

Commentary: The justice ministry

By Herbert Volney

Caribbean News Now

The decision of Prime Minister Holness to maintain the justice ministry in Jamaica is to be contrasted with the decision of Dr Keith Rowley in Trinidad and Tobago to scrap it. In both countries, the justice ministry was one parliamentary term old.



Herbert Volney grew up in Fort Lane, Roseau, was schooled at St Mary's Academy, is a graduate of the UWI and the Hugh Wooding Law School. He is a jurist and retired High Court judge in Trinidad and Tobago, a former elected Member of Parliament (St Joseph)

and former Cabinet
Minister of Justice in
Trinidad and Tobago.

As the first and longest serving justice minister in Trinidad and Tobago, I can attest to the wisdom of the Holness decision in contrast with what is a palpably wrong exercise of judgment in Port of Spain.

When the new justice ministry was created by former prime minister Kamla Persad Bissessar, it was loaded with a heavy criminal justice portfolio, remits formerly, and again, resident at the ministry of the attorney general. And at my request, the Prison Service was transferred from the ministry of national security in the 2013 reconfiguration of the Cabinet.

I do not want to be unnecessarily critical of Dr Rowley's decision to scrap the justice ministry and reloading the already heavy portfolios of the attorney general and the minister of national security. Why? Because it was Kamla Persad-Bissessar herself, as prime minister, who had systematically dismantled that ministry after my revocation as minister in the political fallout of the proclamation of Section 34 of the Administration of Justice (Criminal Proceedings) Act No. 11 of 2011.

The inexplicable emasculation of her own creation by systematically transferring the significant remits of the justice ministry was pleasing to the then attorney general with whom i had fought many turf wars in my time as minister. By the time of her own reversal by the electorate, the justice ministry had become a virtual ministry of the prisons as its original remit to transform the criminal justice had been taken away. It had lost its relevance and from within had been renamed the “just ministry”. And it came as no surprise that the new prime minister wholly blanked its continuance.

And now to the wisdom out of Kingston. By appointing long-standing attorney Delroy Chuck to lead the ministry of justice, the new prime minister has shown in one stroke of his pen that he understands the symbiotic relationship of that ministry with those of the attorney general, national security, and the judiciary. I point out that in his previous incarnation as prime minister he had inherited the combined ministries of justice and the attorney general. It was former prime minister Portia Simpson's PNP that had introduced the new ministry of

justice.

My time as minister had convinced me that an attorney general should never be at the helm of a justice ministry because he becomes systemically conflicted in his relationship with the judiciary. As the legal advisor of Cabinet he will be required to advise upon instituting and defending civil causes of action that are placed before the judiciary for adjudication.

Justice must not only be done but must manifestly be seen to be done. How can government have a big case before the courts and the AG is buddy buddy in the office of the CJ during the currency of the case discussing how government can help the judiciary? I have made my point.

The ministry of justice I led between 2010-2012 had not only been established from scratch to boast a legal department comprising 17 specialist research lawyers but had begun the process of re-engineering the criminal justice and penal systems with great success.

The Parliament had voted for and unanimously enacted the statutes to abolish the archaic preliminary inquiries by replacing them by a sufficiency hearing regime, and had reconfigured the alibi notice requirement to first opportunity upon arrest; the introduction of the duty counsel scheme and resetting a realistic fee structure for legal aid attorneys; reintroduction of the DNA law, and introduction of electronic tagging as an aide to bail under house arrest, and early release programs under the proposed new Parole Bill 2012.

Additionally, the justice ministry under my watch had developed Cabinet approved policy on rehabilitation of prisoners under government's restorative justice agenda. In fact Cabinet had granted its approval for the creation and establishment of a National Offender Management Authority to oversee the rehabilitation of prisoners while leaving issues of discipline and security to the Prison Authority.

The crown jewel, though, was securing Cabinet approval for the construction of four state of art judicial centres all over the country to bring the criminal justice into the communities.

These centres, on an approved template specially created by expert overseas architects, would have housed 28 new courtrooms connected to a web of secured corridors and lifts for judicial officers, jurors, witnesses and accused persons. They were intended to cater to the courtroom needs of the judiciary for the next 50 years. I left them at the stage of evaluation of bids in an open and transparent public process.

