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REPORT OF THE COUNCIL
OF THE
JAMAICAN BAR ASSOCIATION

FOR THE PERIOD JUNE 2008-APRIL 2009

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A. ABOUT THE ASSOCIATION

The Jamaican Bar Association was incorporated on the 16th January 1973 as a Company Limited by the Guarantee under the Companies Act and was subsequently granted exemption from having to use the word " Limited" in its name.

Membership is voluntary and at the date of this report, there are over 1,200 members with over 40 new members having joined during the past year.

The Association is in the process of compiling and publishing its first Directory of Members, which, it is hoped, will be published on an annual basis.

A1. ADMINISTRATION

The Association is administered by a Council comprising the President, Vice President, an immediate Past President and twenty (20) members. The three (3) Regional Bar Associations are also entitled to have one (1) observer each on the Council. During the period covered by this report the Council had nine (9) regular meetings and one (1) special meetings.

The names of the Council members and their record of attendance are set out below.

NAME		Meetings Attended
Mrs Jacqueline Samuels-Brown	President	10
Mr. Ian Wilkinson	Vice President	8
Mr. Gavin Goffe	Secretary	10
Capt. Paul Beswick	Assistant Secretary	6
Mrs. Janet Morrison	Treasurer	8
Mr. Stuart Stimpson	Assistant Treasurer	7
Dr. the Hon. Lloyd Barnett, OJ		7
Ms. Norma Linton, QC		6
Mrs. Pamela Benka-Coker, QC		6
Senator the Hon. Dorothy Lightbourne, QC		0
Ms. Hilary Phillips, QC		8
Mr Patrick Bailey		5
Ms. Carol Vassall		3
Ms. Nancy Anderson		4
Mr Donovan Walker (<i>council member since Jul. '08</i>)		7 of 9
Mrs. Sandra Minott-Phillips		6
Ms. Jacqueline Cummings		6
Mrs. Michéle Champagnie		5

NAME		Meetings Attended
Mrs. Sharon Usim		8
Ms. Deborah Martin		7
Ms Sherry-Ann McGregor		10
Ms. Katherine Francis		6
Mr John Leiba	Immediate Past President	6
Ms Keri Johnson	Observer from Cornwall Bar Assn	7

A2. STAFF

The present staff complement includes Ms Sandra Tapper, General Manager; Ms Antoinette Wilmot, Secretary; Ms. Karen Pellington, Office Assistant and Ms Sophia South, Office attendant at the Supreme Court and the Court of Appeal. The JBA shares with the General Legal Council the services of Ms. Eulalee Steele.

A3. THE BAR OFFICE

The Reading Room in the Bar Office is available for use by members. It contains a small library with many international legal periodicals. There is also a set of Halsbury Laws, the UK Supreme Court Practice and the Jamaica Law Reports.

The beautiful specially built Conference table and chairs adorn the Conference Room, which seats 25 persons. The air-conditioned conference room is available to be rented for meetings.

B. THE PRESIDENT'S REPORT

THE ASSOCIATION'S OBJECTIVES

It is well to remind ourselves of the objectives of the Jamaican Bar Association as we review our work and activities over the past year. Our objectives as listed in our mission statement are:

- To strive for the maintenance and strengthening of the Rule of Law and Human Rights;
- To protect the independence of Judges and Attorneys-at-Law;
- To work towards law reform and the improvement of our legal system;
- To offer service to our system of justice and to those in need of our aid and protection;
- To foster basic and continuing legal education; and
- To promote the integrity and good name of the legal profession in Jamaica

TOWARDS A STRONGER MORE VIBRANT ASSOCIATION

The year past has provided us with many opportunities to demonstrate our commitment to these objectives and to assess our abilities to consistently fulfill these goals. The work of the Association continues to be carried mainly by a core of dedicated members; spanning practitioners recently admitted to the Bar as well as practitioners of extensive experience and proven expertise.

One of my aims in taking up position as president has been to increase interest and participation in activities of the Association by members of the profession. The debate continues as to the practicality and efficacy of compulsory or voluntary membership in the association.

However, in the meantime, I am of the view that we can significantly increase membership and participation if we demonstrate to members the value and utility of the Jamaican Bar Association. Through our website we have utilized a readily accessible medium to make attorneys and others aware of our activities and other matters of interest to the profession. We have had feedback from members on its incremental but significant improvement over the 6 years it has been in existence as we have made a conscious effort to maximize its use. We welcome further comments and suggestions and urge you to visit it on a regular and frequent basis at www.jambar.org.

I have provided Updates on a four to six weekly basis, in which I have sought to inform members of developments and activities affecting the profession at home and abroad: invitations to international and regional conferences, local workshops and seminars of value to the profession, suggestions from individual members of potential benefit to the profession, highlights from meetings of Council and the subcommittees; in particular the Bench and Bar Consultative Committee.

These Updates are now sent to all members working on sub-committees, the heads of regional Bars, the Advocates Association and the Norman Manley Law School administration. I would certainly recommend that the practice continues and be expanded to include all those on our e-mail list who have indicated the desire to be so updated, utilizing the software that will in the future, protect the email address of each recipient.

Indeed there has been positive feedback from many recipients, some of whom have taken the time out to email me their expression of appreciation. We have reinstated the tradition of a Welcome Package prepared for each new admittee to the Bar and distributed them at the admission hearing at the Supreme Court on November 20, 2008. The new lawyers have expressed their appreciation for this gesture and the useful information provided in their packages.

I am pleased to report that the Council has continued to invite observers from the regional bars to join us in Council meetings and we would like to express special thanks to the Cornwall Bar as well as the Southern Bar for the representatives they have deputed to attend our meetings and whose input has been of significant value in broadening our discussions.

As I informed members when I took office I established an email address exclusively for communication with you on bar matters raisethebar.jm@gmail.com . I wish to thank you all for your feedback to me and to Council as a whole and for your many suggestions.

At this time I ask that you pause with me as I say thanks to all. Dr Lloyd Barnett, O.J, who has been a member of council for over years and who has indicated that he will not stand for re-election. Dr. Barnett's contribution to the Association, the profession and regional organizations is indeed stellar and his invaluable inputs at Council will be greatly missed.

