



CAJO

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Judiciary of Barbados



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Foreword by CAJO Chairman

This publication of CAJO News focuses on the Judiciary of Barbados and in the pages that follow, our Barbadian colleagues, under the Chief Justiceship of Sir Marston Gibson, have provided us with some insights into the way in which the Barbadian judicial system works. They have also included a synopsis on a recently enacted statute and recent caselaw.

Earlier this year one of the then sitting Barbadian Justices of Appeal, Dame Sandra Mason, was elevated to the Office of Governor General of that country. CAJO News takes this opportunity to salute her and to wish her all the best in her new office. Her Excellency has had an outstanding career in the public service of her country. She has functioned in several different capacities including Registrar of the High Court and Judge of the Court of Appeal. She was also a trial Judge in the Eastern Caribbean Supreme Court. This issue features a short article on Her Excellency that highlights her career and contribution to the judicial fraternity.

In this edition, we also have short features on two CAJO stalwarts, both of whom have recently retired. The first is Justice Chris Blackman, who for several years was Deputy Chairman of CAJO. His last judicial appointment was Justice of Appeal of Belize. The other is former Jamaica Chief Justice Zaila McCalla. CAJO News extends warm and best wishes to each of these Caribbean judicial luminaries. We know only too well that their official retirement in no way signals an end to the invaluable contribution they will each surely continue to make in the enrichment of Caribbean jurisprudence. And, indeed, Justice Blackman has been recruited to chair the CARICOM Competition Commission.

Notably, this is the last edition of CAJO News for this year. We, therefore, seize the occasion to wish all Caribbean judicial officers and all our readers Happy Holidays and a healthy and productive 2019! Of course, from 31 October to 2 November 2019, CAJO shall be convening in Belize City for our 6th Biennial Conference. We urge all judicial officers to save those dates because we look forward to seeing as many judges, magistrates, registrars, court administrators and other judicial officers converging on Belize for the Caribbean's premier judicial colloquium.

Former Justice of Appeal Sandra Mason, ascended to the highest office in Barbados on 8 January 2018 when she was appointed as the country's eighth Governor General. She is also the second female to be appointed in this office.



CAJO Profile

Her Excellency Dame Sandra Prunella Mason, GCMG, DA

Acquainted with pioneering and achieving excellence, Dame Sandra Mason was the first Barbadian female Attorney-at-Law to be admitted to the Barbados Bar and the first female to sit on the Court of Appeal. She is also the first female member of the Judiciary to be appointed Governor General. Dame Sandra Mason was also the first female magistrate to serve her country as Ambassador having been assigned to Venezuela, Colombia, Chile and Brazil from 1993 to 1994. On 1 January, 2014, she was the first Barbadian to be appointed as a member of the Commonwealth Secretariat Arbitral Tribunal (CSAT), based in London, England. In 2017, she became the first female President of that tribunal.

Dame Sandra began her career in 1968 as a teacher at the Princess Margaret Secondary School. She then worked as a clerk at Barclays Bank DCO, Barbados in 1969. Her banking career was suspended briefly when she pursued her legal education at the University of the West Indies (UWI), Cave Hill Campus, Barbados where she obtained a Bachelor of Laws (LL.B) degree in 1973. She then obtained her Certificate of Legal Education from the Hugh Wooding Law School, Trinidad and Tobago in 1975.

She returned to Barclays Bank in 1975 as Trust Administrator for the period 1975-1976. She then worked as Legal Counsel for the Barbados Development Bank from February 1977 to September 1978.

In October 1978, she worked as a Magistrate of the Juvenile and Family Court, while simultaneously tutoring in Family Law at UWI. She was appointed Ambassador to Venezuela, Colombia, Chile and Brazil from 1993 to 1994. Upon her return to Barbados in 1994 she was appointed Chief Magistrate of Barbados and then as Registrar of the Supreme Court in 1997. She served in that capacity

“... one of two women appointed to the thirteen-member West Indian Commission set up by CARICOM to formulate proposals for advancing the goals of the Treaty of Chaguaramas and to essentially consider the question of regional integration.”

until 2005 when she was appointed High Court Judge of the Eastern Caribbean Supreme Court. In 2008 she was sworn in as the first female Court of Appeal Judge of the Supreme Court of Barbados. In 1998, she completed a course in Judicial Administration at RIPA, London, and a course in Alternative Dispute Resolution at the University of Windsor, Canada and Stitt Field Hendy Houston ADR Ltd. in 2000. In 2001, Dame Sandra Mason completed a fellowship at the Commonwealth Judicial Education Institute, Canada, and completed advanced courses in Alternative Dispute Resolution by the UWI and University of Windsor, Canada in 2002.

Dame Sandra Mason is a member of many civic and Commonwealth Organisations including: President of the Commonwealth Secretariat Arbitral Tribunal (CSAT) UK; Chairman of the Community Legal Services Commission; Member of the Judicial and Legal Services Commission; Member and former Vice Chairman of the Royal Commonwealth Society; Board member of Parent Education for Development in Barbados (PAREDOS); Patron of the Ruth and Esther Ministry, Mount Zion Missions Inc.; Trustee of the Ermine Holmes Community Trust; Member of the Commonwealth Magistrates and Judges Associations; Member of the International Association of Women Judges and Member of the Barbados Association of Retired Persons (BARP).

She also held membership in various organisations and associations and has chaired or was a member of numerous boards and committees over the years. She was a pioneer member of the United Nations Committee on the Rights of the Child from its inception in 1991 until 1999 and also served in the capacity of Vice Chairman and Chairman. She was also one of two women appointed to the thirteen-member West Indian Commission set up by CARICOM to formulate proposals for advancing the goals of the Treaty of Chaguaramas and to essentially consider the question of regional integration.

Dame Sandra Mason has presented numerous papers at conferences locally, regionally and internationally in Family Law and Children's Rights and is also the author of the following: Development of the Trade Union in Barbados (Thesis for LLB) UWI, Cave Hill Library; Juveniles in the Barbados Society – published in "Commonwealth Caribbean Legal Essays", UWI Law Faculty Decennial (1970-1980) Lectures; Due Process, Human Rights and the Administration of Juvenile Justice – A Comparative Study of the Juvenile Systems in the Commonwealth Caribbean UNICEF; Children's Rights in Education, Jessica Kingsway Publishers, U.S.A.; Author of theoretical document viz "Document Furnished in Accordance with Rule 5 of the Family Law Rules, 1982" (document which attorneys-at-law must append to all applications for dissolution of marriage).

Dame Sandra Mason also takes an avid interest in reading, playing scrabble, watching cricket and travelling. However, her greatest achievement is being the mother of her son Matthew, who is also an attorney-at-Law.

