

ABSTRACT

Four areas of concern are treated in this thesis.

Firstly, the question whether the Constitutions of the independent Commonwealth Caribbean have conferred upon the courts the power of judicial review is raised, in Chapter 2.

Having therein established that in the Constitutions lies the basis of judicial review, the thesis proceeds to concern itself with three far-reaching aspects of the way in which that power has so far been exercised in the Caribbean.

One of these is the apparent penchant on the part of the courts for abstaining from deciding constitutional controversies on their merits. This policy has implications for the potency of the Bills of Rights, as Chapter 3 seeks to demonstrate.

Another facet of judicial review which demands attention has to do with whether pre-Constitution laws ought, in proper cases, to be held inconsistent with the Constitutions, in the same way as post-Constitution laws. Chapter 4 of this thesis proffers the view that pre-Constitution laws should not be given effect to unless they

can be made to conform with the Constitutions.

But the courts hold otherwise, largely because in all the independence Constitutions, that of Grenada apart, there is a clause which, literally interpreted, says that pre-Constitution laws should not be held inconsistent with the Constitutions.

An alternative construction of that clause having been posited in Chapter 4, the thesis then suggests, in Chapter 5, that neither that clause, nor any other clause, necessarily operates to deny that the Bills of Rights contain rights and freedoms which were not enjoyable prior to the promulgation of the Constitutions.

Unfortunately, the conviction of the courts has been in the other direction, one which seems capable of dulling the promise of the human rights and fundamental freedoms enshrined in these Bills of Rights.

However, it is on that note, of attempting to identify the creation by the framers of new rights, that the thesis comes to an end, pointing the way towards which the jurisprudence of the law of Caribbean human rights should be headed.