they will be forgotten. The Grenadian MP who admitted that he acted unbecomingly will have a longer political life than a Larry Achong. A party that causes a minister to resign where he has been shown to be involved in giving political favours will continue in power longer.

Politicians of this country should take heed.

Dana Seethahal is a Senior Lecturer at Hugh Wooding Law School, a member of the ACLI, in addition to being on the editorial board of the Trinidadian Guardian.

American & Caribbean Law Initiative Caribbean Law Clinic

Cayman Islands Law School Hosts Students

continued from page 1

recognised law teachers of the University of Liverpool as well as being members of the Cayman Islands Attorney General’s Chambers. Graduates of the LL.B programme have their degrees conferred upon them by the University of Liverpool. In March 2002, the Law School was successful in having Qualifying Law Degree Status conferred directly upon it by the Law Society of England and Wales and the Bar Council of that jurisdiction. This means that all graduates of the University’s LL.B degree are eligible to pursue further postgraduate professional legal studies in

England and Wales. Indeed, all graduates from the programme, in possessing an English LL.B, are able to use the qualification in precisely the same way as graduates to have obtained this qualification in England. CILS is believed to be the only institution in the Caribbean offering an English LL.B on a non distance learning basis.

The Cayman Islands Law School is very eager to host its first ACLI clinic and is confident that it will again prove to be a rewarding experience for all the students involved. This clinic will involve the participation of the Cayman Islands Legal

Department and the problem questions to be set will focus on Cayman Islands law and procedure.

It is very much hoped that all member law schools of the ACLI will be able to attend the Cayman Law Clinic in March, 2007. We look forward to hosting our ACLI partner institutions at that time and anticipate that this will be another rewarding experience for all students involved.

Mitchell Davies is the Director of the Cayman Islands Law School.

Eugene Dupuch Law School

Hosts Second ACLI Summer Law Conference in Nassau

continued from page 1

Opening and luncheon addresses were given by several dignitaries from the Bahamas including The Hon. Sir Burton Hall, Chief Justice of the Supreme Court, The Hon. Allyson Maynard Gibson, Attorney General, Miriam Samaru, Principal of Eugene Dupuch Law School, and Sen. The Hon. James H. Smith, Minister of State in the Ministry of Finance. In addition, NEPOC honored three notable law professors: Gabriel Jack Chin, Ruth E. Gordon and Paula C. Johnson. On the whole, U.S., Caribbean and British professors, attorneys, judges and policy makers comprised the conference panelists, moderators and participants.

The conference featured a variety of topics separated into three daily themes. Day One focused on the theme of *Trade, Sovereignty and Development: Recurrent Tensions*. This subject included enlightening presentations on 1) Money Laundering and Sovereignty in an Age of Terrorism; 2) The Influence of International Entities on Economic Sovereignty; 3) Environment, Tourism and Land Use; and 4) CSME Imperatives of Sovereignty and Regional Harmonization.

During the CSME session on Day One, the Hon. Mr. Vashiest Kokaram, Justice of the High Court of Justice of the Republic of Trinidad and Tobago, emphasized the need for the CSME and remarked that

"[we] in the Caribbean have been jockeying in lanes with vehicles bent out of shape, aged and perhaps not getting enough mileage from the gallon... The CSME however as [our] vehicle of choice was devised and chosen from a showroom of federal systems, political unions, bilateral and free trading options of which the odds of us reaching the fast lane has improved somewhat."

Day Two, entitled *Delivering Legal Services to Ensure Equal Rights and Justice*, provided an excellent topic for lively discourse amongst the presenters and attendees. The morning session on the Current Crisis of Legal Aid Service Delivery dealt with unease about the word "aid". There was concern that use of the word "aid" caused the people of the Caribbean, or perhaps anywhere, to be hesitant to utilize such legal services because of the misconception that "if it's free it's not good". The afternoon sessions on Day Two provided a variety of insights and perspectives on Sustainable Legal Aid Development and Critical Race Theory Perspectives on Legal Aid Services.

Day Three of the conference on *Scholarship and Service* in legal academia included a Mentoring Rap Session and a number of Works in Progress. In addition, other sessions on Works in Progress were held in the first two days of the conference. During the course of the three days, some fourteen presentations included thought-provoking topics, such as Aid Governance: Challenges to the Delivery of Legal Services, Redefining Domestic Violence: A Separate Crime Defined by Pattern and Intent, Same-Sex Marriage Laws and the (Small "R") Republican Face of Marriage,

and Deliberative Democracy and Hip-Hop.

As with any conference, there are many individuals who contributed to its realization and success.

The ACLI planning committee members included (in alphabetical order): Jane Cross; Dion Hanna, Jr.; Persis Hepburn; Tonya Galanis; Maureen Lindo; Patricia McKenzie; Jennifer Paoli; Miriam Samaru; and Vanessa Sweeting-Clarke.

The members of the NEPOC planning committee were (in alphabetical order): Leonard Baynes, Alafair Burke; Elaine Chiu; Frank Rudy Cooper; Pamela Edwards; Eric J. Miller; Camille Nelson; Marcy Peek; Lydie Pierre-Louis; Deborah Post; and Janice Villiers.

In addition, Bill Adams, Associate Dean for International, Online, and Graduate Programs at NSU Law Center, provided generous financial support for this conference. Corporate conference sponsors included Bar/Bri and Westlaw. Much of the credit for the success of the conference goes to Elaine Chiu of NEPOC due to her invaluable contributions and her steadfast coordination with Jane Cross of ACLI.