THE JUDICIARY OF BARBADOS

JOURNEY FROM PAST TO PRESENT

The content of this brief historical background is derived primarily from the doctoral thesis of Dr. the Honourable Madam Justice Sonia Richards entitled, "The Development of the Judiciary in Barbados" and the inaugural speech delivered by Sir David Simmons entitled "Sustaining the Judicial Branch of Government for 50 years after independence - Tiptoeing through Minefields" on 18 November 2016.

Barbados' justice system is modelled on the English Legal System and originates from three main sources: the written Constitution which is expressed to be the Supreme Law of Barbados; Statute Law, which is the law made by Parliament of the Legislature both prior to and following independence and; Common Law, which is a body of judge-made law built up from decisions made in the United Kingdom and in Barbados over the years.

Governor Henry Hawley established Barbados' first Court in 1631. The court was held monthly at the home of its jurisdiction, limited to matters not exceeding five hundred pounds of tobacco or cotton. The Supreme Court was given its first home at a cost of £6,000 in 1730. Both legislative and judicial business were conducted there and by 1735 it served as a common jail where felons and debtors were held. This building came to be known as the "Town Hall Gaol".

By 1837, due to the overcrowding of prisoners at the Town Hall Gaol, the legislature and the judiciary were transferred to a building across Coleridge Street, known as "Codd's House" which is now the home of the Nidhe Israel Synagogue and Museum. This building was re-christened "The New Town Hall". However, by 1876, the legislature and the prisoners were accommodated elsewhere and the building was used exclusively for judicial business. The courts and the Registration Office have worked in tandem since 6 September 1877 when Parliament passed the Registration Act. At that time, there was a staff of eight which comprised of the Registrar, the Deputy Registrar, five clerks and the messenger working for a total annual salary of £1,175.

Prior to Barbados gaining independence in 1966, there were ten superior courts of record: the Court of Common Pleas, the Court of Chancery, the Court of Ordinary, the Colonial Court of Vice Admiralty, the Court of Vice Admiralty Sessions, the Court of Grand Sessions, the Court of Error, the Court of Escheat, the Court of Divorce and Matrimonial Causes and the Assistant Court of Appeal.

The [Supreme Court of Judicature Act, 1956-56](#) sought to radically transform and reform the organisation of the higher courts by creating one superior court of record called the Supreme Court which exercised the jurisdiction of the ten superior courts of record. Notwithstanding the reorganisation of the courts, there was no separately constituted Court of Appeal. This Supreme Court heard appeals in Civil and Criminal matters from the High Court and the Magistrates' courts, as well as appeals from various tribunals on points of law. The Supreme Court comprised Sir William Douglas, Chief Justice and three Puisne Judges: John Hanschell, Denys Williams and Deighton Ward, all sat as both High Court and Court of Appeal judges.

The Constitution was later amended in 1990 to provide for a separate Court of Appeal, which when constituted, consisted of not less than three judges sitting together.

At that time, Barbados' highest and final appellate Court was the Judicial Committee of the Privy Council. However, on 14 February 2001, Barbados signed the Agreement Establishing the Caribbean Court of Justice, thereby becoming a signatory to the original and exclusive jurisdiction of the Caribbean Court of Justice to interpret and apply the Revised Treaty of Chaguaramas establishing the Caribbean Community. In 2005, Barbados acceded to the appellate jurisdiction of the Caribbean Court of Justice, effectively replacing the appellate jurisdiction of the Judicial Committee of the Privy Council of the United Kingdom.

The Supreme Court continued to occupy the building at Coleridge Street until 2009. That building, with its Georgian architecture character, was one of the few buildings in Bridgetown to survive multiple fires and two great hurricanes of the nineteenth century.

However, by the twenty-first century, the Supreme Court had long outgrown its antiquated home on Coleridge Street. The building became dilapidated and had inadequate space due to the growth of the volume of litigation and business of the courts. After numerous appeals from members of the Judiciary for better physical conditions, the Supreme Court was relocated to its current five-storey building of 183,000 square feet (17,000 m²) at Whitepark Road, Bridgetown on 5 October 2009. This location includes twelve courtrooms, together with office accommodation and facilities for judges, juries, attorneys, prisoners and the public, as well as the Registry, the Records offices, the Library and the Community Legal Services Department. At the official opening of the Supreme Court Complex, Retired Justice of Appeal Sherman Moore, then acting Chief Justice, in his opening remarks commented that the old building simply could not accommodate the "demands of justice in the twenty-first Century".

Painstakingly, almost one decade later, the court is once again faced with challenges of overcrowding and poor environmental conditions. Currently, the Juvenile and Coroner's Courts are housed in the Supreme Court Complex and environmental assessments are being conducted within the building. The physical move to the Supreme Court Complex was accompanied by the advent of the [Supreme Court Civil Procedure Rules, 2008 \(CPR\)](#) which came into effect on 1 October 2009. The purpose of the rules was to bring about radical change in the culture of practice in Barbados. The judiciary understood that the then civil justice system was too slow in bringing cases to a conclusion, too expensive, too adversarial, too mysterious, too complex and too inaccessible. Essentially, the rules aimed to vest control of the pace of litigation in the courts instead of the parties and their attorney-at-law, while ensuring that cases are dealt with justly.

Subsequent judicial reform initiatives included the use of new state of the art technology, the court annexed mediation pilot project and the Drug Treatment Court.

Judicial Reform Initiatives

The volume of cases filed over the past twenty years has increased significantly. In 1998, 2,169 civil cases were filed in the High Court in comparison to 2,774 in 2002. In 2001, 134 criminal cases were filed in the assizes compared to 251 in 2008 and 386 in 2017. As a result there was and still is a dire need for reform of the judicial system.

Three major reform initiatives which were implemented in the judicial system since the relocation to the Supreme Court Complex are:

1. The Use of Technology in the Law Courts
2. The Court-Annexed Mediation Project
3. The Drug Treatment Court

The Use of Technology in the Law Courts

One of the Barbados Supreme Court's reform initiatives for the modernisation of the administration of justice is the introduction of modern technology to enhance and streamline the court processes. This was done through funding from the Justice Improvement Programme.

The justification for the initiative is to ensure that the administration of justice functions more efficiently, more speedily and more effectively in the interest of the public. This modern technology includes:

- A Case Management Solution
- Audio Digital Court Recording
- Video Conferencing
- Electronic Presentation of Evidence

Case Management Solution

The Case Management Solution uses the Judicial Enforcement Management System (JEMS) software, which was recently updated in January 2018. It is used to enter, track and manage cases from initial filing to disposition. It is also used in the scheduling of cases and generating reports. In the courtrooms, Judges can view scanned images of pleadings and other case information and update cases using their laptops by communicating with the Application Server via the local area network.