PROTECTION OF THE INDEPENDENCE OF JUDGES AND ATTORNEYS-AT-LAW

One of our objectives is to protect the independence of Judges and Attorneys-at-Law. You would have noticed that this year for the first time judicial vacancies have been advertised. This is a position that our Association has advocated for over the years as we have always believed that this can only serve to enhance a strong and independent judiciary. Through our own website and by the Updates we have reminded members of the vacancies and encouraged applications from all sectors of the Bar.

We have worked through the Bench and Bar sub-committee to discuss and devise collaborative solutions to matters affecting our profession as a whole and as an added mechanism for vigilance and protection of the Integrity of the profession.

MAINTENANCE AND STRENGTHENING OF THE RULE OF LAW IMPROVEMENT OF OUR LEGAL SYSTEM

Anyone who visits our website or pays attention to the public media would be aware that Council has made significant contributions to debates around legislative bills by which it is proposed to amend laws or introduce new ones. While those relating to criminal law and civil liberties usually take center stage in the public eye there are several other bills that have been sent to us for our comments and proposals; affecting commercial, financial, conveyancing and other matters relating to the dispensation of justice. Counsel have been generous in their suggestions for structural improvements, making conveyancing more expeditious and attacking the vexed question of the backlog in the courts and Supreme Court in particular.

This last has been the subject of discussion at our Council meetings and the meetings of Bench and Bar Consultative Committee and I have had meetings with our Chief Justice to discuss this issue. I have also been asked for my comment on this by the media, particularly as it affects divorces. Our Publications Committee hosted a seminar at which presenters discussed ways of improving and expediting the processing of divorce petition. Very recently practitioners including myself met with the Chief Justice, judges and registrars to discuss this very issue and it is hoped that the practical solutions discussed and agreed upon will result in improvements.

I wish to thank those persons who you and others who have given hours of service on the committees that have considered these and other questions and who have given thought and expression to measures to improve the justice system. In this way you have made significant contributions to the maintenance and strengthening of the rule of law and human rights and towards law reform and the improvement of our legal system.

We have raised at the Bench and Bar Consultative Committee meetings the need for a Registry of the Supreme Court in the Western Region of the island. We have been assured that it continues to be under consideration but must await the allocation of more resources by the Ministry.

All stakeholders agree that whatever other steps we may take, the provision of greater resources is essential to an improved justice system. A visit to the Registry with its inadequate space to house staff and material provides a practical example.

There is no doubt that many via our website we directed you to our Attorney General's address to the senate in which she set out the government's five (5) year plan for the justice system.

We invite you all to read it, critically assess it so that together we can hold our Executive and Legislature to its declared commitment to the rule of law. Our association invested significant time and resources in the deliberations of the Justice Reform Task Force and we must continue to work on an informed basis with those responsible to ensure that the necessary reforms are made. Our participation in public debates and discussions on legal issues, our participation on committees considering law reform such as that reviewing the amendments to the Evidence Act which is still ongoing. I continue to represent the Bar on this committee at the invitation of the Attorney General. The deliberations are due to come to an end soon whereupon a report will be submitted.

FOSTER BASIC AND CONTINUING LEGAL EDUCATION AND LAW REFORM

One other of our objectives is to foster basic and continuing legal education. This of course encompasses the work of the Continuing Legal Education sub-committee but extends beyond that. Similarly, our participation in local and international conferences enhances our development as professionals. Of course, our objectives overlap so, for example, our participation in debates regarding law reform. Our presentations at Joint Select Committees of Parliament considering law reform, our presentations on committees considering law reform also serve the purpose of fostering basic and continuing legal education and law reform.

In this regard too special mention must be made of the successful Commonwealth Lawyers Association Anniversary Conference held in Montego Bay between October 16 to October 19, 2008. The presentations were of high quality and in attendance were 250 participants. It was hard work but well worth it and despite glitches, mainly outside of the local organizing committee's control, the general view is that the conference was a credit to our Bar and our nation.

Additionally we have accepted invitations to make presentations to local bodies. On November 14, 2008, I participated as a speaker at the conference sponsored by the Medical Association of Jamaica on Forensic Medicine in the Criminal and Justice Arena: A View From The Private Bar. During the course of the year our views were sought on many proposed legislative changes. The Crime Bills took center stage and I sat on a committee set up by the Attorney General to review proposals by the security sector thereafter.

The Hon. Prime Minister invited me to attend a briefing on crime plan strategy and the Jamaica Defence Force also invited the President to present at its forum on the same subject. Similarly a Gleaner Editions Forum was convened to discuss the topic and the President was again invited to send a representative. In these two instances the de facto chair of the Criminal Law sub-committee represented the Association on deputizing on behalf of the President. In December 2008 a special meeting of the Association was convened to discuss the proposed resumption of hanging. A statement was issued by the Bar arising out of the deliberations of that meeting.

As the report of the Publications sub-committee shows new life has been breathed into our Publications sub-committee and it is expected that significant contributions will be made to basic and continuing legal education.

PROMOTING THE INTEGRITY AND GOOD NAME OF THE LEGAL PROFESSION.

One of our major objectives is to promote the integrity and good name of the legal profession. Our profession is self regulatory and most practitioners maintain admirable ethical standards and live up to the high traditions of the Bar.

The mandate of the Disciplinary Committee of the General Legal Council is well known and/or easily accessible. That aside, the Jamaican Bar Association has a role to play and has played the role of providing guidance to young and errant professionals and providing informal mediation in disputes that develop relative to the individual performance of responsibilities.

Several times this year I have been informally asked to mediate in such matters and have been able to clear up misunderstandings. I believe there is a place for a formal mediation committee of the Bar to be established, as exists in other professional associations in Jamaica. This could foster expeditious resolution of complaints and augment the powers of the Disciplinary Committee of the General Legal Council. This indeed is the direction in which our legal system has moved as a whole; note court mandated mediation in civil matters and its increasing use of criminal cases.

During the past year, the Council has publicly come to the defence of the profession where this has been appropriate without sacrificing the high standards we hold dear. In particular, an unfortunate designation of attorneys in derogatory terms attracted much public attention and debate. The Council issued a public statement in response, invited our "critic" to dialogue with us on the matter and engaged our Chief Justice in discussions regarding our concerns and the slur cast on our profession.

