

Anguilla's Judicial System, 1650-2017 – By Don Mitchell, CBE, QC

The Lawless Period

Anguilla was first settled by runaway English indentured servants from Barbados and small farmers from St Kitts escaping the heavy tobacco taxes, imposed there to build the forts for defence against the French. An English historian, writing in 1707, described the settlers of Anguilla this way,¹

Their business . . . was to plant corn, and breed tame cattle,² for which purpose they brought stock with them. They were poor and continue so to this day, being perhaps the laziest creatures in the world. Some people have gone from Barbados, and the other English Charibbee Islands, thither; and there they live like the first race of men, without government or religion, having no minister nor governor, no magistrates, no law, and no property worth keeping. If a French author is to be believed, . . . 'The island is not thought worth the trouble of defending or cultivating it'.

What was patently unfair about this description of the early Anguillians was the accusation that the people were lazy. From the earliest days, to be lazy in Anguilla was to die from starvation and want. Regular periods of drought; frequent hurricanes; a thin, poor and unproductive soil;

¹ John Oldmixon, The British Empire in America (1708), Vol 2, p.264.

² The term 'cattle' at the time included pigs, sheep and goats. It was probably this last which the settlers brought to the island.

and the devastations brought by the wars between the English and the French combined to impoverish the people. Only the keeping of small stock such as goats, and the growing of such tough crops as maize, sweet potatoes, and pigeon peas could ensure the survival of the people. The risky enterprises of privateering during times of war, and the continuous smuggling among neighbouring islands, brought into the island a limited amount of coin. No one could prosper, far less grow rich, in such adverse conditions.

In 1666, some sixteen years after settlement, the leading members of the isolated, ignored and impoverished Anguillian settlers formed themselves into a self-appointed Council and elected their own deputy governor.³ The power this Council exercised was not sanctioned by any local or regional statute or other law. In every other Leeward Island, Royal Patents were sent out from London for the establishment of a deputy governor and an island Council. In Anguilla by contrast, unique in the West Indies, for nearly 175 years after the island's settlement in 1650, there was no lawfully constituted Council to govern the affairs of Anguilla. The Anguilla Council was self-appointed and was merely tolerated by the colonial authorities in Antigua. The

³ Abraham Howell, Anguilla's first deputy governor, in a patent preserved in the Anguilla Archives stored at the Court House, describes himself as having been elected as deputy governor in the year 1666.

Governor-in-Chief invariably confirmed the local appointee, and never interfered in the affairs of the Anguilla Council, as he frequently did in the more prosperous and consequential colonies of Antigua, St Kitts, Nevis, and Montserrat. He touched on Anguillian affairs only when there was an appeal from a decision of the Anguilla Council, which he would pass on to the Secretary of State in London for a ruling, since he exercised very limited authority over the Anguilla Council. The result was that, throughout this early period, the common Anguillian man and woman endured the unregulated government of their Council without the benefit of any real supervision by the colonial authorities.

In consequence, the official view for its first 175 years of the government of Anguilla, if colonial officials ever took the time to think of the government of Anguilla, was that the people were not governed by law. In 1724, the Governor-in-Chief wrote⁴ of the deputy governor of Anguilla, "*If his cudgel happens to be one whit less than a sturdy subject's, then good night, Governor.*" Indeed, it was only in 1819 that the Governor-in-Chief in Antigua visited Anguilla and issued⁵ formal patents to the deputy governor and the members of his Council. This was the first and last time that Anguilla had a legally constituted

⁴ CO.152/14: Governor-in-Chief John Hart to the Committee for Trade and Foreign Plantations.

⁵ Anguilla Council Minutes, 1819-1841, St Kitts Archives, photographed and transcribed by Martha Burrows and Heather Nielsen.

government, until the British appointed an Anguilla Council under the Anguilla Administration Order of 1971.⁶

Not only was there no constitution or law under which a Council could be appointed in Anguilla. There was no legislature in Anguilla or elsewhere to enact statutes under which the people could be governed. Under the colonial regime of the day, no law enacted in any other colony could be extended to Anguilla. The truth is that Anguilla was too poor, and of no consequence to the colonial authorities, since it contributed nothing to the Crown, to merit any expenditure of time or money on its administration. The result was that up until the year 1825, the Anguilla Council, in effect, acted as the executive, legislative and judicial branches of the government of Anguilla, without any formal constitutional or statutory authority.⁷

On his one and only visit to the island in 1819, referred to earlier, newly installed Governor-in-Chief, **Charles Maxwell**, pointed out to deputy governor **William Richardson** and his Council the disadvantage of their existing without any form of legislature. As the minute of his statement to them records, he said that,

It is much to be regretted as a British Colony, that this island should have been so long, and is, without

⁶ For some years after absorption by St Kitts in 1825, the St Kitts-Anguilla Legislative Assembly introduced a form of local government under the provisions of the Vestry Act, but its power was very limited. Its meetings were chaired by the Magistrate.