Audio Recording and Electronic Presentation of Evidence

The Audio Recording and Electronic Presentation of Evidence environment consists of audio/visual units, document cameras, digitising tablets, wireless touch panels, TV-plasma screens, amplifiers, speakers, microphones and a FTR (For the Record) recording PC. These are installed in six courtrooms. Subsequently, four civil courtrooms were outfitted with audio recording equipment from the Liberty Court Recording Software.

Computer-Aided Transcription Officers produce verbatim transcripts of proceedings in the Criminal Courts and the Court of Appeal. Unfortunately, due to limited human resources, there is no such facility in place for the production of transcripts in civil proceedings.

Video Conferencing

Video Conferencing Technology is installed in two courtrooms and these are used to conduct Bail Application Hearings with Her Majesty's Prison and for court hearings with the Caribbean Court of Justice (CCJ). Provision is also made for hearings in cases where there are vulnerable witnesses.

On 11 April 2017, the St. Matthias Magistrates' Court went digital, with the assistance of the audio/video recording equipment from the Liberty Court Recording Software, provided by the United States Embassy. The new equipment was installed with the view of saving costs, improving the recording of court hearings, acceleration of hearings and to ease the stenographers' workload. The new digital system will also be used in bail and testimonial hearings. It is hoped that similar software will be implemented throughout all Magistrates' courts in the not so distant future.

Court Annexed Mediation Project

In recent times, the Caribbean Courts have embraced mediation to assist litigants towards quicker access to justice. Barbados, in particular, has introduced Court-Annexed Mediation in the High Court and Magistrates' Court. The mediation initiative is designed to provide litigants with an alternate method to settle their disputes and, moreover, to provide a more timely and cost efficient access to justice.

This new initiative is also predicated on the view that the Courts must achieve the overriding objective by actively managing cases. Part 25.1 of the CPR encourages parties to utilise the dispute resolution process, in particular, mediation with a view to settle matters amicably.

The Mediation Pilot Project was launched on 25 November 2015 by the Honourable Chief Justice, Sir Marston Gibson and was later implemented on the 5 September 2016. A select group of nine competent and skilled rostered mediators were successfully trained in 2015. During the years 2015 to 2017 the mediators mediated disputes such as maintenance, property settlement, personal injury, contract and employment. Sixty-eight matters were referred to mediation of which fifty-four were heard, thirty-three matters were settled, four partially settled and seventeen were not settled. Two matters were withdrawn and eleven are in the process of being mediated. The feedback received amounted to ninety-nine percent of the parties indicating their satisfaction with the process.

In the absence of legislation in our jurisdiction, the legal framework for Court Annexed Mediation is governed by Mediation Practice Directions, which came into effect in May 2016 and published in the Official Gazette No. 44 dated 30 May 2016. These Directions outline the required practice and conduct for parties, attorneys-at-law and mediators in the process.

Under the mediation provisions, the Court shall order parties to attend mediation unless there are good and substantial reasons for not doing so. Alternately, the parties can notify the Court through their consent that they are willing to attend mediation. The parties to a dispute can mediate either before or during court proceedings. If the parties chose to mediate during proceedings, this may give rise to 'stayed' proceedings until the parties attend the mediation session.

If the parties refuse to attend the session, cost sanctions may be imposed on non-compliant parties (Part 65 CPR). Where the parties chose to opt out of mediation, they must satisfy the Court with good and substantial reasons why they should not attend mediation. Upon satisfying the Court, an order is then made excluding the parties' attendance.

The outcome of a mediation session is critical to case management, since the agreement is reduced to writing and made an order of the Court. If all issues are resolved during mediation, the parties may have the matter discontinued.

Drug Treatment Court - Last But Not Least

The Drug Treatment Court (DTC) is a specialised court operating within the legal system that aims to treat, rather than imprison non-violent drug users. It combines the traditional powers of a court in the criminal justice system with the available treatment options to create a unique process of judicially supervised court-ordered treatment.

Through the DTC specific linkages, partnerships and networks are developed with key community, government and corporate stakeholders. These relationships have proven effective in addressing issues related to housing, education, vocational training, social and occupational re-integration of DTC graduates to society. The DTC presents a better option for providing drug treatment to effectively address drug dependent offenders in Barbados.

The main objective of the DTC is to correct or modify drug offenders' behaviour in order to enable them to reduce or stop drug use. It also seeks to achieve the following goals:

- Reduce incidence of crime and juvenile delinquency
- Reduce recidivism amongst drug using offenders
- Provide effective community-based alternatives to incarceration
- Reduce governmental expenditure
- Effective management of criminal justice and health care resources
- Provide quality social and aftercare services
- Improve public safety
- Reduce prison and juvenile centre populations
- Re-integrate drug using offenders with families and social networks
- Promote efficacy of the DTC process through evidence-based monitoring and evaluating

Over the past eight years, drug treatment courts have virtually exploded throughout the Caribbean. A Drug Treatment Court was established in Jamaica in December 2010 and Trinidad and Tobago in September 2012.

Barbados came on board in February 2014, when it launched its first pilot DTC in accordance with a Memorandum of Understanding signed by the Government of Barbados with the Inter American Drug Abuse Control Commission of the Organisation of American States (OAS). The first formal sitting of the court at its home in the Supreme Court Complex, represented the culmination of three years preparatory work by a multidisciplinary team of professionals within a steering committee chaired by the Honourable Justice Randall Worrell and the Deputy Chair Her Worship Pamela Beckles, the then Chief Magistrate. It also includes representatives from the Bar Association, the Royal Barbados Police Force, Verdun House, the Centre for Counselling, Addiction Support Alternatives (CASA), The Probation Department, Ministry of Health, Forensic Science Centre, the Office of Attorney General and the National Council on Substance Abuse.

The Honourable Madam Justice Pamela Beckles was the first dedicated judicial officer to preside over the DTC, steering it successfully through its first year. In that year, there were twelve graduates: eleven males and one female.

From its inception in 2014, the DTC continues to grow from strength to strength. This, however, would not be possible without a collaborative team effort. Apart from its traditional team, another social agency, the Nature Fun Ranch, joined forces to assist participants on their journey to becoming drug free. The Nature Fun Ranch seeks to rehabilitate persons who find themselves on the wrong side of the law. It uses agricultural, equestrian, adventurous and other outdoor pursuits to produce well rounded civic-minded individuals. The aim is to move away from a purely theoretical approach to a more hands-on approach, which ultimately provides participants with much needed life skills while boosting their self esteem, who may find it difficult to readjust to society after completion of the DTC.

Funding remains one of the biggest challenges facing the continued existence of the DTC. However, the DTC recently received funding from various organisations including the OAS, who recently pledged to provide urine-testing kits for participants and the Maria Holder Memorial Trust, which provided funding that allowed the court to conduct skills training, life-expectancy programmes, anger management and job-skills training. The Trust also pays for counselling services. In addition, Paul's Enterprises has supported this project from its inception through the provision of incentives to participants. It is hoped that other entities in corporate Barbados would follow suit.