There have been other instances of attacks on Counsel and the profession. When these matters are reported to me they are brought to Council's attention and/or representations made on behalf of the relevant counsel. In at least two instances we have been assured of investigations by the relevant authorities.

Annually, the Norman Manley Law School organizes seminars for incoming students and later on for those due to graduate. On both occasions I accepted invitations to address the students on ethical issues, professional expectations and the Rule of the Bar Association.

SERVICE TO OUR SYSTEM OF JUSTICE AND TO THOSE IN NEED OF OUR AID AND PROTECTION

From time to time the Bar through its representatives is asked to participate in public functions and debates. This year as is usual we participated in the Assizes Service held at the East Queen Street Baptist Church on September 14, 2008. Several of our members were in attendance and I presented a message on behalf of the Association. We continue to be represented on the Legal Aid Council and our new nominee is Ms. Jacqueline Cummings. Our Vice President kindly substituted for me as a presenter at the Media/Court Reporting Conference on September 5, 2008 and also represented the Bar at a panel discussion on the All Angles Programme, TVJ.

The President of the Bar Association is by virtue of this office a member of the Board of the Dispute Resolution Foundation and in this capacity I have participated in its activities including participating in a Press Conference commemorating its 15th anniversary. Together with Ms. Hilary Phillips, Q.C., I represented the Jamaican Bar on the Council of Legal Education which

by law and treaty governs the law schools. Ms. Phillips, Q.C. and I attended a meeting of the Council and later I attended a meeting of its executive in this capacity.

I requested of the newly appointed Commissioner of Police and Minister of National Security that they permit a delegation from the Bar to make a courtesy call on them. This was facilitated and I extended the invitation to members of the regional bars to join us in these meetings. I met with the Commissioner of Police together with a small delegation constituted of members of Council, the Criminal Law sub-committee and a representative from the Northern Bar. I also met with the Minister of National Security both gentlemen were very cordial and accommodating as we discussed matters of mutual agreement and accepted in principle the need for continuing dialogue.

The Council hosted a cocktail reception for the delegation of the Caribbean Court of Justice whose visit to Jamaica coincided with the Commonwealth Lawyers Association Anniversary Conference in October 2008 and I made a presentation on behalf of the Bar at its Public Education Seminar. I have accepted various other invitations on behalf of the Bar.

CONCLUSION

In all these things we have carried out our objective of service to our justice system and those in need. We thank you for your support but more of us need to be more active and I invite you to do so as together we strive to continually raise the Bar.

JACQUELINE SAMUELS-BROWN

PRESIDENT

C. Reports of the Standing Committees of the Association

In addition to the Council which is principally charged with the duty of carrying out the work of the Association, the Committees of the Association provide Council with invaluable assistance in assessing legal issues and developments in the law which impact members and the country generally. The work of the Committees has been reflected in many of the topics dealt with in detail in the President's report. The Chairperson of each Committee was asked to supply a summary of the activities of his /her Committee during the period of this report.

C1. ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

Loretta Reid-Pitt – Chairperson

Malcom Arthurs (off island)
Salma Aitcheson
Juliet Bailey
John Bassie
Yvonne Bennett
Carol Bernard-Madden
Verleta Green
Camille Lee

Audre Lindo
Margarette Macaulay
Verna Madden-Miller
Ronald Mason
Donna McIntosh Brice
Janet Nosworthy (off island)
Alexis Robinson
Stephen Shelton

Sharma Taylor
Natalie Wilmot-Corthesy
Lesa Wilkinson

Maliaca Wong
Norman Wright

The Alternative Dispute Resolution (ADR) Committee continued to hold regular meetings during the last year. The Committee has continued to collaborate with the Dispute Resolution Foundation on court-connected mediation in the Supreme Court and Resident Magistrate Courts, with one-half of the active members serving on the Supreme Court roster of mediators.

A number of the Committee members are involved in the Caribbean Chapter of the Chartered Institute of Arbitrators. A highlight of the year was the January 2009 meeting at which Chartered Arbitrator Mr. Maurice Stoppi attended as guest speaker. A representative of the Committee has served on the DRF's Fifteenth Anniversary Planning Committee. During the upcoming year, the Committee looks forward to partnering with the DRF on a Jamaican Bar Association Continuing Legal Education seminar as well as the 4th Caribbean Conference on Dispute Resolution. The Committee would like to enhance its capacity in Alternative Dispute Resolution through the attendance by a delegation at the Association for Conflict Resolution Conference that will be held in Atlanta, Georgia, U.S.A. in the last quarter of 2009.

C2. BENCH & BAR CONSULTATIVE COMMITTEE

Mrs Jacqueline Samuels-Brown – Chairperson
Her Ladyship, the Hon. Mrs. Justice Zaila McCalla, OJ, Chief Justice – Co-Chairperson
Gavin Goffe – Secretary
His Lordship, The Hon. Mr. Justice Seymour Panton, OJ
His Lordship, The Hon. Mr. Justice Karl Harrison
His Lordship, The Hon. Mr. Justice Lloyd Hibbert, QC
Her Ladyship, The Hon. Mrs Justice Marva McIntosh, CD
Her Ladyship, The Hon. Mrs Justice Paulette Williams
Paula Llewelyn, QC, CD Director of Public Prosecutions
Her Hon. Mrs. Pansy Primo-Griffiths, R.M.
The Master, Mrs Audrey Lindo
The Registrars of the Supreme Court
Hugh Salmon, Director of State Proceedings
Mr Ian Wilkinson
Dr. the Hon. Lloyd Barnett, OJ
Hilary Phillips, QC
Norma Linton, QC
Carol Vassall

The Bench & Bar Consultative Committee held three (3) meetings in the last year. The main issues on the agenda this year were:

- Addressing the Backlog in the Civil and Criminal Courts
- The Robing Room at the Supreme Court
- The proposal for a Judicial Code of Conduct
- The Introduction of Court Reporting Technology in the Supreme Court
- The Service of Summonses at the Sutton Street Resident Magistrate's Court

The primary purpose of the Committee is to open the communication lines and collaborate with the judiciary, the Attorney-General's Chambers and the Director of Public Prosecutions to assist in improving the delivery of justice.