So the ministry of justice in Jamaica has a significant place in the national development of that country. Unfortunately, it's place of importance was lost to the new prime minister of Trinidad and Tobago, and given the rumblings in the Remand Yard with over 1,000 remanded inmates awaiting their date in court and closure for in excess of ten years, it's going to be a meltdown in the next five years given that nothing is being done to address the failed criminal justice.

‘Butch’ Stewart to file \$17-B suit against The Gleaner

The Observer



Gordon ‘Butch’ Stewart

KINGSTON, Jamaica — Appliance Traders Ltd (ATL) Group Chairman

Gordon ‘Butch’ Stewart says he is “constrained to initiate legal action against The Gleaner Company” in the sum of J\$17.5 billion after the publication of a

story on the newspaper’s website last Friday which Stewart said was false and defamatory.

Following is a statement on the matter issued by Stewart today.

The publication on The Gleaner's website dated Friday, March 11, 2016 at 5:21 pm in which The Gleaner published a report under the name: Barbara Gayle, Justice Co-ordinator, that the shares of businessman Gordon 'Butch' Stewart in Gorstew have been frozen due to his failure to pay legal cost to the tune of J\$40 million to one Noel Sloley is false and defamatory.

This publication was and is factually incorrect. The freezing order in question is in respect of costs claimed by Jamaica Tours Limited, which is the subject of ongoing litigation in the Supreme Court and the Court of Appeal.

The publication therefore in The Gleaner is false, malicious and defamatory of Mr Stewart and has caused significant damage, not only to his reputation, but the companies which he represents.

This publication has had significant negative impact on the Sandals brand, which is the Caribbean's leading global brand, and also the ATL brand, resulting in significant losses. The publication was made without any reference to or consultation with Mr Stewart or his representative(s) to verify the truthfulness or otherwise of the story.

In the circumstances, in defence of his reputation and the various companies in which he has an interest, Mr Stewart is constrained to initiate legal action against The Gleaner Company to protect his and the companies he represents reputation, and to seek damages in the region of some J\$17.5 billion, approximately US\$143 million, a conservative estimate.

Immigration Corner: How Do I Complain?



The Gleaner

Dear Mr Bassie,

In a previous column you had advised a reader of the grounds on which he could make a complaint. I would like

you to provide some more detail on how to proceed when actually making the complaint.

- JL

Dear JL,

I presume you are referring to the complaints procedure. In pursuing the complaints procedure, a person can download and print the Home Office complaints form for UK Visas and Immigration. Persons should be aware complaints do not affect the Home Office decision-making process. Making a complaint does not mean a person's application will be dealt with any quicker or slower.

Persons should provide the Home Office with as much information about themselves as possible. This will allow authorities to find information relevant to the case, and to contact them about it. If a person is completing this on behalf of someone else, he/she should add his/her name to the complaint.

The information that the complainant ought to provide is as follows - contact details, including a phone number as the authorities may contact him/her to resolve the complaint by phone or request further information; the case names, if the form is being completed on behalf of someone else.

Please note the authorities must have written authority from the complainant, to disclose information about his/her case.

Other information needed include full details of the matter being complained about, including times, dates and locations. Also, the names or identifying numbers of any staff who the complainant might have dealt with; details of any witnesses to the incident, if appropriate; copies of the relevant letters or papers; and details of any reimbursement issues, including original papers and receipts that may support a person's claim.

The authorities will investigate the complaint and provide a response to the person complaining within 20 working days. The authorities will make contact with you if more time is needed to investigate a complaint.

If the complaint suggests serious professional misconduct a response will be provided within 12 weeks, following an independent investigation.

On receipt, the complaint will be managed by the correspondence team. This group is responsible for ensuring the complaint is resolved in a satisfactory and timely manner. The group will send the person an automatic acknowledgement when the complaint is lodged, and may contact the person making the complaint, during an investigation, for further information.

Persons should be aware that they can read the complaints-management guidance for further information about how the authorities may deal with any complaints made.

It should be noted that if a person makes a very serious complaint related to the authorities' officers' use of police-like powers in England and Wales, it will be referred to the Independent Police Complaints Commission (IPCC).

The IPCC has a remit to oversee certain serious complaints relating to the exercise of the United Kingdom immigration, asylum and customs functions.