⁷ Anguilla Council Minutes, 1819-1841, previously cited.

a Legislative Body, constitutionally established, for the purpose of enacting good and wholesome laws for the good Government thereof; that by reason of which the Registration of slaves, so urgently required by His Majesty's Government, could not be effectually carried into execution, for the want of an Act of the island to coerce the enforcement of the same, the neglect of which may by its consequence, affect the dearest interest of the Colony in its most vital part, if delayed much longer. The only remedy for obviating this defect would be for the inhabitants to Petition His Royal Highness, the Prince Regent, praying that he would be graciously pleased to grant them a Charter of Constitutions which, when prepared and sent to me, I shall transmit the same to His Royal Highness with a recommendation of it from myself.

However, the islanders did not succeed in submitting a draft Constitution for Anguilla, and attempts to provide a legislature for Anguilla were overtaken by certain events occurring in 1825. The result was that none of the Leeward Islands laws passed for the registration of slaves and the amelioration of slavery were enacted for the benefit of the people of Anguilla.

The 1825 Absorption into St Kitts

In the year 1825, prolonged drought; regular hurricanes; and the long wars with the USA and France, which ended only in 1815, combined to bring the hitherto self-perpetuating Anguillian Council to its knees. The British blockade of trade with the enemy during the preceding 30

years devastated the vital Anguillian privateering and smuggling industries, while the alternating periods of droughts and hurricanes destroyed the homes, small-stock and crops of the islanders. The law suits in the island's unofficial courts after 1780, traces of which have survived in the archives, demonstrate in a practical way just how the economy had collapsed. For one thing, the sums being sued for declined from hundreds of pounds before the American Revolution of 1776 to just a few shillings and pence in the fifty years before Anguilla was joined to St Kitts.

Their economy having collapsed, the Anguillians submitted to pressure from London to be governed by St Kitts. London's main interest, as is evidenced in the correspondence of the Secretary of State with the Governor-in-Chief in Antigua in the early part of the 19th Century, was to have some form of law-making power in Anguilla that would apply law, particularly the slavery amelioration laws and the coming Abolition of Slavery Act, to the Anguillians.⁸

In that year, 1825, the St Kitts Legislative Assembly under pressure from London passed the Anguilla Act to provide for the Anguillians to elect one member to attend

⁸ See for example the various correspondence and dispatches at CO.407/1 between Lord Bathurst and Governor-in-Chief Maxwell on the need for Anguilla to have laws.

the St Kitts Legislative Assembly.⁹ From that year, laws made in St Kitts applied to Anguilla. In this way, the Slavery Abolition Act of St Kitts in the year 1834 was effective to bring an end to slavery in Anguilla. From 1825 Anguilla also began to share the judiciary of St Kitts. The Chief Justice would visit Anguilla at intervals to conduct the civil and criminal court sitting. All previous trials between 1650 and 1825 had been completely unauthorised by any enactment or other formal law or legal system.

The First Courthouse

The first official Courthouse on Anguilla appears to have been deputy governor **Benjamin Gumbs**' house¹⁰ on the top of Crocus Hill, turned over to public use after his death. There is no surviving record of how this came to be. The little complex of out-buildings around the main house served as the Customs House, Post Office and Police Station. It was the administrative centre of the island, approached from South Hill and North Hill villages and the west via the public footpaths from North Hill, down into Katouche Valley and up the public path where the road leading to the Masara Resort now runs. It was ideally located, as the port of entry of Crocus Bay was at

⁹ CO.240/16, at folio 315: Act No 198. An Act to Authorise the Freeholders of the Island of Anguilla to Send a Representative to the House of Assembly in the Island of St Kitts (usually referred to as the "Anguilla Act").