Another challenge facing the DTC is that there has been a move from the use of soft drugs (marijuana) since the pilot project, to poly drug use: persons are now using a combination of cocaine and medicated drugs to achieve a particular effect, making it more difficult to manage those persons.

In order for the DTC to continue, corporate Barbados needs to come on board. They can help by providing urine-testing kits and or employment to persons who may be unemployed at the end of the programme. This is in keeping with the fact that a person who has a drug problem can eventually affect a person who does not. The Judiciary should also be sensitised to refer persons to DTC where warranted.

Barbados was the last to implement the DTC but because of its position, it was able to observe and improve as it went on. The court's work continues to be supervised by Magistrate Graveney Bannister who is also an ordained priest and who ensures that the court's objectives are attained. In the second year, eleven persons graduated and there are currently twenty-eight persons enlisted in this year's cohort.

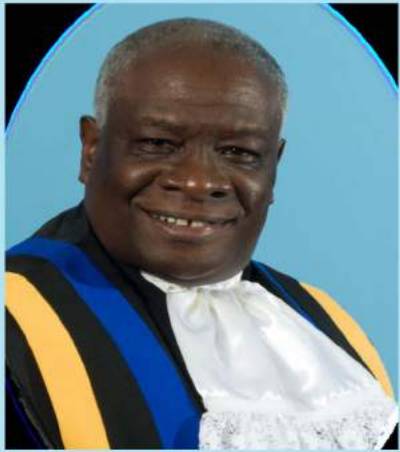


**The Honourable Madam Justice Pamela Beckles
at the First DTC
graduation in 2016**

Despite these reform initiatives, it is recognised that more needs to be done to improve the access to justice in Barbados. In the premises, a review of the operational processes of the court was conducted by a team of consultants from PricewaterCoopers between July and October 2017. It is hoped that the recommendations made by these consultants can be implemented in the near future.

Present Composition of the Supreme Court of Judicature

The Supreme Court of Judicature was established under Section 79C of the Constitution. The Supreme Court of Judicature is comprised of a three-level Court hierarchal structure consisting of: (a) CCJ; (b) The Supreme Court which consists of the Court of Appeal and the High Court; and (c) The Magistrate's Courts.



**Chief Justice
The Honourable Sir Marston Gibson K.A.**



**Standing: the Honourable Mr Justice Andrew Burgess, The Honourable Sir Marston Gibson K.A.
Sitting: the Honourable Madam Justice Margaret Reifer (Ag.), The Honourable Madam Justice Kaye Goodridge**

The Court of Appeal was constituted in November 1992. It exercises both criminal and civil jurisdictions and hears appeals from decisions of the High Court and the Magistrate's Courts. It also hears appeals from decisions of Tribunals where no other provision is made by Rules of Court for the hearing of the appeal; or where under an enactment the Court of Appeal has power to determine such matters. The Supreme Court of Judicature Act Cap. 117A stipulates that the Court of Appeal consists of the Chief Justice, who shall be the President of that Court; and not less than two and not more than five other Judges, who shall be styled Justices of Appeal. Matters are heard by a 'Full Court' comprising three Justices of Appeal, or by a single Justice of Appeal sitting in Chambers.

At present, the Court of Appeal is composed of the Honourable Sir Marston Gibson K.A, the Honourable Mr Justice Andrew Burgess, the Honourable Madam Justice Kaye Goodridge and the Honourable Madam Justice Margaret Reifer (Ag.).

The High Court is comprised of three divisions, namely, the Civil, Criminal and Family Divisions. The High Court consists of the Chief Justice, ex officio; and not more than eight judges to be styled "Judges of the High Court".

At present, the High Court is fully constituted by its complement of eight judges, the genders of whom are equally represented. These judges are the Honourable Mr Justice William Chandler, the Honourable Mr Justice Randall Worrell, the Honourable Madam Justice Jacqueline Cornelius, Dr the Honourable Madam Justice Sonia Richards, the Honourable Mr Justice Olson Alleyne, the Honourable Madam Justice Michelle Weekes, the Honourable Madam Justice Pamela Beckles and the Honourable Mr Justice Alrick Scott (Ag.). Ms Deborah Holder, BSS, is appointed as Master of the High Court, pursuant to the [Supreme Court \(Amendment\) Act 2006-4](#).

The Judiciary High Court Judges



From left to right: the Honourable Madam Justice Jacqueline Cornelius, the Honourable Mr Justice William Chandler and the Honourable Mr Justice Randall Worrell



From left to right: the Honourable Madam Justice Pamela Beckles, the Honourable Mr Justice (Ag.) Alrick Scott and the Honourable Madam Justice Michelle Weekes



**Master of the High Court,
Ms Deborah Holder, B.S.S.**

The Magistrates' Courts are courts of summary jurisdiction. They exercise original jurisdiction in Criminal, Civil, Domestic, Domestic Violence and Juvenile matters in accordance with the [Magistrates Court Act, Cap. 116A](#). Magistrates also have jurisdiction to hear matters relating to Coroner's inquests, liquor licences and perform civil marriages.

The jurisdiction of the Magistracy is limited both geographically and according to the value of the subject matter of the dispute. However, by virtue of [Section 45\(2\) of the Severance Payments Act](#), Magistrates have unlimited original jurisdiction in civil wrongful dismissal actions. In the exercise of their civil jurisdiction, Magistrates can hear and determine any action founded in contract or tort where the debt, demand or claim does not exceed ten thousand dollars.

There are ten Magistrates at present including one Chief Magistrate, namely His Worship Christopher Birch, His Worship Ian Weekes, His Worship Douglas Frederick, His Worship Graveney Bannister, Her Worship Manila Renée, Her Worship Laurie-Ann Smith-Bovell, Her Worship Wanda Blair, Her Worship Kristie Cuffy-Sargeant, His Worship Wayne Clarke and His Worship Elwood Watts.



The Magistrates

Standing from left to right: His Worship Wayne Clarke, His Worship Graveney Bannister, Her Worship Manila Renee, His Worship Douglas Frederick, Chief Magistrate His Worship Christopher Birch and His Worship Elwood Watts

Sitting from left to right: Her Worship Wanda Blair, Her Worship Laurie-Ann Smith-Bovell and Her Worship Kristie Cuffy-Sargeant

The Attorney General and Minister of Home Affairs, Mr Adriel Braithwaite, officially opened a new multi-million dollar complex at Cane Garden in the parish of St Thomas on 26 February 2018. The complex will house the District 'D' and 'F' Belleplaine Magistrates' Courts as well as the District 'D' Police Station. The building is part of Government's initiative to provide adequate accommodation for those who dispense justice with the view that it will be done in a speedier, more efficient and effective manner whilst making it more accessible to all citizens.