In summer 2008, ACLI will present its third summer law conference which will deal with Alternative Dispute Resolution.



Prof. Cynthia Lee



Prof. John Knechtle



Prof. Jane Cross and Hon. Miriam Samaru



Profs. Ruth E. Gordon, left and Leonard Baynes

ACLI Case Notes

A number of important documents were executed by members of CARICOM during the past summer.

IMPORTANT DOCUMENTS

1. Declaration by Heads of Government of the Caribbean Community on the Participation of their countries in the CARICOM Single Market. (July 1, 2006)
2. Treaty on Security Assistance Among CARICOM Member States. (July 6, 2006)
3. Agreement Establishing the CARICOM Implementation Agency for Crime and Security. (July 6, 2006)
4. Memorandum of Understanding for the Sharing of Intelligence Among Member States of the Caribbean Community. (July 6, 2006)

PRIVY COUNCIL DECISIONS

Although the Caribbean Court of Justice (CCJ) Act, 2003 came into force in 2005 allowing the CCJ to hear its first three cases, the Judicial Committee of the Privy Council (JCPC) remained busy, handing down a number of judgments throughout the summer.

Nasser Diab, v. Regent Insurance Co., Ltd.
From the Court of Appeal of Belize
JCPC Judgment Delivered, June 19, 2006

An insured is not relieved from conditions in his policy based on repudiation unless the breach is accepted by the insurer as terminating the contract, nor does a waiver of the insured's obligations take place unless the insurer's conduct specifically supports such a conclusion either before or after the insured breaches his obligations.

Appellant Diab owned commercial premises that were covered by a fire policy for the period of May 1, 1996 through May 1, 1997. In April, 1997 the premises and contents were destroyed by fire under questionable circumstances. Diab visited his insurance agent on May 7, 1997 and claimed that the agent rejected his claim at that time. The agent stated that he said nobody had made a claim and until a claim was made no one is attempting a fraud. The insurance policy expressly required a written claim "within 15 days after loss" or "such further time as the Company may in writing allow..." before a claim could be payable. No written claim was ever made. Diab's counsel claimed that the insurance company rejected the claim on the grounds that the fire was deliberately started. The company denied that a claim had been made or rejected since no compliance with the policy conditions ever occurred.

Diab filed suit pleading the amount of claimed loss based on the insurance policy. The lower court found that Diab was entitled to take the agent's remarks as a repudiation of liability. The Court of Appeal found to the contrary. The JCPC found that Diab was so entitled, but that Diab failed to treat those remarks as a repudiation of the whole contract. Diab filed a writ on June 26, 1997. The JCPC found that the contractual obligations owed by each party under the policy therefore continued.

Diab's counsel relied on decisions by United States and Canadian courts to argue in favor of the rule that a repudiation by an insurer of liability, on a ground unconnected with compliance by the insured with policy provisions regarding delivery of a formal written claim, relieves the insured of the obligations to comply with those provisions. The JCPC stated that such a rule can be explained by reference to statutory provisions that have no counterpart in Belize, or in United Kingdom statutory law and that rule does not form part of the law of these nations. The Court said that the circumstances surrounding the repudiation may justify the inference of waiver by the insurer of the right to insist on compliance with the contractual provisions in question, but the facts here provided no basis of support for a conclusion that the agent was relieving Diab of his contractual duties.

Comment: The JCPC dismissed the US/Canadian rule proposed by the appellant's counsel as being simply grounded in statute without consideration of the policy grounds for the same. The rule prevents insureds from falling into the dilemma found by the appellant here who was told liability would be repudiated based on fraud. The choice was to make a futile claim with the insurer or file suit for breach. The court's determination that obligations of the parties continued after the repudiation, and that the lawsuit is not considered repudiation of the contract as a whole, coupled with the judicial delay involved possibly prevents those similarly situated to the appellant from ever getting a chance to recover for a valid loss. The US/Canadian rule dispenses with formal futility and moves the parties to the proper focus of the dispute which is a concern over the circumstances giving rise to the loss. In this case, more than nine years passed before the judgment was delivered making it impossible for any evidentiary circumstances to be preserved during the pendency of the proceedings. The court did not address the issue of judicial delay.

IN THE CARIBBEAN COURT OF JUSTICE, APPELLATE JURISDICTION

The Attorney General of the Cayman Islands v. James Cleaver and Co., Christopher Johnson, and Nicolas Freeland
From the Court of Appeal of the Cayman Islands

JCPC Judgment Delivered, June 6, 2006

The grand court is empowered to set guidelines and procedures for the fixing of liquidators' remuneration, thus liquidators should submit fees to the court for final sanction even when the fees have already been approved by creditors or a creditor's committee.

The Grand Court of the Cayman Islands sat en banc on October 18, 2002 to hear applications by joint official liquidators. In its judgment of December 20, 2002 the Grand Court set guidelines for fee rates and gave directions on matters related to the procedure to be followed in liquidation proceedings. The liquidators appealed in April 2003. The Court of Appeal set aside the judgment of the Grand Court in its entirety, holding that the procedure for fixing remuneration of Cayman Island liquidators is governed by the English Insolvency Rules 1986. In April 2004, the Attorney General of the Cayman Islands sought to appeal and, after initial rejection, was ultimately granted special leave on February 9, 2005. The matter came before the Privy Council in March 2006.