¹⁰ Its dimensions are so modest that one has difficulty referring to it as his 'Estate Great House'.

the foot of the hill to the west, while the main town of The Valley lay immediately to the east. When the Chief Justice visited Anguilla from St Kitts, the main building of the complex served to house the visiting court. For at least the first 50 years after 1825, the visiting Chief Justices complain to the Secretary of State that, as there was no guest-house in Anguilla, they were forced to spend their nights on board ship in the harbour. There was no point in his complaining to the authorities in St Kitts as the St Kitts Council had made it clear to the Secretary of State from the start that they would only accept responsibility for making laws for Anguilla on condition that not one penny for the island's support was required from St Kitts.

After 1825, presiding at the sitting of the Court of Kings Bench to hear civil and criminal cases in Anguilla was **Robert Williams Pickwood**, CJ of St Kitts and Anguilla. Sitting with him on the bench at the Courthouse were two Assistant Justices, who acted as assessors of the facts.¹¹ A minute of their proceedings for several years is preserved in the records of the court held in the Archives in Basseterre, St Kitts. Additionally, because Justice Pickwood was unusually liberal for his day, the detailed proceedings of some of his Anguilla trials have

¹¹ CO.240/17, folio 1. The law which enabled this sitting was entitled, Act No 1: An Act for Establishing Courts and Settling Due Methods for the Administration of Justice in the Island of Anguilla.

been preserved in the British National Archives. This happened because the planters of St Kitts and Anguilla, who conspired to have him sanctioned by the Secretary of State and suspended as Chief Justice, prepared transcripts of some of those trials, together with affidavits commenting on them, and sent them to London as evidence of his unlawfully siding with the slaves against their owners. These transcripts, and the complaints by the Anguillian planters against Justice Pickwood, provide revealing glimpses into social life in Anguilla in the first half of the 19th Century.

One was the 9 October 1832 trial of the island doctor and elected representative to the St Kitts-Anguilla Legislative Assembly for Anguilla, the **Hon Benjamin Gumbs-Hodge**, for the offence of assaulting the slave woman **Charlotte** and marooning her on Dog Island. The indictment found by the Grand Jury was to the effect that,¹²

Benjamin Gumbs Hodge of the Road Division on the island aforesaid, Practitioner in Medicine, on the first day of March in the year of our Lord one thousand eight hundred and twenty six with force and arms at the Road Division aforesaid in the island aforesaid, in and upon one Charlotte, a slave, in the peace of God and of our Lord the King then and there being did make an assault on her the said

¹² Anguilla Court Records 1827-1845, located in the St Kitts Archives, Basseterre, photographed and transcribed by Martha Burrows and Heather Nielsen.

Charlotte did then and there beat, bruise and ill-treat and did then and there unlawfully, injuriously and against the will of the said Charlotte and without any legal warrant or authority in that behalf, seize, take and drag and forcibly carry the said Charlotte from the Road Division aforesaid in the island aforesaid across the sea to a certain place called Dog Island and her, the said Charlotte, in the said place called Dog Island did unlawfully and injuriously keep and detain against the will of the said Charlotte for a long space of time to wit, for the space of three weeks then next following, and other injuries to the said Charlotte then and there did to the damage of the said Charlotte and against the peace of our Lord the King.

The court records indicate that the witnesses bound over to give evidence were **Charlotte Filipasso**, **Richard Roberts**, and the **Hon RW Pickwood** himself. Prosecuting was **Charles Thompson**, Attorney-General of St Kitts and Anguilla. **Mr Woodcock**, a barrister of St Kitts appeared for the defence.

As the Accused was about to be arraigned, **Mr Woodcock** moved that he objected to the Chief Justice both sitting in judgment at the trial and being a witness at the trial. The minute records that the Chief Justice explained that the law of criminal procedure at that time was that a trial that was not presided over by the Chief Justice was void. Besides, he would not permit an accused person to select who he thought should be or not be his judge, as this would betray the important trust

confided in the bench. Also, he explained, the two Assistant Justices or assessors who sat with him had explained that they were completely incapable of conducting a criminal trial without his assistance, and if he recused himself they must do the same.

Mr Woodcock protested that he had recently seen a case in 'Fortescue's Reports' which was clear authority for the proposition that a judge could not also be a witness in the case he was trying. However, the Chief Justice was adamant that the procedure he proposed to follow was perfectly in order, and he dismissed the motion.