The Committee continued to pay special attention to the backlog in the Criminal and Civil Courts. Among the measures and recommendations for reducing the backlog were the collection of data to identify the reason that a criminal case is not tried on the scheduled date; the better utilization of applications made under section 31D of the Evidence Act; having weekend workdays for Registry staff to complete filing of documents; the electronic dispatch of requisitions in Divorce matters and the revival of the provision list of cases ready for trial.

The Committee has recommended the implementation, on a trial basis, of a fixed week every term for Settlement Week, and the proposal is for the last full week of each term to be Settlement Week.

The location of the Family Court and the Traffic Court was a matter of grave concern with the Committee expressing the view that the Ministry of Justice should be urged to relocate both of these courts to better serve the needs of all stakeholders.

While recognizing the reason for restricting the service of summonses at the Sutton Street RM Court, it was agreed that the new measures were not intended to, and ought not to affect legitimate persons trying to serve processes themselves.

It is hoped that a seminar will be arranged in future so that practitioners, Judges and the Registry staff may share experiences and solutions for improving the justice system.

C3. CIVIL PROCEDURE AND PRACTICE COMMITTEE

Michèle Champagnie- Chairperson (up to Jan. 2009)

Carlene Larmond Chairperson (since Jan 2009)

Lisa Russell – Convenor (up to Jan 2009)

Shuana-Kaye Hanson Convenor (since Mar 2009)

Yvonne Bennett

Dr. Adolph Edwards

Katherine Francis

Rudolph Francis

Daniella Gentles

Sundiata Gibbs

Georgia Gibson-Henlin

Seyon Hanson

B. St. Michael Hylton, QC

Christopher Kelman

Julianne Mais-Cox

Sherry-Ann McGregor

Stephany Orr

Dale Palmer

Charles Piper

Kevin Powell

Jerome Spencer

The members of this sub-committee continue to display a keen interest in the administration of the civil jurisdiction of our Courts. The Committee has actively continued its work of reviewing the Civil Procedure Rules 2002 and related case law, and submitting comments to the Rules Committee of the Supreme Court for its consideration.

Practitioners who have encountered difficulties with the application of the Rules, or who wish to contribute to improving any aspect of them, are encouraged to bring such matters to the attention of the Committee so that appropriate representation can be made to the Rules Committee.

As is the case with most of the other sub-committees of the Jamaican Bar Association, efforts have to continue to increase membership and to encourage members to attend regularly so that work flow management can be better dealt with. In early 2009 the Committee saw changes both in its chairmanship (from Mrs. Michéle Champagnie to Miss Carlene Larmond in January 2009) and in the post of Convenor (from Miss Lisa Russell to Miss Shuana-Kaye Hanson who assumed duties in March 2009). The Committee is grateful to Mrs. Champagnie and Miss Russell for their stellar contribution.

The Committee is desirous of making presentations from time to time for the seminars put on by the Continuing Legal Education Committee of the Jamaican Bar Association, and invites practitioners to identify, either through any of our members or the Bar's office, any area in civil practice and procedure which they think deserving of a presentation and public discussion.

The immediate past Chairperson and the current Chairperson thank all members for their support during the past year. We look forward to a vibrant year.

C4. COMMERCIAL LAW COMMITTEE

Hilary Reid Chairperson
Jerome Lee - Past Chairperson
Grace Lindo Convenor

Richard Ayoub
Keri-Gaye Brown
Michéle Champagnie
Dylan Coke
Robert Collie
Lilieth Deacon
Dave Garcia
Sundiata Gibbs
Peter Goldson
Tamara Green
Denise Kitson
Nicole Lambert
Tracey Long
Patrick McDonald
Glenroy Mellish

Roxanne Miller
Janet Morrison
Janelle Muschette-Leiba
Gina Phillipps-Black
Kim Robinson
Yanique Stone
Robert Taylor
Julie Thompson
Lilieth Turnquest
Michelle Walker
Donovan Walker
Audrey Welds
Nadine Wilkins

The Commercial Law Sub-Committee met regularly (in seven of eight monthly scheduled meetings) during the period under review (June 2008 – March 2009) and had good participation from a reasonable attendance of members. The Committee expressed a hearty thank you to Jerome Lee who stepped down from the role of Chairperson in January 2009 after serving selflessly for over ten years. We are thankful that Jerome remains a member of the Committee and continue to look forward to his valuable contribution to the Committee.

The Committee's discussions over the period covered many topics facing practitioners including anticipated changes to the laws regarding pensions, insolvency and bankruptcy, securities legislation and the practical difficulties facing practitioners in dealing with some government agencies, such as the Office of the Registrar of Companies.

The Committee holds meetings with key persons in industry in order to encourage the sharing of information and dialogue on issues of importance to practitioners. The Committee has

during the period met with persons from the Financial Services Commission (“FSC”) to learn about new rules and guidelines recently issued or anticipated from the FSC, including, how the FSC views and hopes to deal with unregulated financial organizations. The Committee also sat down with Mr. Eric Crawford, Chairman of the Advisory Committee appointed by the Government to assess and implement an International Financial Services Centre in Jamaica.

The Committee remains concerned that 5 years after the passage of the “new” Companies Act neither the transitional provisions dealing with “old” companies “transitioning” to the new regime (originally anticipated as a ‘quick fix’) nor the more substantive “tidying up” amendments needed to the Act have been addressed. The Committee continues to agitate for these matters to be addressed.

We still await the proposed legislation to deal with the 2nd stage of the pension law reform.

A sub-committee to review and modernize the existing insolvency legislation had commenced work but work ceased after the resignation of the Chairman, the former Trustee in Bankruptcy. Work has not yet restarted.

The committee is also currently reviewing the Credit Reporting Bill presently being debated by a Joint Select Committee of Parliament and will, in a joint effort with the Conveyancing Committee, be reviewing the concept paper regarding timeshare legislation put forward by the Ministry of Tourism.