The Cane Garden Police Station & District 'D' and 'F' Magistrate's Courts was opened on 25 February 2018.

Responsibility for the administration of the Barbados Court system is vested in the Registration Department.



From left to right: Deputy Registrar Ms Joy-Ann Clarke, Registrar of the Supreme Court Mrs Barbara Cooke-Alleyne and Deputy Registrar (Ag.) Ms Shanna Codrington



The Registrar, Deputy Registrars, Chief Marshal and other Senior Officers of the Registry Department

The Rise in Female Judges and Magistrates

Over twenty-five years after independence, in 1992, the first female was appointed to act as a judge in Barbados. The Honourable Madam Justice Marie A. MacCormack's ground-breaking appointment to the judiciary marked a shift in the patriarchal culture. On 1 December 1995 she was officially sworn into that office as the fifteenth judge of the Supreme Court post-independence. Approximately seven years following Madam Justice Marie MacCormack's appointment, the second female judge, Honourable Madam Justice Elneth Kentish, was appointed in 2002. Thereafter, between 2005 and present, eight female judges were appointed to the High Court and Court of Appeal respectively. Currently, there is an equal ratio of male to female judges demonstrating significant strides towards gender equality.

The first female Chief Magistrate, Her Worship Shirley V. Bell, as she then was, was appointed in 1991. There are at present four female magistrates in Barbados.

Continuous Training and Education

The Judiciary of Barbados recognises the dynamic nature of the law and hence the need for continuous education and training of its members. Judicial officers were given the opportunity to expand and refresh their knowledge at various workshops and seminars over the past year. Many of these training opportunities were able to come to fruition through assistance from the National Centre for State Courts (NCSC), the JURIST Project, the Government of Canada, the US Embassy and the British High Commission. Some of these training seminars are listed below.

1. Training in relation to the use of Prison Video Links: 23 February 2017
2. Caribbean Commercial Law Workshop: 24 – 26 July 2017
3. Cambridge Conference on Public Law: 12 - 14 September 2017
4. Family Law Seminar: 18 - 22 September 2017
5. Sexual Offences and Vulnerable Witnesses' Guidelines Training: 17 October 2017
6. Strengthening Our Capacity to Combat Cybercrimes Workshop: 30 October – 1 November 2017
7. Maximum Sentence Indication Workshop: 4 - 5 November 2017
8. Domestic Violence Bench Book for Magistrates Workshop: 10 – 11 November 2017
9. Gender Sensitisation Workshop for Judicial Officers: 19 – 20 November 2017

Public Education Initiatives

The Barbados Bench Bar Journal

The Judiciary of Barbados collaborated with the Barbados Bar Association to create a legal publication comprising articles written by members of local and regional jurists and the Bar. The original idea was for an annual publication, each dedicated to one particular area of jurisprudence, beginning with Criminal Law. This idea was soon jettisoned in favour of a diversity of articles. The articles in the first issue of the journal cover a range of topics including criminal law, access to justice, family law and a number of case notes. The publication also features interesting interviews with senior members of the Bar.

It is envisaged that this journal will become an annual publication, which provides a forum to address niggling legal issues and increases awareness of the development of Barbadian jurisprudence.

Legal Internship Programme

The inaugural legal internship programme was held for four weeks between July and August 2017 and catered to six interns. The programme was open to students of the University of the West Indies, Cave Hill Campus. The programme sought to provide a unique opportunity for professional growth and development of practical legal skills. The internship was established with a view to providing an opportunity for students to acquire experience in, and knowledge of, the practical workings of the Court process, and of the Court's role in the administration of justice in Barbados. It is envisaged that this programme will become an annual programme and interns would be given a longer duration to observe the operations of the Court.

Public Education

The Judiciary of Barbados supports education outside the classroom. Schools frequently visit the law courts to be educated on the system of justice. Since the introduction of the Law programme at the Combermere School in 2014, Law and Caribbean Studies students annually visit the Supreme Court. Students would sit in on cases in the Court of Appeal, Criminal and Magistrates Courts and be educated on the structure and procedure of the court system, operation of the system of justice, alternative dispute resolution, the drug treatment court, amongst many other topics.



The Chief Justice (left), Sir Marston Gibson addressing Combermere students



The Honourable Mr Justice William Chandler (right) engaged the Sunshine Campers during their tour of the Supreme Court Complex.

Reflections by CAJO's Chair on the Retirement of the Honourable Mr Justice Christopher Blackman



**M. Justice Christopher Blackman,
GCM, Q.C**

After working for just over 55 years, Mr Justice Christopher Blackman, GCM, Q.C finally retired on 30 September 2017 when his appointment to the Belize Court of Appeal came to an end. Fittingly for this consummate Caribbean jurist, his retirement coincided with the conclusion in Curacao of the 5th Biennial meeting of the Caribbean Association of Judicial Officers (CAJO), a body of which he was for several years Deputy Chairman. Indeed, the goodly had been actively involved in CAJO's conceptualisation from the very beginning in 2009. I recall vividly that afternoon in April 2011 when he was in my Chambers in Port of Spain and insisted that we needed to hold another CAJO Conference that year. Together with Master Christie-Anne Morris-Alleyne, the three of us there and then put in place the framework for what turned out to be a very successful Conference in the Bahamas where Justice Blackman was then based. CAJO has never looked back.

Justice Blackman qualified as a solicitor in 1970 and, after the fusion of the profession in Barbados in 1973, he was later appointed as a Queen's Counsel in January 1987. Throughout his legal career he demonstrated a strong commitment to improving the legal profession. He served as President of the Barbados Bar Association from 1983 to 1986, Chairman of the Caribbean Council of Legal Education from 1985 to 1992 and for several years in the 70's and 80's, he was an Executive Member of the Organisation of Commonwealth Caribbean Bar Association (OCCBA). It was during this period that OCCBA adopted Resolutions on the establishment of a Final Regional Court, and commissioned a Report under the Chairmanship of the late Justice Aubrey Fraser, the first and only Director of the Council of Legal Education, which contributed to the final determination to establish the CCJ.

Prior to the commencement of the judicial phase of his life, Justice Blackman was an Independent Senator in the Senate of Barbados (1986 to 1990) and Chairman of the Police Service Commission between 1996 and 2001 and a member of several Boards and organisations, including the Chairmanship of the Nation Publishing Company Limited and the Council of the St John Ambulance Association. In the 2000 Independence Honours List, Justice Blackman was awarded the Gold Crown of Merit (GCM) for his contribution to law and public service.

“Throughout this time, he developed a reputation for his independence, fairness and unyielding commitment to justice.”