The accused was accordingly arraigned and the jury of Anguillian planters and dignitaries duly sworn to hear the evidence. The witnesses proceeded to testify and be cross-examined, after which the jurors of Anguillian planters and merchants not surprisingly returned a verdict of not guilty.

The various affidavits sworn in the subsequent complaints to the Secretary of State against Chief Justice Pickering requesting his removal from the position of Chief Justice flesh out the details of this extraordinary incident. It appears, reading between the lines, that in 1826 the Chief Justice was sailing his sloop from his estate on the north-west coast of St Kitts to hold one of the first Assizes in Anguilla under the new regime. To

arrive at the port of Road Bay, he had to sail past the small Anguillian Cay known as Dog Island.

The Honourable **Peter Lake** was then the owner of the Road Plantation and one of the leading citizens of Anguilla. He appears to have been smitten by the beauty of his slave **Charlotte**. He brazenly conducted an affair with her that soon came to the knowledge of his wife. **Mrs Lake**, with the cunning of a woman scorned, hit upon a device to get rid of Charlotte. She secretly cut up her own clothes and linen and torched them in her yard in the absence of her husband, falsely placing the blame on Charlotte. At Charlotte's subsequent trial for malicious damage, Mrs Lake gave false evidence to the Magistrates that she had observed Charlotte committing the act.

Charlotte's protestations of innocence could not prevail against her white accuser. She was convicted of the arson, and sentenced to be marooned on Dog Island for a month, as punishment. The Magistrates had given **Dr Benjamin Gumbs-Hodge** responsibility for carrying out the sentence. Now, Dog Island was, and is, a tiny, barren Cay, with just a shed and a shallow well on it for the use of the shepherds placed there to keep an eye on the goats and other small stock that it was home to. And then, as now, marooning was and always has been an illegal punishment, not sanctioned in any legal text.

As Chief Justice Pickering sailed past Dog Island on his way to Road Bay, whom should he spy but the beautiful Charlotte, illegally marooned on the Cay in punishment. On his arrival in Crocus Bay, accompanied by Charlotte, he had the Attorney-General bring charges against the man who had forcibly placed her on Dog Island.

The records of the subsequent impeachment proceedings against the Chief Justice preserved in the Public Records Office at Kew Gardens reveal what happened next. The Chief Justice could find no free Anguillian who would testify at the trial. Blazing with fury, he did what no judge, hopefully, would do today. He took off his wig from his head, slipped out of his judicial gown, stepped down from the bench upon which he sat with the two Assistant Justices, and entered into the witness box to testify. When he had finished giving his eye-witness evidence, he put back on his wig and gown and resumed his seat. As we know, the jury found in favour of their colleague and friend and dismissed the case. But, Anguilla thereby became the first colony in the British Empire that I am aware of where the Chief Justice acted not only as judge but also as principal witness in the prosecution of an offender at the Assizes.

After 1825, Anguilla's legal and judicial system evolved in tandem with that of St Kitts, and the colony

was now officially titled “St Christopher and Anguilla.” In 1882, when the Council and Assembly of Nevis were dissolved, and Nevis joined to create a three-island colony, it was, from then until 1967, officially known as the “Colony of St Christopher and Nevis”. The name of Anguilla was dropped. So, for example, Anguillian car licence plates prior to the Anguilla Revolution of 1967 began with the prefix “CN”, standing for St Christopher and Nevis. After the Revolution, one of the first actions of **Ronald Webster’s** Peacekeeping Committee was to replace the licence plate letters “CN” with the letter “A” for Anguilla.

The old Courthouse with its out-buildings stood from the mid-1700s, when it was first built, until 1955, when Hurricane Alice hit the island. The hurricane completely destroyed the wooden structure, leaving only the stone foundations remaining. The masonry basement, including the cellar which served as the prison cell while court was in session, can still be seen there. The ruins are overshadowed by two large, ugly, black Rubbermaid water storage tanks and two equally large and ugly radio aerials raised in the Courthouse yard. Goats, mimosa trees and strangler fig compete to see which can be first to totally destroy the abandoned remains.