The Grand Court sat en banc due to judicial concern over whether fees charged by insolvency liquidators were fair and reasonable. The Respondents fees ranged from U.S \$450 per hour to \$500 for partners and U.S. \$95 per hour for administrative assistants. The Grand Court set guidelines for fee rates based on fee-earner's years of experience with the highest rate (absent exceptional circumstances) being U.S. \$400 per hour and U.S. \$100 - \$150 for those with one to three years experience. The rates were to be reviewed from time to time by relevant parties based on factors deemed appropriate by the Grand Court at that time. The Grand Court relied on the Companies Law of the Cayman Islands (2002 Revisions) for its jurisdiction. At the Grand Court proceedings, the liquidators placed no reliance on the English Rules of Insolvency 1986, although on appeal they did deploy those rules instead and made no mention of the pertinent Cayman Island Companies Law sections.

The Privy Counsel noted that the Court of Appeals' decision was reached on the basis of a misreading of the statutory scheme. The role of the Attorney General as the guardian of public interest was also recognized by the Court which stated that leave to intervene may be granted where there is an issue of great public importance going to the jurisdiction of lower courts and their consequent ability to do justice according to the law.

The Privy Counsel found the circumstances in dispute to be a matter of public importance that concerned establishing the correct position for

continued on next page

ACLI Case Notes

continued from previous page
liquidators remuneration in the future.

***Eusebio Copper and Clifford Balbosa v.
Director of Personnel Administration
The Police Service Commission***

From the Court of Appeal of Trinidad and Tobago
JCPC Judgment Delivered, July 6, 2006

It is the sole responsibility of the Police Service Commission to appoint the Examination Board referred to in the Police Service Commission's Regulations and the setting and working of the papers by the Examination Board is subject to the ultimate control of the Police Service Commission.

Appellants Cooper and Balbosa were both Police Corporals with the Trinidad and Tobago Police Service. In August, 2002 they sat for examinations for promotion to the rank of Police Sergeant. The examinations were set by the Public Service Examination Board. The board was also responsible for working the exams and releasing the results. In July, 2003, a newspaper article criticized the board for its delays noting that the results of the 1999 examinations were not released until 2001. The Police Service Commission issued a media release disclaiming responsibility for the delays, claiming that the Public Service Examination Board was responsible. On July 11, 2003 the appellants commenced legal proceedings seeking a declaration that the setting of the examinations by the Public Service Examination Board, a Cabinet appointed body, was unconstitutional, and that there was unreasonable delay in the publication of the 2002 examination results. They also sought an order of mandamus that the Director of Personnel should forthwith correct the papers and release the results. On December 30, 2003 the court found in favor of appellants. The respondents appealed and the court allowed the appeal and set aside the declaration of unconstitutionality and other orders entered by the lower court. The appellants sought further review and were granted final leave to appeal on May 23, 2005 to the Privy Council. The Privy Council allowed the appeal.

The Privy Council cited relevant portions of the Constitution pointing out those that specifically related to the Public Service Commission and the Police Service Commission. It was noted that the powers to make appointments on promotion and transfer and to confirm appointments rested in the Public Service Commission, but they did not apply to certain entities. Instead the Constitution specifically noted that power to appoint persons to hold or act in an office in the public service established under the Police Service Act rested in the Police Service Commission. It was further stated that the procedure of the Police Service Commission was set by the Police Service Regulations which expressly stated that all exams

in the Police Service shall be set and papers marked by an appointed Examination Board and that the Director of Personnel Administration was responsible for the conduct of examinations.

The evidence indicated that the Cabinet appointed Public Service Examination Board had regulated all examinations throughout the public service since 1966. The Privy Council noted that the Constitution did not provide for the setting up of a Public Service Examination Board nor did the establishment reflect the exercise of the Cabinet's general direction and control over the government. The lower court found that the circumstances gave rise to a breach of the doctrine of separation of powers but the Privy Council found that approach too inflexible. There was nothing to indicate the Cabinet was acting *ultra vires* and in fact policy supported the conclusion that setting up such a board was within the Cabinet's discretion since the goal was to establish uniform standards, consistent practices, and economic use of limited resources. The Privy Council did recognize however, that the circumstances did raise the question of where to draw the line between proper exercise of constitutional power and the proper exercise of political influence.

The Court of Appeals felt the promotion examinations were part of the terms and conditions of employment falling within the sphere of general constitutional executive powers but the Privy Council said that ruling was based on a misinterpretation of precedent and the regulations applicable to the bodies in question. The Constitution does not permit the Executive to impose an Examination Board on the Commission of the Executive's own choosing but instead requires the Police Service Commission be free to exercise its own judgment. This freedom includes the right to choose to use the services of the Public Examination Board for limited purposes or decline to use the Board if it feels the Executive is trying to influence or interfere with appointments and promotions within the Police Service.

The Privy Council made clear that the police officer contracts were with the Executive but that their contracts as to terms of service were matters for the legislature or the employer. The appointment, promotion, and transfer were matters exclusively for the Police Service Commission and those matters are to be undertaken free from undue political influence.