We look forward to a vibrant year. On behalf of the immediate past Chairman and myself, I wish to express my appreciation to members of this Committee for the work and support during the past year and look forward to continued participation and achievements.

C5. CONTINUING LEGAL EDUCATION COMMITTEE

Alton Morgan- Chairman

Stacey-Ann Soltau-Robinson Convenor (since Mar. 2009)

Nancy Anderson

Dr the Hon. Lloyd Barnett, OJ

Jacqueline Cummings

Carol Davis

Norman Davis

Suzanne Ridsen Foster

Margaret Moodie Jervis

Christopher Malcolm

Hilary Phillips, QC

Donovan Walker

Over the past year Committee Meetings were not held regularly due to lack of a Convenor. This problem has now been overcome with the assistance of the President who recently appointed Mrs Soltau-Robinson to that post.

The decision was taken to arrange the weekend Seminar for June to avoid the disruptions due to inclement weather experienced in 2007.

A total of two seminar events were conducted, one being the annual weekend seminar in Ocho Rios in June 2008 with a total of four topics and presentations as follows

2008

June 28-29 **Recent developments in personal injury awards**

Weekend Seminar **Divorce proceedings under the C.P.R.**

Constitutional issues of the Dabdoub/Vaz decision

October 4- **The Role of the DPP in 21st century Criminal Justice administration**
Ms. P. Llewellyn Q.C., CD – D.P.P

The format of the presentations was primarily both reading of written papers and audio visual, power-point presentations using computer linked projectors and screens. The Weekend Seminar had full capacity attendance in excess of 150 and yielded a significant return

The Seminar schedule is proving to be extremely difficult to co-ordinate due to the reluctance of the various practice area Sub-Committees to offer to make presentations.

To overcome this paucity of presenters from within the membership arrangements are being made for a series of "Workshop presentations" with the Registrar of Titles, The Stamp Office and other Departments of Government and Statutory Agencies whose services are commonly used.

Sponsorship is being sought to help defray the cost of the Seminars and to avoid them draining the Association's limited resources

C6. CONVEYANCING COMMITTEE

Basil Parker – Chairman

Nadira Ally-Soogrim

Janice Causwell

Alexander Cools-Lartigue

Adolph Edwards

Helen Evelyn

Natalie Farrell-Ross

Shelly-Anne Forte-Sykes

Ethan Sinclair

Arturo Stewart

Keith Smith

Colleen Vendryes

Andrea Rattray

A total of ten (10) meetings was held by the Conveyancing Committee during the year including special meetings with the Registrar of Titles, the Stamp Office and representatives of the Land Administration Management Programme (LAMP).

TITLES OFFICE

Reports are that the Titles Office continues to operate satisfactorily in relation to the registration of transfers, mortgages and other similar transactions, and we have been advised of impending improvements including a new-look Title and the possibility of on-line filing of documents.

The high rate of rejection of documents by the Referees of Title in relation to applications to register land, continues, however, to be of great concern to practitioners. Data from the Titles Office shows the following:

Year:	2005	2006	2007
Number of first registration applications lodged	588	692	872
Number of applications rejected	511	601	447
Number of applications approved	77	91	425

We have discussed the matter with the Registrar of Titles but it appears that the difficulties can only be resolved by the appointment of additional Referees and/or clarification on the part of the existing panel, as to the standard of proof of title required by law, particularly in relation to claims based on possession.

We have also been advised of a resurgence in the incidence of fraud at the Titles Office, particularly in relation to documents purporting to be signed by the registered proprietor and/or witnessed by persons claiming to be Attorneys-at-law or Justices of the Peace. Practitioners are therefore urged to exercise caution and to cooperate with the Registrar in implementing measures to avoid such fraud.

LAND ADMINISTRATION AND MANAGEMENT PROGRAMME

In December, we met with representatives of LAMP to discuss a proposal by Government to extend the application of the LAMP project to the entire island.

The proposal is intended to provide an opportunity to a large number of Jamaicans to obtain registered title for their lands, as well as access to credit.

REGISTRATION (STRATA TITLES) ACT

We are in the process of reviewing proposals to amend the Registration (Strata Titles) Act to address, inter alia, the long-standing problem of delinquency in the payment of maintenance charges and the consequential difficulties with insurance and repairs in apartment complexes.

STAMP OFFICE

Delays by the Stamp Office in estate matters, as well as in the assessment of Transfer Tax, refunds and the cross-stamping of transfers, continue to be a matter of concern to practitioners, and we are seeking audience with the policy makers to address this long-standing matter.

C7. CRIMINAL LAW (PRACTICE AND PROCEDURE) COMMITTEE

Deborah Martin – Chairperson

Althea McBean – Secretary

Nancy Anderson

Fabian Campbell

Leroy Equiano

Tamika Harris

Norma Linton, QC

Thalia Maragh

Patrick Peterkin

Valerie Neita-Robertson

Richard Small

Maurice Saunders

Jacqueline Samuels-Brown

The Committee had to address several critical areas of the law and the legal system which arose during the course of the year.

The first such was the extension of time the security forces would be permitted to detain citizens before they were charged. A survey was carried out by the Committee among

members of the Criminal Bar in order to gather data on the number of persons who had been detained for a period of over one week without ever being charged. The information gathered was used to support our position on the debate that the time should not be extended from 24 hours.

The Ministry of Justice also prepared a research paper on the Prosecution's Right to Appeal which reviewed the law on the right to appeal in other Jurisdictions and indicated that we should adopt legislation in Jamaica which would give the prosecution the right to appeal against an acquittal or a ruling of a Judge which terminated proceedings. The Committee submitted a response to the paper which stated that we were not in support of any such legislation because of long standing legal principles such as the presumption of innocence, *autre fois* acquit, the constitutional right to a fair hearing within a reasonable time, imbalance in the powers and resources between the State and a sole Defendant, and because in the other Jurisdictions considered, the right to appeal by the Prosecution was only permitted in a few Jurisdictions and generally against rulings on legal submissions and in rare cases of acquittals secured by fraud.

Furthermore the response from the Committee expressed the view that we should guard against the trend to erode Constitutional rights and principles.

Other pressing developments which the Committee had to consider were Capital Punishment, majority verdicts in murder matters and amendments to the Jury Act.