With the passing of the Slavery Abolition Act of 1834, Special Magistrates appointed by St Kitts were

stationed in Anguilla to oversee the Apprenticeship Period, 1834-1838. After 1838, and until 1882, the Magistrates of Anguilla were usually professional lawyers who were appointed as Stipendiary Magistrates, meaning they got paid. The first on record was **Thomas Egar** (who served 1835-1841).¹³ He was followed by other qualified lawyers who doubled as the St Kitts-appointed local administrator for Anguilla. The most famous and long-lasting was **Robert William M Pickwood** (1842-1862), Chief Justice Pickwood's son. He was so dedicated to Anguilla and so well-respected that, when he died in St Martin, the funeral that the French gave him was described in the official correspondence as almost a state funeral.

Sometimes, disreputable St Kitts civil servants were dispatched to Anguilla to serve as Magistrate and President of the Vestry, mainly it seems, to get them out of the way of the St Kitts administration. One such was **George Alsbury** (1863-1864), the roguish clerk to the Basseterre Magistrates Court and public printer of Basseterre. He was first appointed as the customs officer of Anguilla and then later as Magistrate.¹⁴ We do not know for certain what his alleged offences were, but as he was a customs officer, it is not difficult to guess.

¹³ CO.239/67, Dispatch No 13: Mr McPhail to EG Stanley, Secretary of State for the Colonies

¹⁴ CO.239/111, Dispatch No 40/3473 of 5 March 1864: Governor Steven J Hill to Lord Newcastle.

From 1882, the Magistrate of Anguilla was replaced by an administrator from St Kitts, called the Warden, whose duties included sitting as Magistrate. These St Kitts administrators were often the physician, primarily assigned to look after the health of the islanders. **Vincent F Byron**, late father of the President of the CCJ, the **Rt Hon Sir Dennis Byron**, was the last Warden sent to Anguilla, and he left the island with the outbreak of the 1967 Revolution.

Wallace Rey's Courthouse

It was only in the year 1964, under Mr Byron's administration, that the St Kitts government replaced the old, destroyed Courthouse, lost fourteen years previously. Local Anguillian builder, **Wallace Rey**, was appointed to head Anguilla's public works after he retired from the US Air Force Base in Antigua where he had found employment at the start of World War II. Wallace Rey designed and built the new court building. Its magnificent, reinforced-concrete transverse arches that reach up from the foundations and go up and over the roof to descend on the other side made it one of the most imposing structures at the time on the island. Its design reflects that of St Mary's Anglican Church, which he also designed and built around the same time.

In the intervening years 1950-1964, after Hurricane Alice destroyed Governor Benjamin Gumbs' old building,

temporary quarters in a private home now replaced with a modern concrete structure occupied by NAGICO across from the High School, served as the courthouse. **Wallace Rey's** 1964 building functioned at first only as the courthouse. Later, it was to become the home of the Anguilla House of Assembly, the Court of Appeal, the High Court, the Magistrates Court, and the Juvenile Court. These all shared the one-room premises without difficulty since when the Court of Appeal visited no other court sat. When the High Court sat, there was no Magistrate's Court, as the Magistrate doubled as Registrar of the Supreme Court. This was the system in place which I met when I was appointed Magistrate of Anguilla in August 1976. At that time and for the next several years, the only lawyers in the public service were the Attorney-General and the Magistrate. As for Wallace Rey's building in which I served as Magistrate and Registrar, it is no longer a court house. It presently serves as the offices of the Statistics Department.

The short-lived West Indies Federation broke up in 1961 when Jamaica chose to go into independence rather than stay tied to the smaller islands. Trinidad and Barbados left shortly after, and the Federation was dissolved. By the year 1967, the individual colonies of the Leeward and Windward Islands were themselves headed to independence. They first entered into the intermediate

status of 'Associated Statehoodship' with Great Britain. The old, separate Supreme Courts of the Leeward Islands and that of the Windward Islands, re-established after the collapse of the Federation in 1961, were merged into the new 'West Indies Associated States Supreme Court'.

The West Indies Associated States Supreme Court was established by the Courts Order of 1967. This court had a short life-span in Anguilla. Almost immediately, Anguilla was in rebellion against its continued enforced union with St Kitts and Nevis. The Anguillians refused to be made ready for independence, tied permanently to St Kitts and Nevis. The Anguilla Revolution of 1967 was to be the first successful armed revolt in the British West Indies.¹⁵ The thirteen members of the St Kitts police force manning the Valley Police Station were packed onto a LIAT airplane and shipped back to Basseterre. The visiting St Kitts judge was jeered out of his courthouse and chased down the runway until he boarded a waiting flight to take him back to St Kitts. In 1967, the revolutionary Anguilla Peacekeeping Committee appointed the social welfare officer, **Raphael Lake**, to be Magistrate and he functioned in that office until he was replaced by the British administration after their invasion of the island in 1969 at the invitation of the St Kitts government.