CARIBBEAN COURT OF JUSTICE (CCJ) DECISIONS

***Brent Griffith v. Guyana Revenue Authority,
Attorney General of Guyana***

CCJ Application No. 1 of 2006
GY Civil Appeal No. 27 of 2003
Judgment Delivered, May 12, 2006

Individuals working in the public service for a

public authority do not hold public office and are not public officers with constitutionally protected property rights in their positions when the public authority is a corporate entity distinct from the government.

Brent Griffith joined the Customs Department, a department in public service, as a Customs Guard. He later was promoted to Customs Officer and in 1996 he held the post of Patrol Officer. In 1996 the functions of the Customs Department were transferred to a new corporate body called the Revenue Authority. Mr. Griffith agreed to be transferred to the Revenue Authority where he began employment on January 28, 2000. Between August 23, 2000 and September 23, 2000 Mr. Griffith was absent from employment. Medical certificates he submitted were rejected by the Revenue Authority due to his failure to tender them in the time period prescribed by the Revenue Authority's Employee Code of Conduct. A letter of dismissal was sent to Mr. Griffith on September 21, 2000 and on October 23, 2000 Mr. Griffith was ordered to leave the Revenue Authority's premises. By notice of motion dated November 26, 2001, Mr. Griffith began constitutional proceedings seeking to have his removal declared null and void. He also requested reinstatement, payment of past salary, superannuation and costs.

Mr. Griffith's motion was dismissed on April 22, 2003 and an appeal was filed. That appeal was dismissed on December 8, 2005. Mr. Griffith then filed for special leave to appeal with the CCJ. The CCJ was established on February 14, 2001 but came into force in Guyana on April 1, 2005. The CCJ was Guyana's final court of appeal as of the date of the December 8, 2005 judgment and according to relevant CCJ rules governing rights to appeal constitutional matters, Mr. Griffith had 30 days from the judgment to apply for appeal. Mr. Griffith failed to apply within the specified time, instead filing for special leave on January 16, 2005. Mr. Griffith claimed the reason for untimeliness rested with his attorneys' unfamiliarity with the CCJ procedures. Respondents argued that special leave to appeal was restricted to criminal and civil matters, with the latter category not including constitutional disputes.

The CCJ noted that special leave is not defined in the CCJ Act and that Section 8 of the CCJ Act does state that special leave may be granted in civil and criminal cases. The court stated that special leave was intended by that section to apply to cases where appeal did not lie as of right and leave to appeal could not be obtained from the Court of Appeal. The CCJ further stated that it also had discretion, in its exercise of its inherent jurisdiction, to grant special leave when the Court of Appeal wrongly refused leave, or granted leave subject to conditions which were outside its powers, and when no application for leave has been made to the Court of Appeal, as long as in

continued on next page

ACLI Case Notes

continued from previous page

each instance the CCJ finds the appeal has a realistic chance of success. The CCJ stated that its inherent jurisdiction is not limited to cases falling in any specific category.

The CCJ decided it proper to treat Griffith's application as of right, although no application had been made to the court below, since Guyana had not had a second tier appeal regarding civil, criminal, or constitutional matters in more than thirty years. The Court recognized that there was some novelty associated with its new jurisdiction and the applicable rules that fostered some uncertainty about the appeals process. Furthermore, nothing indicated a deliberate intent by the applicant to bypass the Court of Appeal.

Although the CCJ found it proper to treat the application as one requesting special leave to appeal, the Court refused to grant the application because it was not viable. The Court deemed the proposed appeal unlikely to be successful because Mr. Griffith wrongfully believed that his dismissal amounted to a constitutional deprivation of his "property" which consisted of the public office which he held.

While Mr. Griffith may have fit the constitutional definition of a public officer while holding the office of Customs Officer within the public service of Guyana and was then governed by the relevant public service commission rules, the Revenue Authority was not synonymous with the government nor were its employees public officers, or even public servants. The Revenue Authority was a new distinct corporate entity whose employees were not holders of any public office nor were they employed in the service of the government of Guyana in a civil capacity, regardless of the fact that the Revenue Authority was a public authority.

In addition to failing to show any prospect for success by proving he held public office, the court noted that the applicant failed to do anything other than claim he had a right to superannuation benefits. The Court agreed that dismissal from employment negated the opportunity to qualify for such benefits but stated that the loss of opportunity did not qualify as deprivation of property. It was further noted that the applicant could not rely on a constitutional right to natural justice because that claim was also tied to a misconceived reliance on public office status.

Comment: Although this decision clarified the status of the applicant it certainly appears to leave room for much debate regarding the status of many employees in public service positions. This ruling may have the positive effect of triggering the creation of clear rules and regulations by employers that specify the position and benefits of its employees. If not, the decision at least puts workers on notice of the need to clarify and monitor their status as employees, especially when the governing authority of the employer

changes.

The decision was also an important illustration of the breadth of jurisdiction the CCJ holds and the flexibility it is willing to show parties who are trying to become acclimated to the new system.

Barbados Rediffusion Services Limited v. Asha Mirchandani, Ram Mirchandani, McDonald Farms Ltd.

CCJ Appeal No. AL 001 of 2005
BB Civil Appeal No. 18 of 2000
Judgment Delivered, October 26, 2005

The Caribbean Court of Justice is cognizant of principles and proceedings established by other Commonwealth nations' final courts of appeal but it will not be bound by those decisions as matters of precedent and instead will develop its own jurisprudence on an ad hoc basis.