There seemed to be a trend of a shift in power from the Judiciary to Parliament, which should be guarded against. The Committee expressed the importance of the Bar Association being aware of all Drafts and Bills tabled in Parliament as well any policy directions which impact on the Constitution and requested that copies of these be provided to the Bar Association at the earliest opportunity.

The Committee also expressed the view that in the Government's quest to fight and reduce crime, more emphasis needed to be placed on the efficiency of the Justice system, the capacity of the police force to solve crime, the development and improvement of forensic and DNA testing, and other areas which would improve the solving of crimes as opposed to the wide scale amendments in legislation being pursued.

It was suggested that a position paper be prepared on the deficiencies in the Justice system with the hope of bringing about improvement in these areas. This will also point out and disprove the myth that the backlog and delays in the system are not as a result of Defence Attorneys.

Another important issue which was addressed was the review of Legal Aid Fees. A proposal for the review of the existing fee structure was submitted to Mr. Hugh Faulkner, the new Director of the Legal Aid Council and is now being considered.

The Committee felt that there was a greater need for the public to hear from the Bar Association on issues of national importance such as the Death Penalty and so a suggestion was made for a Public Relations Committee to be convened. The Committee is concerned that the Bar is always in a responding position, making us appear to be obstructive, and that we should be more proactive in raising issues of National concern and advancing our views.

It was also noted that there has been a gradual erosion of practices in the Court which are time-honoured and accepted and that younger practitioners are not being made aware of the proper procedures as it relates to the rules and etiquette of the Court. For instance there is an alarming trend and acceptance of Crown Counsel routinely visiting Judge's Chambers in the absence of Defence Counsel, which should not be so. Counsel from the Director of Public

Prosecution have also determined that they should occupy the front bench in Court and so Attorneys in criminal trials are routinely seen addressing the Court and conducting trials in the bench behind Crown Counsel. Documents are served during the course of a trial and we are losing the right to object because this is becoming accepted.

It was noted that there has been a lack of Continuing Legal Education Seminars on Criminal Law areas and this needs to be addressed.

During the course of the past year, we again made efforts to increase participation from the Criminal Bar. However practitioners seem to be of the view that if they are members of the Advocate's Association, there is no need to join the Bar Association. We wish this issue could be addressed so that sole practitioners and practitioners at the criminal Bar continue to form a part of, and contribute to the Bar Association.

C8. FAMILY LAW COMMITTEE

Debra McDonald – Co-chairperson
Michelle Shand – Convenor

Carol Aina
Nancy Anderson
Kayann Bali
Michèle Champagnie
Vashti Chatoor
Katherine Francis

Gloria Langrin
Stephany Orr
Suzanne Ridsen-Foster
Patricia Roberts-Brown
Sheila Tomlin
Sharon Usim

In an effort to address the requirements of the new forms for divorce and nullity proceedings in the Supreme Court, the Committee hosted a seminar/panel discussion at the June 2008 seminar put on by the Continuing Legal Education Committee.

Mr. Charles Pennycooke then the Deputy Registrar handling the divorce matters was a part of the panel. The presentation was well received and a lively and useful discussion followed.

We continue to be concerned, and are in fact alarmed at the state of Divorce matters at the Supreme Court.

The main issues are as follows:

1. Petitions and applications are still being rejected for reasons which are inconsistent. Each Deputy Registrar and Judge appears to have his/her personal list of reasons for rejection. The result is that if one files 5 identical petitions at the same time, they are likely to progress at very different rates through the system. this leads to a great deal of uncertainty.
2. There is no reasonable method of tracking the progress of applications for Decrees Absolute and Nisi. Once filed, no information is available as to the whereabouts unless a requisition is received.
3. Even when applications appear on the court list this is meaningless, as follow up information as to whether the application was granted or not is not available, even weeks afterwards.
4. There is no way in which a reasonable estimate of the time period for a divorce may be made and passed to clients.

5. The manner in which matters are listed is cause for concern as it appears that some attorneys always manage to get several matters on each list.
6. The rate at which Petitions are being processed and returned for service is also cause for concern.
7. The rate of hearing of applications for Decrees Nisi and Absolute appears to be nil.
8. The issuing of the formal decrees Absolute and Nisi has trickled to almost a standstill.
9. The frequency with which documents (including marriage certificates) filed are mislaid is far too great.

As a result of the foregoing (inter alia), most Attorneys practicing in this area are making absolutely no progress on their matters. Apart from the tremendous personal frustration of the attorneys, they are also at a loss to explain these many problems to their clients who often blame them for the delays. It is very difficult for us to comprehend, much less to explain to a lay person that this has become the norm.

The Committee is of the view that the matter has reached crisis proportions and that the Bar association should convene a special meeting, to which the stakeholders (including the Chief Justice) are invited in order to discuss possible solutions, and a way forward .

The Committee is currently looking at hosting a presentation/panel discussion on the provisions of the Childcare and protection Act.

Our membership remains at 14; however we continue to struggle to make our quorum with our core group of 5 whom we thank for their dedication.

We renew our invitation to all Attorneys-at-Law who are members of the Bar association, (in particular active Family Law practitioners) to join the committee.

C9. INTELLECTUAL PROPERTY COMMITTEE

Anne-Marie White-Feanny – Chairperson

Sanya Goffe – Convenor

Yvonne Bennett

Analisa Chapman

Kathryn Cousins

Dianne Daley

Deidre English-Gosse

Peter Goldson

Stephen Greig

Judith Hanson

Reba Harper

Grace Lindo

Roxanne Miller

Simone Pearson

Hilary Reid

Andrea Scarlett-Lozer

Kaydian Smith

Joanne Wood-Ratray

Norman Wright

Ronald Young

The Intellectual Property Committee of the Jamaica Bar Association has had another productive year. The Committee has grown in number and the increased level of enthusiasm of Committee Members has been inspiring.

During the past year, The Committee has continued to focus its attention on the amendment and overall improvement of several pieces of legislation that affect the practice of intellectual property. Most importantly these include the Patent Bill, amendments to the Trade Marks Act and Rules and the Regulations to Geographical Indications Act.