¹⁵ Not emulated elsewhere in the British West Indies until the Grenada Revolution of 13 March 1979 brought Maurice Bishop's New Jewel Party to power.

In 1971, the British Parliament passed the Anguilla Act, which permitted Britain to separately administer the Anguillian part of the 'Associated State of St Kitts, Nevis and Anguilla' while they attempted to negotiate a settlement between the administrations in Basseterre and The Valley. Between 1971 and 1982, Britain selected and paid for a Magistrate, a High Court Judge, and three Judges of the Court of Appeal. By agreement with the governments of St Kitts and Anguilla, these appointments were rubber stamped by the Judicial and Legal Services Commission of the West Indies Associated States Supreme Court. Appeals from the Court of Appeal of Anguilla lay to the Privy Council. At least one appeal, that involving the Junks Hole Estate dispute, went all the way to the Privy Council in the years before Anguilla re-joined the West Indian judicial family.

In 1980, the People's Action Movement party gained power in St Kitts by defeating the Labour Party in general elections. The administration of the new St Kitts-Nevis premier, **Dr Kennedy Simmons**, negotiated with Britain for independence. The British agreed, on condition that St Kitts let Anguilla go on its own. St Kitts-Nevis agreed, and Anguilla was brought under full colonial rule by the Anguilla Act 1980 of the UK Parliament.

By the year 1982, the West Indies Associated States Supreme Court came to be known as the 'Eastern Caribbean Supreme Court' (the ECSC). This name-change was made to give recognition to the demise of the Associated States, and their replacement by independent Commonwealth Caribbean Countries throughout the region. The **Robert Bradshaw** regime had previously vetoed Anguilla's participation in any regional institutions, including the Court. The new St Kitts government of **Dr Kennedy Simmonds** relented, and Anguilla began to join the various regional bodies. In 1982, the Anguilla Assembly passed the Eastern Caribbean Supreme Court (Anguilla) Act, and Anguilla re-entered the fold of the regional judiciary. From that time, the Magistrates of Anguilla have been appointed by the governor after consultation with the Judicial and Legal Services Commission.

Monica Joseph of Grenada (1982-1983) was our first regionally appointed High Court Judge. She visited Anguilla from time to time from St Kitts to do the occasional criminal case or civil case that awaited the attention of a High Court Judge. Her jurisdiction was somewhat reduced, since most felonies and misdemeanours had previously in the year 1978 been made triable summarily by the Magistrate, due precisely to the lack of a resident judge. To this day, the Anguilla

Magistrate's Court has one of the most extensive jurisdictions in the Leeward Islands both civilly and criminally. Justice Joseph was always pleased when she was presented with a pair of white gloves at the opening of the Criminal Assizes, as an indication that there were no criminal cases on the list to be dealt with. That ceremony, unfortunately, did not persist for long.

Dame Monica Joseph, as she now is, was succeeded by a number of judges, including **John Roberts QC** of Sierra Leone and London; **Sylvia Bertrand** of Dominica and the BVI; **Lloyd Williams** of Jamaica and St Kitts (1991); and **Neville Smith** of the Bahamas and St Kitts (ca1992-1996), all of whom visited Anguilla occasionally from their assigned jurisdiction.

Adrian Saunders of St Vincent (1996-2000), subsequently of the Court of Appeal and later of the Caribbean Court of Justice, was the first ECSC High Court judge who actually lived in Anguilla. He was followed by **Ola Mae Edwards** of Jamaica (2002-2003), subsequently Justice of the Court of Appeal; **Janice George-Creque**, later **Pereira**, of Virgin Gorda (2003-1009), subsequently a Justice of Appeal and later Chief Justice of the ECSC; **Louise Blenman** of Guyana (2009-2012), subsequently a Justice of Appeal; and, now, **Cheryl Mathurin** of St Lucia (2013 – present).