Justice Blackman was first appointed to act as a judge in 1996. Between that time and now, he served on the trial Bench in his native Barbados and Belize and later on, the Court of Appeal in the Commonwealth of the Bahamas and also in Belize. Throughout this time, he developed a reputation for his independence, fairness and unyielding commitment to justice.

When I asked him to comment on his life in the legal profession for over half a century, Blackman said that he had never envisaged being a judge when he qualified as a Solicitor. His acting appointment in November 1996, however, had been an eye opener in many respects and he considered it was both an honour and privilege that he had been afforded the opportunity to hold several high legal posts across the Caribbean. He noted with some satisfaction that a number of his judicial decisions were over the years upheld by both the Privy Council and the Caribbean Court of Justice. As recently as 2017 the Privy Council upheld a Bahamas decision of his, written on behalf of the Court in 2013 and the Caribbean Court of Justice recently affirmed a dissenting judgment given by him in March 2017 in the Belize Court of Appeal. But he is particularly proud of being upheld in *Richard Hinds v. The Attorney General and Superintendent of Prisons* [2001] UKPC 56 which he wrote while an acting first instance judge in Barbados.

Like many other active retired judges, Mr. Justice Blackman has no plans to put up his feet and relax. He was recently awarded the Advanced Certificate in International Arbitration by the Chartered Institute of Arbitrators and he looks forward to the future with optimism. CAJO owes an enormous debt of gratitude to Chris Blackman. His wise counsel, enthusiasm and commitment to the Association played no small part in making CAJO what it is today. CAJO NEWS wishes Chris all the very best.

“He noted with some satisfaction that a number of his judicial decisions were over the years upheld by both the Privy Council and the Caribbean Court of Justice. As recently as 2017 the Privy Council upheld a Bahamas decision of his written on behalf of the Court in 2013 and the Caribbean Court of Justice recently affirmed a dissenting judgment given by him in March 2017 in the Belize Court of Appeal.”

Biography of the Honourable Mrs Justice Zaila McCalla, O.J.



**The Honourable Mrs
Justice Zaila McCalla, O.J.**

The Honourable Mrs Justice Zaila McCalla, OJ (retired) was admitted to the Jamaican Bar in 1976. She has served as Clerk of Courts of the Resident Magistrates Court (now Parish Court), Crown Counsel and Assistant Director in the Office of the Director of Public Prosecutions. She began her career on the bench as Resident Magistrate (now Parish Court Judge) and was promoted to Senior Resident Magistrate. For a period during her tenure as Resident Magistrate, she served as President of the Resident Magistrates' Association. She was later appointed as Master in Chambers of the Supreme Court of Judicature of Jamaica.

On 7 July 1997 she was appointed as a Puisne Judge of the Supreme Court and in April 2006 she was appointed as a Judge of the Court of Appeal. On 7 June 2007 she was appointed Chief Justice of Jamaica.

During her tenure as Chief Justice she chaired several committees including the Judicial Service Commission, the Supreme Court Rules Committee, the Queen's Counsel Committee, the Advisory Board of the Justice Training Institute and the Archives Advisory Board. She co-chaired the Consultative Committee of the Bench and the Jamaican Bar Association. She was also a member of the Council of Legal Education of the Norman Manley Law School. Currently, she is a member of the Council of the University of the West Indies.

In 2010, The Honourable Chief Justice (retired) served as Chair of the Conference of Caribbean Chief Justices and Heads of Judiciary.

“The Honourable Chief Justice (retired) has been passionate about the education and training of Jamaican Judges and pursued the establishment of the Judicial Education Institute, which was opened in 2007.”

She was a member of the Steering Committees of the Canadian Justice Undertakings for Social Transformation (JUST) and the Canadian Judicial Reform and Institutional Strengthening (JURIST) Projects. The former project involved a number of judicial reform initiatives to be undertaken while the latter involved the implementation of initiatives geared towards reform of the Judiciaries of the Caribbean region. She has also collaborated with other stakeholders in the justice system to implement Criminal Case Management in the Courts in Jamaica.

The Honourable Chief Justice (retired) spearheaded the expansion of Drug Treatment Courts in Jamaica. She has made presentations on these Courts at conferences and workshops and participated in the training of professionals for these Courts both locally and overseas.

The Honourable Chief Justice (retired) has been passionate about the education and training of Jamaican Judges and pursued the establishment of the Judicial Education Institute, which was opened in 2007. She has been involved in the preparation and publication of several manuals to guide the Judiciary and staff members, e.g. the Criminal Bench Book which was published in 2017. She is a Fellow of the Commonwealth Judicial Education Institute in Halifax, Nova Scotia, Canada.

She is one of two Patrons of the Women Judges’ Association of Jamaica and is a member of the Caribbean Association and the International Association of Women Judges.

As Chief Justice she was the Keeper of the Records of the Island Records Office.

On being appointed Chief Justice in 2007, the Honourable Mrs Justice Zaila McCalla (retired) was conferred with the Order of Jamaica (OJ). Additionally, she has received numerous awards, citations, tributes and certificates of appreciation from various organisations both locally and overseas.

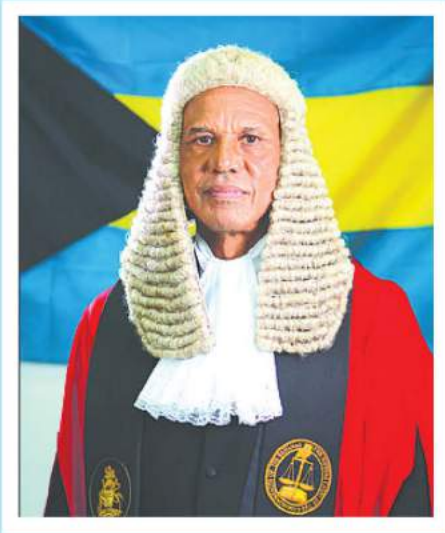
In February 2016, the Honourable Chief Justice (retired) was made an Honorary Member of the Honourable Society of the Middle Temple, London, England. In 2017, she was conferred with an Honorary Degree of Doctor of Laws by the University of Technology in Jamaica.

On the religious side, she is an Anglican and is Chancellor of the Anglican Diocese of Jamaica and the Cayman Islands. In her capacity as Chancellor she sits on several Church Boards and participates in various aspects of the work of the Anglican Church.

She is married to William, an attorney-at-law and they have three children.

The Honourable Mrs Justice Zaila McCalla. OJ retired as Chief Justice of Jamaica at the end of January 2018.

Tribute to the Honourable Stephen Isaacs



**The Honourable Chief Justice
(late) Stephen Gerard Isaacs**

It is with great sadness we report the sudden passing of the Honourable Stephen Gerard Isaacs, the late Chief Justice of the Commonwealth of The Bahamas who died on 24 August 2018. In what was described as a “sendoff fit for a king”, the late Chief Justice was laid to rest following a State Funeral at Christ Church Cathedral on 7 September 2018. His casket, draped in The Bahamian flag, was marched from the main Supreme Court building to the Cathedral under the escort of the Prime Minister, members of the Judiciary, Cabinet Ministers, Members of Parliament and the Bar.