This was the first case to reach the Caribbean Court of Justice. It involved an application for special leave to appeal from a decision of the Court of Appeal of Barbados, dismissing an appeal against an order striking out the amended defense, in an action for defamation brought by the respondents to this proceeding.

The claimed defamation occurred via three calypsos alleged to have been played frequently on the applicants' radio stations in June and July, 1989 during the "run-up" to the annual "Crop Over" Festival. They were also allegedly broadcast live when sung during the calypsos competition held in connection with the festival. The calypsos purportedly alleged that the respondents were selling diseased, unslaughtered chickens to the public. The defense did not admit the broadcasts and contained a plea of justification.

The defense was struck based on the alleged failure of the applicant to comply with a court order to file, by a specified date, a "further and better list of documents" that were or had been in its custody. The original order for discovery was made on July 7, 1992. Document lists were filed by both parties during September and November, 1993. The respondents filed for a "further and better list within 14 days," October 12, 1994. The applicant failed to appear and an order was entered November 24, 1994. The respondent filed for an "unless" order December 30, 1994, and that order was made on February 20, 1995. The applicant thereafter timely filed what purported to be a further and better list of documents along with a verifying affidavit.

The respondents applied on March 13, 1995 for an order that the amended defense be struck and judgment entered on their behalf. The hearing on that matter took place on September 19, 1996. The reserved judgment on the matter did not issue until November 24, 1999. The

applicant requested leave to appeal that judgment on December 7, 1999. Leave was granted July 17, 2000. The Court of Appeal's reserved judgment dismissing the appeal on August 20, 2001. On September 10, 2004 the applicant requested leave to appeal to the Privy Council. On June 23, 2005, the Court of Appeal gave judgment refusing leave to appeal. On July 15, 2005, the applicant filed the request for special leave to appeal to the CCJ.

The procedural issue raised by the proceedings was what impact if any, did the legislation replacing the Judicial Committee of the Privy Council with the Caribbean Court of Justice have on the applicant's right to pursue an appeal against the Court of Appeal's decision. The Constitution Act of 2003 amended the Barbados Constitution by substituting the words Caribbean Court of Justice for Her Majesty in Council wherever the latter appeared. The Caribbean Court of Justice Act was asserted on the same day as the 2003 Act and both Acts came into operation on April 8, 2005. The transitional provisions in the two Acts were of limited guidance as they were very basic on one hand, and even inconsistent on some points. They failed to address cases like the present that had an application for leave to the Court of Appeal pending, instead only addressing proceedings that concerned special leave to appeal to the Privy Council.

The CCJ was forced to fall back on general principles of construction to determine the jurisdiction issue in the case. The CCJ first declared that substitution of one court of final resort for another is to be regarded as a procedural change in the law as opposed to a substantive one. Thus, the change was presumed to apply to both pending and future proceedings. Furthermore, the Court stated that it must be assumed that where legislation abrogated an existing right of appeal to the Privy Council, it intended to confer a corresponding right of appeal to the CCJ. The Court also found it reasonable to infer that any matters falling outside of the express transition provisions dictated by Parliament were also intended to be addressed by the CCJ, subject only to the conditions imposed by the new legislation.

The Court clarified that the language "subject to Section 7," in Section 8 of the CCJ Act did not make it compulsory for an application to be made under Section 7 before one could be made under Section 8. Section 7 dealt with obtaining leave on grounds specified therein while Section 8 involved obtaining special leave based on grounds within the court's discretion. The Court further stated that the rule-making authority has proceeded on assumption that a party may apply to the CCJ for special leave either after having made or without having made an application for leave to the Court of Appeal.

While the CCJ recognized that they had leeway to formulate the principles to be used in determining

continued on next page

ACLI Case Notes

continued from previous page

whether or not to grant special leave to appeal, the Court decided against setting forth any comprehensive guidelines at such an early stage, opting instead for a case by case approach. The CCJ stated that while they would pay attention to the practices of the Privy Council they would not be bound by it. The Court also recognized the value of principles and practices of other Commonwealth countries final courts of appeal but said it would develop its own jurisprudence incrementally on an "as needed" basis.

The Court rejected the applicant's submission that special leave should be granted by reason of the matter being of great general or public importance. The Court likewise rejected the respondents' assertion that special leave should be refused because the appeal was bound to fail. At the heart of the matter was whether there was compliance by the applicant with the orders made or had there instead been an intentional and contumelious failure to do so. It was noted that no facts were sighted by the lower court in its original finding against the applicant, and neither the lower court nor Court of Appeal saw or heard any evidence. However, the CCJ did not feel that the circumstances warranted interfering with or quashing the lower court's order. Instead it was decided that special leave to appeal should be granted in order to eliminate the risk that leaving matters as they were might result in a miscarriage of justice.

The Court also strongly disapproved of the enormous judicial delays that took place in the lower proceedings. The CCJ stated that such delays deny parties' access to justice to which they are entitled and undermine public confidence in the administration of justice. Despite the fact that the grant of the application could possibly postpone a final resolution of its case, the Court noted the unfairness of the alternative, denying special leave because of delay for which a party is not for the most part responsible. The Court further stated that they hoped delays of the type reflected in this case were a thing of the past in Barbados.

Comment: With the inaugural decision of the newly formed Court, a new tone was set for those involved in legal proceedings in the Caribbean community. The Court sent a strong message regarding its independence and its interpretation and application of the rules that created it. The Court also put all on notice that it felt justice delayed is just denied and that it will not look kindly upon the continuation of such practices in the future.