The Committee has worked closely with the Jamaica Intellectual Property Office (JIPO) in resolving issues that affect members in the efficient running of their practices and is encouraged by the positive and enthusiastic efforts of JIPO in this regard.

The Committee anticipates another exciting and productive year and hopes to continue to make valuable contributions to the Bar Association and Jamaica.

C10. MEMBERSHIP COMMITTEE

Ian Wilkinson	Chairman	
<u>Sashawah Grant-Newby</u>	<u>Convenor</u>	
Audrey Allen		Haydee Gordon
Danielle Archer		Jade Hollis
Yvonne Joy Crawford		Nigel Park
Ann-Marie Feurtado-Richards		Jerome Spencer
Katherine Francis		

The year under review was an interesting one for the Membership Committee (*"MC"*) of the Jamaican Bar Association as it concentrated on the renaissance of the mentorship programme. Among other things done were the updating of the criteria to be appointed or selected a mentor and the honing of the list of mentors to approximately one hundred and fifty (150) persons.

The MC also actively sought to increase the membership of the JBA by especially encouraging young attorneys-at-law to join, highlighting the various benefits of membership. This was met with some success. The MC also assisted in the collection of outstanding dues to the JBA.

The MC supported the initiative of having students of the law school become a special class of member of the JBA with limited rights. In the future, the MC will be aggressively pursuing the implementation of various plans including taking steps to make becoming a member of the JBA easier (for example, new members will not have to be nominated etc.) and the staging of periodic functions for young attorneys-at-law and their mentors.

C11. SOCIAL AFFAIRS COMMITTEE

<u>Sanya Goffe – Chairperson</u>	
Yualande Christopher	Emile Leiba
Dylan Coke	John Leiba
Robert Collie	Grace Lindo
Shuana-Kaye Hanson	Gisele Morgan
Jade Hollis	Janet Morrison
Melissa James	Janna Patel
Denise Kitson	Hilary Phillips, QC

Stacia Pinnock
Candice Stewart

Ronald Young

The Social Affairs Committee had an eventful and successful year of activities and fundraisers. The annual Bar Dinner was overwhelmingly supported by members who enjoyed themselves in the company of family, friends and colleagues as two stalwarts of the profession, The Hon. Mr. Justice Paul Harrison O.J and The Hon. Mr. Emil George, O.J, QC, were honoured by the Association.

The Committee partnered with the CLE Committee and Kingston Bookshop to have a Book Fair which coincided with the Association's October 2008 CLE held at the Norman Manley Law School. Legal texts, journals and other useful reference material were sold to members at drastically discounted prices.

Our annual fete, BAR BEAT, was held at the Village Café in November. The venue was nearly filled to capacity with patrons dancing to good music and having fun all night.

In May 2008, the Committee made a donation of clothes, shoes and books to the girls at the Glenhope Place of Safety and in December put on a 'Movie & Christmas Treat' for them. The girls enjoyed being at the "movies", complete with refreshments. Of course, as is customary each girl received a Christmas gift from the Association

The Committee is looking forward to another year of exciting activities geared at bringing members of the Association together. Members are encouraged to support and participate.

C12. TELECOMMUNICATIONS, BROADCASTING & TECHNOLOGY COMMITTEE

Nicole Foga - Chairperson
Analisa Chapman – Secretary

Dianne Daley	Roxanne Miller
Dianne Edwards-Davis	Stacey Mitchell
Deidre English-Gosse	Wayne McGregor
Georgia Gibson-Henlin	Arturo Stewart
Sonia Gill	Shena Stubbs
Gavin Goffe	Sharma Taylor
Stephen Greig	

MEETING SCHEDULE

The TBTC meets monthly at 7 Stanton Terrace, Kingston on the last Wednesday of each month at 4:30 p.m. and welcomes persons interested in the legal issues related to information and communication technology and the use of technology in law practice management. Ten (10) meetings were held from April 2008 to March 2009.

ISSUES DISCUSSED

The Use of Technology in the Administration of Justice

The TBTC met with the Chief Justice in July 2008 to update itself on the current status of the automation of the legal system and to discuss how technology could better be deployed in the

Courts throughout Jamaica. Emerging out of the meeting the TBTC agreed to prepare a project proposal for the use of technology in the administration of justice.

Electronic Transactions Act

The Director General of the Ministry of Energy, Mining Technology and Telecommunications met with TBTC members at its June 2008 meeting to discuss the Electronic Transactions Act and the next steps in e-commerce deployment.

The Committee also discussed harmonization of Jamaica's E-legislation with other CARICOM territories.

February 2009 Draft Telecommunications Policy

The TBTC sent written comments on the updated draft telecommunications policy to the Ministry of Mining and Telecommunications. The Committee in its general comments noted that the policy was much wider than telecommunications as it could be described as an Information and Communication Technology policy. The Committee expressed concern that the policy needed to address the expeditious resolution of telecommunications disputes and place more emphasis on the need to preserve the independence of the telecommunication regulator and safeguard it from regulatory capture.

EMERGING ISSUES DISCUSSED

The following issues emerging in the areas of telecommunications, technology, and broadcasting were also discussed: the use of technology in the broadcasting of the Olympics and the exploitation of the Olympians, the digital switchover in the cable industry, the use of material on the internet as a substitute for expert witnesses and the directives issued by the Broadcasting Commission concerning the prohibition of the transmission of certain kind of content by licensees.

D. FINANCIAL STATEMENTS

Audited accounts of the Association to be tabled at the Annual General Meeting were posted on the Web site www.jambar.org to be reviewed by members prior to the meeting.

E. SUBSCRIPTIONS

The Association continues to struggle from the lack of financial support from members in the form of payment of annual subscriptions. A significant amount of time and effort has been expended in a drive to collect the arrears from members, with the result that over \$700,000 was collected between December 2008 and March 2009.

Notwithstanding, a significant number of members continue to be in arrears of subscriptions, which are the Association's main source of support. Members who do not pay their subscriptions continue to cause the Council great concern.

Article 3 (b) of the By-Law allows for the suspension or expulsion of any member who has failed for six (6) months after demand in writing to pay his subscriptions. This provision has not been invoked in the period under review, but the Council has expressed an intention to consider its use in the coming year.