Described as a Judges’ Judge, the late Chief Justice was born in Nassau on 20 October 1954. He attended Buckingham University in Buckinghamshire, England, where he obtained the LL.B (Hons) Degree in 1981. He was called to the Bar of England and Wales by Lincoln’s Inn on 29 July 1982 and was subsequently sworn and enrolled as a Counsel and Attorney of the Supreme Court of The Bahamas on 17 September 1982.

The late Chief Justice’s judicial career began in 1994 as Assistant Registrar of the Supreme Court. He has held almost every judicial office during his twenty-five year rise to become the country’s chief judicial officer. He was, at one time or another, Supreme Court Registrar, Vice President of the Industrial Tribunal, Puisne Judge, and Senior Justice. He was appointed Acting Chief Justice in December 2017 and confirmed in the substantive post, as Chief Justice, on 9 July 2018.

The late Chief Justice was well-loved by his judicial family and will be sorely missed. He is remembered not only for his engaging, courteous and thoughtful nature but for his competence and fierce independence. He is survived by his children Stephen, Jr and Capri.

CAJO COMMENTARIES

BARBADOS
IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL
Criminal Appeal No. 7 of 2014

BETWEEN:

DWAYNE OMAR SEVERIN

Appellant

AND

THE QUEEN

Respondent

EXECUTIVE SUMMARY

Before: The Hon. Sir Marston C.D. Gibson, K.A., Chief Justice, The Hon. Sandra P. Mason and The Hon. Kaye C. Goodridge, Justices of Appeal.

2016: March 23, April 12

2017: May 17

Mrs. Angella Mitchell-Gittens for the Appellant.

Mr. Elwood Watts for the Respondent.

The constitutionality of the mandatory death penalty, the balance of defence and prosecution evidence by a judge in summation, directions from a judge on identification.

1. This appeal considered four grounds of appeal. These are as follows:

Ground 1: That the sentence of death imposed on the appellant was in breach of the appellant's rights under Section 15 of the Constitution not to be subjected to torture or inhuman or degrading punishment; ii) that Section 26 of the Constitution saved only the penalty of death but not the mandatory nature of the imposition of the death penalty and iii) that consequently the sentence of a mandatory death penalty is unconstitutional;

Ground 2: That the Trial Judge erred in law when he directed the jury on the evidence and issues in the case in a manner that was unbalanced;

Ground 3: That the Trial Judge erred in law when he failed to adequately analyse the evidence in relation to identification; and

Ground 4: That the verdict was unsafe and unsatisfactory.

2. The Appellant was arraigned on a charge that on the 30th of November 2009, he murdered Virgil Barton. The Appellant was found guilty after trial by judge and jury and sentenced to death on the 28th of May 2014. The facts in evidence are that the family and friends of the deceased became embroiled in a fight with "some fellows from Crane" which left the combatants nursing injuries. Later that night after returning home in Lucas Street St. Philip, Mr. Barton, his nephew Judd Barton and some friends were liming outside Barton's home when two persons were observed

walking towards them. These two persons fired shots in the direction of Barton and his company. Barton died as a result.

3. The Prosecution's case was supported by the evidence of the nephew of the deceased Judd Barton, who identified the Appellant as one of the men who fired shots in the direction of Barton's house. The Prosecution also submitted that during the police investigation ammunition and a firearm, found to be the same as the one used in the incident, were found in the home of the Appellant and further, oral statements made by the Appellant, supported the charge.

4. The Appellant's case was that he had no knowledge of the events and was at home at the material time. He submitted that the firearm found at his home had been planted there by the police. In a statement from the dock he explained that he had made statements in relation to the ownership of the firearm, in an effort to have the police release his pregnant girlfriend from their custody.

5. Counsel for the Appellant adopted the submissions of Mr. Charles Leacock Q.C., the Director of Public Prosecutions (DPP) in relation to the first ground of appeal, regarding the constitutionality of the mandatory death penalty. The DPP submitted that Barbados was in breach of international law. Mr. Leacock Q.C submitted that the imposition of the death penalty should be discretionary rather than mandatory.

6. On this ground the Court is of the view that it is bound by the decision of the Privy Council in *Boyce and Joseph v R* [2004] 64 WIR 37, where it was determined that the mandatory death penalty is and remains a constitutionally sanctioned punishment for murder in Barbados.

7. In relation to Ground 2, Counsel argued that a number of statements made by the Judge in his summation negated the defence and elevated the prosecution's case. Defence argued that these statements concerned areas of the defence's case in relation to the identification of him by the Crown's witness as well as to his contention that the police had planted the gun in his home. Counsel argued that the statements were beyond the proper bounds of judicial comment, making it practically impossible for the jury to do other than that which the Judge was suggesting.

8. The Court found that the question to be determined was whether the verdict reached, was one, which the jury having been properly directed were fully entitled to reach. The Court stated that the summation must be read as a whole, to understand its full context. It was held nothing said by the judge served to neutralise the defence or to prejudice the minds of the jury in anyway. There were no injudicious or incendiary comments made by the judge and as such this ground of appeal failed.

9. Defence Counsel argued on the third ground of appeal, that the judge erred in law when he failed to adequately analyse the evidence with respect to identification. Counsel argued that the "special circumstances" direction in accordance with Section 102 of CAP 121, ought not to have been given, as the Appellant was not well known by the witness who identified him. It was held by the Court however, that the unchallenged thread of evidence in relation to the witness identifying the Appellant satisfied the jury on the question of identification. This ground of appeal therefore also failed.

10. The Court of Appeal therefore found that the verdict was safe and satisfactory as it is plain that the jury accepted the evidence of Judd Barton, and saw him as a credible witness. The jury having been properly directed was fully entitled to conclude as they did.

**BARBADOS
IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL**

Criminal Appeal No. 2 of 2012

BETWEEN:

JABARI SENSIMANIA NERVAIS

Appellant

AND

THE QUEEN

Respondent

EXECUTIVE SUMMARY

Before: The Hon Sandra P. Mason, the Hon. Andrew D. Burgess and the Hon. Kaye C. Godridge, Justices of Appeal

2016: January 7, March 7

2017: May 17

Mr. Andrew Pilgrim, QC in association with Ms. Naomi Lynton for the Appellant

Mr. Charles Leacock, QC in association with Mr. Lancelot Applewhaite for the Respondent

This case is one in which the constitutionality of the death penalty was challenged. The appellant, Jabari Sensimania Nervais was found guilty of murdering Jason Ricardo Burnett on 17 November 2006 and sentenced to death by hanging. The appellant challenged his conviction on the grounds that it was unsafe and unsatisfactory and that the mandatory death sentence was unconstitutional and needed to be so declared. However, his challenge was dismissed by the Court of Appeal and is currently awaiting a judgement from the CCJ.