Darryl C. Wilson, Case Notes Editor of the ACLI News, is a professor of Law at Stetson College of Law.

"Advancing the common interest of its members in the growth and development of the Caribbean Basin by facilitating collaborative relationships and by strengthening its legal development and institutions."

*For additional case notes visit:
www.fcsl.edu/acli/casenotes.*

ACLI Visits Stetson College of Law

Students Work with U.S. Attorney's Office in Tampa

Gulfport, FL - The American and Caribbean Law Initiative visited Stetson in November. Stetson Law, one of ACLI's newest members, hosted the Caribbean Law Clinic from Nov. 1-4 on the Gulfport and Tampa campuses. This is the first time the clinic met in Florida.

"This clinic was not a competition," said Professor Dorothea Beane, who spear-headed Stetson hosting the Caribbean Law Clinic's inaugural visit to Florida.

"It was a unique opportunity for American and Caribbean law students to work together to solve legal problems."

Participating students discussed their research and prepared for presentations together.

The founding mission of the ACLI is to create programs to encourage cultural diversity and increase communication among countries in the Caribbean. a

ACLI is the brainchild of Professor



Participants in the ACLI Caribbean Law Clinic at Stetson College of Law.

John Knechtle, Florida Coastal School of Law.

Several schools across the Caribbean Basin and in the United States have joined the initiative.

The ACLI and Stetson College of Law thank the Office of the United States Attorney for the Middle District of Florida, Tampa Division for its invaluable contribution to the Nov. 3, 2006 American Caribbean Law Initiative Clinic.

CBA-CF Celebrated Caribbean American Heritage Month

ORLANDO, FLORIDA

-The Caribbean Bar Association's Central Florida Chapter ("CBA-CF") joined forces with MTV Networks Channel to sponsor Frederick Morton, Senior Vice President and General Manager of TEMPO, an MTV Networks Channel, as its keynote speaker at CBA-CF's 2006 Barrister's Ball. The Barrister's Ball, a black tie event, kicked off Caribbean American Heritage Month.

On February 14, 2006, the U.S. Senate approved the House of Representatives Concurrent Resolution declaring June

as Caribbean American Heritage Month.

"It is fitting that Fred Morton is our keynote speaker as we celebrate what is officially Caribbean American Heritage Month by recognizing the accomplishments of Caribbean Americans and highlighting Caribbean culture," stated Michelle Thomlinson, Esq., president of the CBA-CF.

Born to Nevisian parents, Frederick Morton was born and raised in St. Croix, the United States Virgin Islands. Before joining TEMPO, he was

Senior Vice President and Deputy General Counsel of Business and Legal Affairs at MTV Networks, a division of Viacom Inc. At MTV, he handled litigation, reviewed programming content for legal issues and managed the company's intellectual property portfolio. Prior to joining MTV, he practiced at the law firm of Simpson & Thatcher where he represented Fortune 500 companies. Prior to joining Simpson Thatcher, he was Corporate Counsel at Johnson & Johnson. He is a graduate of the

continued on next page

Caribbean Leaders Agree

On Blueprint for Region's Future Trade Relations

continued from page 9

Professor Norman Girvan last October, concerns the plan of action and timetabling of goals for the establishment of the single market economy which, according to Barbados's prime minister, Owen Arthur, should be ready for implementation by next year.

Entitled "Towards a Single Market Economy and a Single Development Vision", the document outlines the basis for decisions that will be taken by the Heads of government on the direction, content and priorities of the Caribbean Single Market and Economy (CSME). These issues will be further deliberated at the Community's 18th intersessional heads of government meeting in St. Vincent and the Grenadines next week, according to Arthur, who chaired the sub-committee meeting on the CSME along with Simpson Miller, who chaired the sub-committee meeting on external trade relations. Simpson-Miller, who along with Arthur and prime ministers Ralph Gonsalves and Patrick Manning of St Vincent and the Grenadines and Trinidad and Tobago respectively sat in on the media

briefing, and said Caricom negotiators had been instructed to: continue negotiations on the Economic Partnership Agreement with the European Union with a view to completing on schedule, a progressive agreement in support of the region's development; continue detailed work on enhanced relations with North America.

To this end, Simpson Miller said the community had endorsed the conference on the Caribbean scheduled for June 16-19 in Washington. The conference, which will examine a host of issues relating to the Caribbean/US relations will, according to Simpson-Miller, bring Caribbean and US leaders as well as the private sector and Non-Governmental Organisations together to focus on relations in trade, investment, security and social development.

The prime ministers who sat in on Tuesday's talks said the Community was committed to continued exploration of the potential for the establishment of a regional carrier as well as a common regional currency.

CBA-CF Celebrated Caribbean American Heritage Month

continued from previous page

Rutgers University School of Law and holds a Masters in Public Administration from Columbia University, School of International and Public Affairs. He also earned his Bachelor of Arts degree in Economics at Rutgers University.

TEMPO was launched in the Caribbean in October 2005 and made its way to North America in 2006.

Founded in 1994, the Caribbean Bar Association ("CBA") is a voluntary bar organization that has grown from 25 to over 150 attorneys from the Caribbean-American community in south and central Florida. The CBA launched its Central Florida Chapter

("CBA-CF") in Orlando in March 2004. The CBA includes attorneys working both in the public and private sectors and practicing in several areas of the law, including but not limited to criminal and commercial litigation, administrative, family, immigration, business and corporate, insurance defense, medical malpractice, real estate, maritime, international, personal injury, land use/zoning law, among others. CBA is known for its service to the community. For information, email cbacf@hotmail.com or visit www.caribbeanbar.org.