The IPCC's remit includes some contractors who carry out enforcement functions on the authorities' behalf.

If such a complaint about serious professional misconduct has been made, the investigators will advise of the outcome, and their letter will advise the person complaining as to who he/she may contact if still dissatisfied.

Please note that if a person does not think his/her complaint has been dealt with correctly, he/she can ask the authorities to review the matter.

At this point the correspondence team will undertake an independent review of the complaint to ascertain whether it has been dealt with properly. They will advise of their findings within 20 working days of the date when the review is requested.

Just for completeness, if a person is still not satisfied with the response, and he/she has already gone through the formal complaint procedure, the Parliamentary and Health Service Ombudsman may be able to assist.

- John S. Bassie is a barrister/attorney-at-law who practises law in Jamaica. He is a justice of the peace, a Supreme Court-appointed mediator, a fellow of the Chartered Institute of Arbitrators, a chartered arbitrator and a member of the Immigration Law Practitioners Association (U.K.). Email:lawbassie@yahoo.com

Make an example of Norwood murderers!

The Observer



Dear Editor,

I cringe at the callousness and disregard for the sanctity of human life among some individuals in our society, as displayed in Norwood, St James, some days ago.

To make the mark visible of a change in Government and the way government performs, it would be refreshing and my delight to see a different approach to dealing with such gruesome

acts. If we are going to grow economically, as posited by Prime Minister Andrew Holness, a clear signal must be sent to all criminals within our borders, and those who even dream of fostering criminal intents, that it's not business as usual.

The killing of three people, reportedly due to a disagreement over a phone, is senseless, to say the least, and has no place in our society. Hence, I urge the new ministers of justice and national security to coordinate their efforts and do all in their power to make an example of those involved.

Those idlers with high-powered rifles but a low sense of civic pride should be ferreted out from their hiding holes, arrested, tried, imprisoned, and the keys thrown away. The trial should be placed as a priority in the court, tried as soon as possible, publicised nationally, and the sentences handed down should be befitting of the dastardly act they committed. The sentences should then be published throughout media houses and in all national papers on the front page.

Let's do away with the current snail-paced justice system and deal with this matter speedily. In a few seconds all three were gunned down. Do not follow the present trend of trial which may happen up to five years after the fact. Act decisively! It is the quickest way to send a message to criminals that the times have changed.

I urge all concerned in authority to make an example of the Norwood murderers.

Acts like these are damaging to our brand name and prestige as a country. It must not be allowed to go unpunished.

Joseph Edwards

seraphins_arch@yahoo.com

Air Condition Technician Accused In \$10m Fraud Charged



A Kingston man accused of fleecing several people out of more than \$10 million to buy motor cars has been charged by detectives from the Counter-Terrorism and Organised Crime Investigation Branch.

Forty-seven-year-old Chris Barrett, air condition technician of a Park Avenue, Havendale address, has been charged with nine counts of obtaining money by means of false pretense.

The police say he was charged on Friday.

He is scheduled to appear in the Corporate Area Resident Magistrate's Court on Thursday. According to the police, reports are that between February 2013 and September 2015 nine individuals gave Barrett more than \$10 million to purchase motor vehicles on their behalf. The police say after collecting payments, Barrett did not provide the complainants with the vehicles they had requested.

Efforts by the complainants to contact him for a refund were reportedly unsuccessful.

The matter was then reported to the Police's Fraud Squad resulting in Barrett being arrested and charged.

T&T scholarship winner ordered to repay millions of dollars

The Observer



PORT OF SPAIN, Trinidad (CMC) — A Trinidad and Tobago High Court has ordered a national scholarship winner to repay more than TT\$3 million to the state after he failed to honour the conditions of his scholarship.

Justice Nadia Kangaloo ordered that Dr Ryan Wellington, a 2003 Open National Scholarship recipient repay the government TT\$1.7 million with interest in the sum of TT\$1.3 million and thereafter continuing at a rate of 7.75 per cent. He is also to repay the prescribed costs of TT\$194,227.98. There is a stay of execution of the ruling until April 15.

The Ministry of Education said that Dr Wellington, who currently resides abroad, was awarded the scholarship in 2003 to obtain a Bachelor of Medicine, Bachelor of Surgery (MBBS) at the Royal College of Surgeons, Dublin, Ireland, for five years.