Barbados is one of only two countries in the Caribbean and one of the few countries globally that continues to retain the mandatory death penalty for murder, a colonial inheritance that has been widely condemned by the international community. Although the government has committed to abolishing the mandatory penalty, it remains on the statute books, and all those convicted of murder are still sentenced to death according to Section 2 of the Offences Against the Person Act 1994. However, subsequent rulings from the Inter-American Court of Human Rights held that Barbados cannot amend its Constitution to insulate the death penalty process from constitutional challenge.

In so doing, just before her rise to Governor General of Barbados, the then Acting President of the Court of Appeal Madam Justice Sandra Mason ruled in the case of *Nervais v R*. COA No. 2 of 2012. Madam Justice Mason ruled that the mandatory death penalty is and remains a constitutionally sanctioned punishment for murder in Barbados.

Madam Justice Mason further posited that despite the fact that the mandatory death penalty is inconsistent with and in violation of international human rights law, which is ratified by Barbados and is an inhuman, degrading punishment, the said death penalty is preserved in Section 26 of the Constitution. It is provided for in a law, which predated the Constitution and is therefore

afforded immunity from judicial challenge. Furthermore, the relevant treaty has not been incorporated into domestic legislation.

Madam Justice Mason held that judges could not determine whether it should remain on the country's law books. Such a decision was up to Parliament, which had the power under the Constitution to amend Section 2 of the Offences Against The Person Act to give judges the discretion on imposing the death penalty.

This case upholds the principles of constitutional supremacy as Madam Justice Mason further purported that despite any personal view which judges may entertain about the morality or efficacy of the death penalty or even while accepting that degrees of culpability may vary, the Court has an obligation to respect the Constitution and any laws that retain capital punishment.

REVIEW OF THE AMENDMENTS TO THE ROAD TRAFFIC REGULATIONS

The [Road Traffic Act Cap. 295](#) (the Act) came into force on the 1 June 1981 to establish the duties of owners and drivers of motor vehicles and create best practices and standards to be observed by road users.

Following the Debates on 2017/2018 Estimates, the Minister of Transport and Works, the Honourable Michael Lashley, heralded the urgent need to implement proposed changes to the Act in order to curb the ever-growing number of accidents and road fatalities.

Since the last Amendment to the Act in 2009, several technological and social advancements have taken place; including the increasing capabilities of communication devices (mobile phones, text messaging and video calling facilities) the increase of the number of road users who have special characteristics (e.g. disabled persons); as well as the introduction of alcohol detection devices.

As such, the [Road Traffic \(Amendment\) Act and Regulations 2017-26](#) was proclaimed on 11 December 2017 and published in the Official Gazette on 28 December 2017. Some of the key Amendments include clauses that address breathalyzer testing; the provision for fines and penalties for abled bodied persons who park in zones designated for the disabled; and the restricted use of mobile phones while driving.

[Breathalyzer Testing and related matters](#)

It is an offence to drive or be in charge of a motor vehicle while under the influence of a drug or alcohol. [Sections 85A and 85I](#) of the Act makes provision for breathalyzer testing; the equipment to be used in testing; the circumstances under which persons may be required to provide a specimen and the procedure to be followed by the administrator of the test.

Authority is also given to members of the Royal Barbados Police Force (RBPF) to make an arrest, without warrant, in specified circumstances. It also makes provision for the protection of hospital patients, from being arrested and from being required to provide a specimen, in the absence of approval from the medical practitioner in charge of their cases.

[Disabled Parking](#)

For many years the disabled community has raised concerns and petitioned against able-bodied persons utilising parking spaces designated for the disabled. Often citing that although provision has been made by business owners to provide special parking for the disabled, able-bodied persons took up the spots because there were often closer to the building and more convenient for them to utilise. They further argued that this nuisance significantly hindered their independence and access to buildings and road to sidewalk access.

[Section 88A](#) of the Act makes provision for designated disabled parking and the circumstances under which persons will be permitted to park in them. Drivers are also prohibited from impeding the use of dropped kerbs, i.e. that portion of sidewalk or pavement which has been lowered to meet the level of the road to facilitate the movement of disabled persons from the sidewalk to

pavement to the road.

This amendment also introduces the imposition of the payment of a fine of five hundred dollars for failure to comply.

Communication Devices

Concerns coming from the public and the RBPF over the increase in the number road accidents and fatalities, has prompted the RBPF, Government Information Service and the Ministry of Transport and Works to articulate in public service announcements this section of the amendment.

Sections 148 and 148A to D of the Regulations to the Act, prohibits the use of driving or operating a vehicle while holding, manipulating, talking on or using a mobile telephone. Contravention of this section will result in the payment of a fine of two thousand dollars, or to imprisonment for a term of eighteen months or both. In fact, the following weekend after this announcement was made by the RBPF, the first offender came before the Magistrate's Courts for using a cell phone while driving. He was convicted and fined for this offence.

The provisions related to the prohibition of communication devices while operating a vehicle, seem to have gathered the most dialogue from members of the society. Persons have also rushed to equip their vehicles with bluetooth stereo devices to ensure that persons, who want to stay connected, can do so using wireless technology within the law.

The amendment provides exceptions. To the effect that persons can talk on a mobile phone while driving or operating a vehicle, if the device is in hands free mode (i.e. connected or paired with an electronic device; not held or operated by hand; voice activated or requires one touch, in order to initiate, accept or end calls and does not require the wearing of an earpiece or headset).

Additionally, the holding, viewing or manipulating of other portable communication devices is also prohibited from use, while persons are driving or operating a vehicle. Included in the list of these devices are personal digital assistants, hand-held devices with mobile data access capability, laptops, two-way messaging devices and portable computing devices. Exceptions are made for persons who drive or operate emergency vehicles.

Although the Amendments to the [Road Traffic Act](#) certainly address several technological and social advancements that have taken place within our society, there are some concerns relative to its compliance and enforcement of these provisions. For example, the penalties that are attached to the amended provisions of the Act are to be imposed by summary jurisdiction, that means the matters will be heard and determined in the Magistrates' Court.

This begs the questions: are our Magistrate's Courts equipped to deal with the potential increase in cases? Does the court have systems in place to adequately cope with the likely increase, which may lead to potential intensification of the backlog of cases in our legal system? Is this need to stay connected, leading to an increasing number of distracted drivers on our roads?

Certainly, these Amendments address some of these concerns that any modern society must manage and cope with as they now would call for a change in the attitudes and behaviours of our road users.