Privy Council Loses Appeal

In Modern Commonwealth

continued from page 12

and former president of Oxford University's Trinity College who recently argued a Bahamas golf development dispute before the judges.

Caribbean nations including Jamaica formed their own court last year when Trinidad and Tobago-based judges replaced the Privy Council's Judicial Committee, according to the Caribbean court's Web site. Brunei Civil Disputes Privy Council judges, who may serve until age 75, also hear Brunei civil disputes under an agreement with the Sultan of Brunei, although there were no appeals last year. "Many of these societies have developed slightly different cultural and political norms, so the law has developed in different ways," Beloff said.

The largest number of the Privy Council's cases still comes from the U.K., where it is responsible for final rulings in veterinary and ecclesiastical disputes. It also issues advisory opinions in some criminal cases.

Privy Council judges are drawn from around the Commonwealth, including British Law Lords and Court of Appeal judges, plus 15 overseas members from superior courts, according to the Privy Council's Web site.

The Judicial Committee was created in its current incarnation under an 1833 statute. In medieval times, the ruler of England sought the Privy Council's advice on disputes arising in the Channel Islands, and appeals concerning the islands continue today, according to the report.

The goal in 1833 was to bind the Commonwealth countries together with the same judicial ideals, Beloff said. "It never caught fire," he said, noting that the judges ended up ruling on disciplinary hearings for

New Zealand doctors alongside constitutional cases.

While judges anticipate "an eventual decline in the Judicial Committee's volume of work," according to the report, the Privy Council has yet to feel any impact from the New Zealand or Caribbean decisions to go their own way, Kasia Reardon, senior press officer for the Privy Council, said in an e-mail yesterday.

"There may be a decline in the Judicial Committee's volume," Reardon said. "But looking at last year's statistics the Committee sat for 106 days, an increase on 2004."

Cases range from life and death to small fines. In July 2005, a nine-member panel ruled that Jamaica's mandatory death penalty for murder was inhumane and contrary to the constitution, requiring all capital murder cases include sentencing hearings.

In July 2004, judges also weighed in on a 750 pound (\$1,422) dispute between a British veterinarian disciplined for driving offences and the London-based Royal College of Veterinary Surgeons.

It is no wonder some countries think it is more sensible for the local judiciary to decide what is right for the community they live in, Beloff said. While the number of appeals to the Privy Council may decline, Beloff said the Judicial Committee will continue to have influence in some nations.

"It is difficult to imagine the Channel Islands" going their own way, Beloff said. "I suppose it's possible for them to decide their own court is sufficient, but I suspect in a small jurisdiction they like going to a higher body."

Feature

Caribbean Law Clinic at Thurgood Marshall School of Law *Students Tackle Family Law Issues with International Ramifications*

By Selina Kang Koonar

The Caribbean Law Clinic provides students with an astonishing opportunity to learn and experience law in an academic yet practical setting. "I was fortunate enough to be a member of the Caribbean Law Clinic, which has given me an amazing educational experience as well as allowed me to make new life long friends," said student Elizabeth Schweitzer enthusiastically about the experience.

The spring 2006 semester of the Clinic researched the issues involving international custody and support

enforcement cases. "The Clinic provides a unique perspective to international problems and how these problems are viewed by people from



Elizabeth Sweitzer

different backgrounds and cultures," said student Amanda Love. Students of the Clinic are to research genuine cases presented by the Office of the Attorney General from the area of the host school. Students are exposed to international law, laws of various nations, and how various nations interact with each other.

"We learned a tremendous amount about Caribbean law and its implications on U.S. law and vice versa," said Schweitzer. Participants of the Clinic come away with exposure to foreign law and international law, as well as the practical aspects of it.

"Due to different educational training and resources, you have an opportunity to compare research methods and ideas in a way that you would not be able to otherwise," said Love about what she found to be the most memorable characteristic of the Clinic. For the months preceding the presentation to the Office of the Attorney General, students



Students from the Caribbean and American law schools have private session with U.S. Assistant Attorneys.



Prof. Carol Aina, Norman Manley School of Law, second from left, discusses the issues.



Participants receive a full briefing through the course of the session with the U.S. Attorney

are vigorously researching the issues and solutions to their respective cases, and subsequently communicating with other CLC participants via email and the Internet. Once at the host school, students then meet with other student participants to discuss their findings in further detail. In addition, students also determine how to organize and present their results to the AG Office the next day.

The presentation is conducted in panel format; the first part is the student presentations where they present their findings and the solutions they have come up with; and the second part is the AG Office asking questions.

The questions portion of the presentation is both thought provoking and enlightening as students are asked to explain their findings and apply them to additional situations to ensure that the implications of the solutions they suggested have been explored.

"The Caribbean Law Clinic afforded us students the opportunity to research real issues plaguing Caribbean nations and present our findings to leaders in formal lawmaking and the foremost authorities on Caribbean law," said Schweitzer.

Caribbean Law Clinic at Thurgood Marshall School of Law

Hard at Work...

continued from previous page

The Clinic is an exceptional opportunity for students who are interested in learning more about diverse legal systems, while at the same time providing students an opportunity to interact with other law students. "You meet so many wonderful people from so many different places," said Love about her interaction with students from the other law schools.