“Pursuant to such award, the scholar signed a Scholarship Agreement on 6th September, 2004 with the Government of Trinidad and Tobago whereby he agreed to report immediately to the Scholarship Division of the Ministry of Public Administration (MPA) upon the conclusion of his course of study and make himself available for employment with the Government for a period of at least five years. The MPA was responsible for the Administration of Scholarships at that time. The Ministry of Education (MOE) now has such responsibility.”

It said that the obligation to repay the loan would be waived automatically once he served the period of five years in Trinidad and Tobago.

During the trial on Monday, Dr Wellington's attorney made an application for an adjournment of the matter, but the application was denied by Justice Kangaloo on the basis that the scholar was given sufficient notice of the commencement of the trial.

Antigua's Lester Bird favours CCJ over Privy Council

The Observer



BIRD... we reject the idea that judicial decisions which affect our lives should be made in a city thousands of miles away, and by persons appointed largely by the prime minister of a country that was our former colonial power

ST JOHN'S, Antigua (CMC) — Former prime minister Sir Lester Bird says replacing the London-based Privy Council with the Caribbean Court of Justice (CCJ) “finishes Antiguan and Barbudan independence and autonomy that was begun in the 1930s”.

In a broadcast here Sir Lester, who served as the island's second prime minister from 1994-2004, said that the ruling Antigua Labour Party (ALP) had long advocated the need for the country to move away from the Privy Council.

He said when the island sought to attain political independence from Britain in the 1960s, it wanted full independence that would have also included an independent judicial system.

“We rejected the idea that judicial decisions which affect our lives should be made in a city thousands of miles away, and by persons appointed largely by the prime minister of a country that was our former colonial power,” Sir Lester said.

“Replacing the Judicial Committee of the British Privy Council with the Caribbean Court of Justice finishes the circle of Antigua and Barbuda independence and autonomy that was begun in the 1930s. And, it is not as if we are settling for something less. In fact we have created something more,” said Sir Lester, who said he was the first regional leader to have signed the agreement establishing the CCJ in Barbados on February 14, 2001.

“The Caribbean Court of Justice represents all that is admirable and respected from our Caribbean civilisation. It is the culmination of the work of every generation of Antiguan and Barbudans for one hundred years. As a people we owe it to our own self-worth and our own dignity to support the replacement of the Privy Council by the CCJ when a referendum is held,” Sir Lester said.

Antigua and Barbuda last Thursday launched a three-month public education programme on whether to continue with the Privy Council or replace it with the Trinidad-based regional court. At the end of the exercise, citizens will be asked to vote in a referendum on the matter. In his broadcast, Sir Lester, 78, who is now a national hero and senior minister in the present Gaston Browne administration, said he welcomed the initiative since “it is important for the people of this country to know that serious consideration of our delinking from the Judicial Committee of the Privy Council did not start this week”.

Sir Lester, who said as prime minister he signed the Caribbean Community (Caricom) loan agreement with the Barbados-based Caribbean Development Bank (CDB) to establish the US\$100 million Trust Fund to finance the court, said also since no member of the CCJ is beholden to governments for their salaries and other emoluments, “none of them has to worry that a decision against a government would affect their livelihood.

“That is important for the upholding of the rights and freedom of every single person in Antigua and Barbuda and all other Caricom countries,” he said, adding that from 1992 when the West India Committee Report was published, “the Labour Party fully embraced its recommendation that the Caribbean should have its own final Appellate Court, made up of highly respected Jurists from our own region.”

Sir Lester said that throughout the 1990s, as the prime minister of Antigua and Barbuda, he worked diligently with his colleague Heads of Government in the Caribbean to make the CCJ a reality.

“We made progress one step at a time, because we recognised that change — however necessarily obvious — would be resisted, particularly by those who bestow some superior capability in a court in Europe.”

But he said that the idea that the CCJ should replace the Judicial Committee of the Privy Council always “remained alive in the minds of the progressive leadership of the Caribbean”.

“It was certainly so in the Labour Party of this country; a labour party that had fought for the rights and freedoms of the people of this nation in the 1930s and 40s; a labour party that had given the people of this nation political rights in the 1950s 60s, and that ended colonialism and led our country to independence in the 1980s,” he added.

The End