The New Courthouse

By the late 1990s, a dramatic increase in judicial activity in Anguilla meant that Wallace Rey's old courthouse was no longer adequate to serve as a multi-purpose building. The tourism industry had fuelled an enormous growth in the economy, and crime and litigation had mushroomed. With British financial assistance, a new building was constructed at the eastern end of the government secretariat, adjacent to the former National Bank of Anguilla. The plans were drawn by architect **David Kenworthy** and approved by a Committee of the bar and the Anguilla judiciary headed by **Justice Adrian Saunders**. The new building now consists of three separate chambers. They are the Magistrate's Court, the High Court, and the House of Assembly. This three rooms structure will serve Anguilla for the foreseeable future, but inevitably, in time, it will come to seem out-dated and in need of replacement.

Access to the laws of a country is essential for its good governance. Not just lawyers need to know the law, everyone does. The old saying, which we still apply to our citizens when they inadvertently breach a law, is that ignorance of the law is no excuse. In most of the countries of the West Indies, all of the laws are available on a free government website online both to read and to download. Anyone can go to the Government of Antigua

and Barbuda website¹⁶ and access any of the laws of that country. Of course, if you desire to purchase the entire collection of the Laws of Antigua and Barbuda in book form, you will have to pay. However, digital or soft copies of the laws are freely available to all.

This has not been so in Anguilla since the year 2000, when we published our new edition of the laws of Anguilla. We are now prohibited from accessing the collected statutes that apply to us unless we pay several thousand EC dollars to purchase a set. If I purchase a set of the laws from the A-G's Chambers, I commit an offence if I share one of them with you on paper or by email. According to the warning at the foot of each statute, I can be sued for breach of copyright. If I do take a chance, and illegally share with you a digital copy of one of the laws of Anguilla, you will receive it in a format that is not searchable, and incapable of being printed. I am informed that the only legal way to acquire a copy of an individual law of Anguilla is to purchase it for a minimum of US\$25.00 from the A-G's Chambers.

Even Government Departments are without access to the laws of Anguilla. When, up to a year ago, I provided a legal aid clinic out of one of the Departments of Government, I enquired after one of the statutes I needed to advise a client on. The response I got was that

¹⁶ For the Antigua statutes, see; <http://www.laws.gov.ag/acts/>.

no one in the Department had access to the statute in question. Since the Department was required to find the sum of US\$1,500.00 to purchase a set of the laws, and could not afford the price, the Department had no copies of the laws of Anguilla. I was given to understand that the same applies to many other Departments of the Anguilla public service.

The settlement of Anguilla, we have seen, started as a sanctuary for tax refugees. Resistance to paying taxes is embedded deep in the culture of Anguilla. To encourage us to pay our rates, or property tax, Government has found it necessary to introduce a 20% remission as a reward, if we pay our assessment at any time within the year it is due. The culture of tax avoidance is so deeply ingrained, that we have established a financial services industry which provides services to the tax refugees of the world.

Among our first industries, we have seen, were those of smuggling and privateering. Three hundred and fifty years later, the police seem ineffective in the face of growing imports of illegal drugs, guns and foreign sex workers. The ancient industry of smuggling continues today, save that the illicit trafficking is in many times more dangerous commodities, and produces more pathetic victims.

Is it only me who sees the irony in the Anguillian authorities setting up a legal system that conceals the laws of Anguilla from her citizens, save for those who are very rich? It seems anomalous that the authorities deliberately withhold our statutes from us. The right thing is to make all our laws searchable online and printable without cost. Payment should be demanded only for the paper and CD versions of the statutes.

We boast that Anguillians are intrepid entrepreneurs. But, should we continue to permit our young men to start up “Sports Bars” for the exploitative employment of immigrant women on short-term “tourist visas”? Illegal Santo Domingo lottery tickets are openly but illegally sold at every street corner shop or bar. The “numbers” racket operates brazenly in several outlets in every village. The police must know about all of this, but appear ineffective in shutting it down.

If this situation continues unchecked, the risk is that Anguilla will be known as a country of smugglers, human traffickers, and drugs dealers, a people who know no law. So, what’s new about that, you may ask?

A speech prepared at the request of the Anguilla Bar Association Council for delivery at a special sitting of the Court in Anguilla at a ceremony to mark the 50th anniversary of the Eastern Caribbean Supreme Court,

**but which was never delivered due to
cancellation of the event.**