F. THE HOME OF THE BAR: JAMBAR HOLDINGS LIMITED

Jambar Holdings Limited was incorporated on the 15th November 1989, *inter alia* to acquire the assignment of the lease of 78-80 Harbour Street, renovate the building and manage the property. The Association is the majority shareholder. A number of individual attorneys and firms also hold shares, as well as the General Legal Council and Mentors Limited, an associated company of PriceWaterhouse Coopers(PwC).

The Association took manages the property, as well as the company. Aside from the Association and the General Legal Council, there are other tenants in the building, including the Public Defender, a restaurant named The Orchard and an archive for PwC.

G. JUDICAL APPOINTMENTS

The Bar Association's nominees on the Judicial Services Commission are Mr. David Muirhead, QC and Rev. Dr. Roy Henry. Regular consultations were held with our nominees during the year. As in the past, the applications for appointment of the Resident Magistrates are referred to the Council by the Chief Justice. Council considers these and provides the Chief Justice with its views whenever possible. The Council urges members of the Private Bar to make themselves available for appointment to judicial office whenever the occasion arises. The Association is able to interface with the Judiciary through the Consultative Committee of the Bench and Bar.

H. QUEEN'S COUNSEL

The Chief Justice chairs a committee which considers the appointment of Queen's Counsel. During the period under review, no applicants were recommended by the Council to be admitted to the Inner Bar.

I. REGIONAL ASSOCIATIONS

There are three (3) regional Associations:

- (1) Northern Jamaica Law Society
- (2) Southern Bar Association
- (3) Cornwall Bar Association.

J. COUNCIL OF LEGAL EDUCATION

The Association’s representatives on the Council of Legal Education were Mrs Jacqueline Samuels-Brown and Miss Hilary Phillips, QC, with alternate Mr. Joswyn Leo- Rhyne, QC. Ms E Anne Henry is the Chairperson of the Council.

K. DISPUTE RESOLUTION FOUNDATION

N. Patrick McDonald - Chairman
Donna Parchment Brown, CD, JP, ACIArb. – Chief Executive Officer

In addition to expanding locally its court and corporate services in the areas of Mediation and Arbitration, as well as its community projects including homework, suspension supervision and conflict resolution training in 30 targeted schools, the DRF has its sights set on greater penetration in the Caribbean region.

Today, over 250 attorneys have attended mediation sessions at the DRF. As exposure to and experience with mediation increased, most user attorneys have reported that the process is useful to their clients and their practice.

Under the CPR, the DRF is the provider of mediation referral services to the Supreme Court and also continues to receive and process referrals from the Resident Magistrates and Petty Sessions Courts.

2008 MEDIATION STATISTICS

	Supreme Court	Resident Magistrate Court
Cases Referred	955	251
Cases Scheduled	1813 (including repeat scheduling)	251
Cases Held	894	157
Completed Agreement with	507 (57% success rate for those held)	119 (76% success rate)
Completed Agreement w/o	387	38

Arbitration

The 2009 work plan includes the development of panels for Sports, Tourism, Finance, Construction and a marketing roll out through the 15th Anniversary activities of the DRF. Requests for Arbitration services have been received and handled by two persons on the roster. This will greatly assist legal practitioners in planning and recommending appropriate strategies to their clients.

Marketing/Publicity

The DRF Issue Book, *"We Want Justice"* was widely disseminated along with 1000 new DRF brochures and a number of Arbitration brochures. The website, speaking opportunities, attending events organized by a wide range of Government, private sector, International Development Partners and civil society, along with letters, direct contact and media appearances kept the Foundation in the public eye and provided opportunities for effective marketing.

Public Consultations on Restorative Justice

In 2008 the Dispute Resolution Foundation provided technical support to the Ministry of Justice to facilitate discussions with the public on Restorative Justice during the *"Public Consultation on A Restorative Justice Policy For Jamaica."*

National Year of Dispute Resolution

In celebration of 15 years of DRF service to Jamaica and the Caribbean region, 2009 has been declared the **National Year of Dispute Resolution** by the retired Governor General, Sir Kenneth Hall. This honours the leadership role played by the Jamaican Bar Association in creating an organization to support its efforts to improve access to justice and modernize Jamaica's justice system through Alternative Dispute Resolution.

Key events include:

- National Roving Dispute Resolution Poster Exhibition (March to October)
- 4th Caribbean Conference on Dispute Resolution (May 1)
- Youth Baseline Study Launch & Conference (May 18)
- Gala Awards Event July 11th 2009 at The Courtleigh Auditorium, 6 St. Lucia Avenue, Kingston 5 at 6:30 p.m. H. E. the Governor General Dr. Patrick Allen, ON has agreed to be the Guest Speaker.
- Workshops and other events throughout the year.

Future Directions

The imperative to survive in this fast-paced changing global market is to make full use of all opportunities. The Foundation will continue to utilize all opportunities to increase capacity, strengthen service delivery, and increase financial and non-financial resources, reporting and accountability.

L. ROBING ROOM

The Robing Room at the Supreme Court is set aside for Counsel. Lockers have been installed and are rented annually to Attorneys. A modest fee is charged to defray cost, but many subscribers are in arrears in the payment of this fee. There is also a small Robing Room in the Court of Appeal with two bathrooms and a small kitchen. This is also being maintained by the Association at no charge to attorneys using it. However the condition of the Robing Room in the Supreme Court needs immediate attention.

The Executive Committee of the Council is scheduled to consider a proposal to convert the Robing Room in the Supreme Court into a Lounge and Business Centre for Counsel. The services that would be offered in the Business Centre would include the preparation or amendment of draft court orders for immediate execution by a judge or the Registrar, assistance with the filing of documents in the Court's Registries, photocopying of court documents, authorities and bundles, access to the internet and fax machines and service of court documents by fax. The lounge area of the Robing Room would offer counsel an area to discuss matters amongst themselves while partaking in refreshments.

M. OBITUARIES

Lerone Earlington
Maurice Simpson
Haughton Gayle

May their souls rest in peace.

Gavin Goffe
Secretary
May 4, 2009