"We were given the opportunity to travel and meet people from all over the Caribbean and Southern United States!" added Schweitzer.



Caribbean Law Clinic at Thurgood Marshall School of Law...

...In First Person

By Selina Kang Koonar

In spring 2006, I had an amazing opportunity to participate in the Caribbean Law Clinic (CLC). The CLC was a great opportunity for an individual, such as myself, who really wishes to understand legal systems and issues that exist in the world today. The CLC provided me with a platform to learn about subjects I am very passionate about, international law and foreign law, in a practical setting.



Selina Kang Koonar

In the spring semester of the CLC, we were given cases from the Office of the Attorney General of Texas (AG Office) as the CLC was hosted by the Thurgood Marshall School of Law of Texas Southern University in Houston, Texas. The AG Office presented us with cases it was working on involving international custody and support enforcement cases, primarily enforcing

domestic orders abroad or foreign orders domestically. My particular case involved the enforcement of child support orders from Canada, could they be enforced in Texas? The answer was contingent on a number of factors, specifically what methods were used to render the Canadian judgment and if those methods were compatible with U.S. notions of due process. It was fascinating to research the implications and interaction of foreign and domestic law.

Additionally, the FCSL Clinic required an additional paper which concerned matters the Caribbean was facing. I wrote on the issue of savings clauses in Commonwealth Caribbean constitutions. Did these savings clauses hinder the development of human rights at the expense of securing Caribbean culture? Could it be possible to ensure the development of both simultaneously? This was a very thought provoking topic and I really enjoyed exploring it. Learning about the development of Caribbean constitutions provided me with a better understanding of the development of constitutions generally.

An extraordinary characteristic of the CLC is that it provides practical

exposure to international law and foreign law. Furthermore, the program provided me with an opportunity to further explore how different countries throughout the world address the various issues with which they are faced.

Not only was the CLC a remarkable educational experience, it also allowed me to learn from and interact with students, from both FCSL and other schools, who share my interests. Having professors and law students available to discuss Caribbean and international law issues is a very valuable resource.

One of the main reasons why I chose to study law at FCSL was because it is one of only four schools in the U.S. to offer this unique program. When I first decided to come to law school I was looking for a unique opportunity to capture all of my interests under one umbrella and the CLC provided that venue. Gaining practical experience in addition to learning in a classroom setting is essential to acquiring a well-rounded legal education. After law school, I am hoping to pursue a career in international law and the CLC was an excellent means of furthering my "worldly education."

Privy Council Loses Appeal

In Modern Commonwealth

by Caroline Byrne, *Special to the ACLI News*

LONDON, England (Bloomberg)--Britain's Privy Council judges, rulers of overseas disputes since medieval times, received just 71 appeals from former colonies and territories last year as their importance wanes.

While judges have had the final say on everything from Jamaica's death penalty to a hydroelectric dam in a Belize rainforest, they are being sidelined in favor of the local judiciary, according to figures in a U.K. government analysis on August 14, 2006. The numbers have fallen since 2001 when 102 appeals and 58 applications for special leave to appeal were filed. Last year, 71 appeals and 38 petitions for special leave were filed.

Four years ago, New Zealand was the biggest source of appeals, accounting for 14 of the 103 cases filed to the Privy Council. In 2003, the nation voted to abolish further Privy Council appeals and only three remain outstanding, the report said. Singapore, Hong Kong, Australia and Malaysia have also stopped seeking guidance from the court. "It's inevitable. Basically people are becoming more independent," said Michael Beloff QC, a barrister

continued on page 9

Commentary

A Parliamentarian Should Resign When...

By Dana Seethahal, *Special to the ACLI News*

Two resignations in the last two weeks involving Members of Parliament in different CARICOM countries have brought to the fore the question of when it is desirable that an MP resigns, especially if his reputation is in some way tarnished.

Naturally such a question can only be answered by considering (1) what tarnished the reputation and (2) to what degree. In that regard let us look at the two recent cases and compare them with instances where MPs conduct was called into question.

The first matter involved a minister in



Bahamas Immigration Minister, Shane Gibson, in an embrace with the late Anna Nicole Smith. He resigned with in a week of publication of the photographs by the *Nassau Guardian* and then the Associated Press.

Bahamas, the minister under whose portfolio the Immigration Department falls. It appears that he had approved the granting of residency status to the infamous Anna Nicole Smith sometime before her death. Subsequent investigations by a Bahamas daily newspaper revealed not only that the

approval had come before the actual application but also that the minister and Smith enjoyed what appeared to be a cosy relationship.

After days of denying that he had done anything wrong the minister finally resigned his post in the interest of the party, according to him.

Apparently it was felt that the allegations were too damaging to be swept aside.

The other matter pertains to a Grenadian Opposition MP, Mr. Kenny Fullerton.

Inflict violence

Recently, reports flourished in Grenada that he had inflicted violence

continued on page 3



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INSIDE:

Legal Aid and Trade
Meeting..... 1

ACLI Case
Notes..... 5

Caribbean Law Clinic:
Student's Point of
View..... 10

*"Advancing the
common interest of its
members in the growth
and development of the
Caribbean Basin by
facilitating
collaborative
relationships and by
strengthening its legal
development and
institutions."*