

# ECSC E-NEWSLETTER



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Volume 1 No. 4  
April 2000

## GREETINGS FROM THE CHIEF JUSTICE

The month of April was action packed. It began with the USAID meeting held in St. Lucia on the April 3<sup>rd</sup>, 2000. During that week the Court of Appeal also doubled up with sittings in St. Kitts and Anguilla. A meeting of the Judicial and Legal Services Commission was held on April 12th. One of the major accomplishments at that meeting was the selection of the first Masters to administer the new rules. They are Mr. Hugh Rawlings and Ms. Charmaine Pemberton. The month ended with a meeting with Inter-American Development Bank (IDB) in Barbados April 25<sup>th</sup> - 27<sup>th</sup>, 2000.

### Wedding Bells

Congratulations and warm wishes went out on Saturday April 29<sup>th</sup>, 2000 to the Chief Registrar Gigi Leigertwood on her marriage to Hyacinth Octave of St Lucia. The wedding ceremony took place at the Roman Catholic Cathedral of the Assumption in Kingstown at 4 pm. It was followed by a lavish reception at the Beachcombers Hotel and Restaurant. Over 200 family and friends attended to enjoy the refreshments, speeches and dancing afterwards. The Hon Chief Justice presided as Master of Ceremonies. He joined with other speakers in wishing the happy couple a long and happy marriage. A spell of rain added the blessing of nature to the many well-wishers who danced with the radiant bride and her groom well into the night.

Please send any comments, suggestions and contributions to the ECSC E-Newsletter at [appeal@candw.lc](mailto:appeal@candw.lc).



## **EASTERN CARIBBEAN SUPREME COURT NEWS**

### **COURT OF APPEAL**

#### **USAID Reform Technical Committee Meeting**

The Hon Chief Justice attended the USAID Reform Technical Committee meeting held at the Bay Gardens Hotel in St Lucia on 3rd April. The Technical Committee is a committee of the Caribbean Regional Advisory Committee. This is the major consultative body for the implementation of the USAID donor plan for the region during the period 2000-2005.

Representatives of the OECS, Central Bank, OECS Bar, and representatives of the Eastern Caribbean justice sector attended the meeting. Dr Peter Weisel the Director of the Caribbean Regional Program chaired the meeting. The meeting gave an overview of the Caribbean Regional Program, the nature and extent of the activities relating to the Justice Sector activities, and the proposed implementation mechanisms, including the role of the Technical Committee. Primary activities will include support for the computerization project, establishment of mechanisms for training court reporters, and developing court administration programs.

The anticipated injection of finance will do much to carry through to completion our justice reform program

#### **The New Masters**

The Judicial And Legal Services Commission selected two masters at its meeting of 12<sup>th</sup> April 2000. The persons selected are Mr. Hugh Rawlings and Ms Charmaine Pemberton.

Mr. Hugh Rawlings is a citizen of St. Kitts-Nevis. His educational accomplishments include B.A. (Hons) at UWI; LL.B (Hons) UWI and LL.M (Legislative Drafting) UWI. In addition, he has done programs at other international institutes. He obtained his L.E.C at the Norman Manley Law School in 1985. His employment record includes teaching, and working in the civil service in Ministry of Labour, Crown Counsel, High Court Registrar and Solicitor General St. Kitts, and since 1995 Lecturer in law at the Cave Campus of the UWI. He is the author of numerous scholarly publications, has attended numerous conferences, seminars and workshops and has been engaged in regional research projects.

Ms Pemberton is a citizen of Trinidad and Tobago. Her educational background includes LL.B (Hons); UWI; Diploma International relations UWI; LL.M (Public International Law) University of Nottingham. She obtained her L.E.C. at Hugh Wooding Law School in 1983 where she was adjudged the most outstanding student overall and was awarded the Chairman's prize for evidence and procedure. She has attending other courses of further studies. Her employment record includes service as State Solicitor and as Head of the Legal Division in the office of the Ombudsman in Trinidad and Tobago. In 1994 she joined the firm of J. D. Sellier & Co. as Associate Attorney litigation and Corporate Commercial. In 1999 she relocated to the firm of Richardson and Richardson.

## **Paralegal Course**

A training programme to be delivered by the Hugh Wooding Law School, St. Augustine, Trinidad, has been arranged for the Registry Staff of the Eastern Caribbean Supreme Court during the period May 7 – 14, 2000. The course is a combination of orientation to the Civil Procedure Rules 1999 and a basic Court paralegal course. The course will accommodate up to 33 staff members. The syllabus will include sessions on the purpose of courts, caseflow management, the new Civil Procedure Rules and information technology and the new Civil Procedure Rules. At the end of the course there will be an examination for all participants with the exception of those with legal qualifications.

## **Inter-American Development Bank (IDB) Meeting in Barbados April 25<sup>th</sup> – 27<sup>th</sup>, 2000**

The Hon Chief Justice attended a conference organised by the Inter-American Development Bank (IDB) in Barbados 25th-27th April, 2000. Present were representatives from the Commonwealth Caribbean, Haiti, the Dominican Republic, and Suriname. Donor agencies present included CIDA, USAID, CDB, ECCB, and the IDB itself. Chief Justices from Trinidad, Bahamas, OECS, and the Chancellor of Guyana attended. OECS representatives were the Registrars of Antigua and St Vincent, the A-Gs of St Lucia and Grenada, and Mr. La Corbiniere and Ms Lydia Elliot. Present for the private sector were the Presidents of the Chambers of Commerce of St Kitts and Grenada. The conference had three effective working sessions and a stakeholders' workshop.

The discussions and other contributions received by the IDB will be incorporated in a draft policy document. This document is to be presented to senior policy makers from the region and representatives of donor agencies scheduled for June 2000. The IDB has the responsibility to produce this policy document on "Capacity Development: Reform of the Caribbean Justice Sector."

Addresses were received at the working sessions from a group of consultants hired by the IDB. These addresses dealt with the topics "To strengthen the connections between the justice system and generally shared social goals" and "The modernization and upgrading of the Caribbean Justice Sector."

The draft Diagnostic Report prepared by the IDB consultants was discussed. The Report includes assessment of several countries of our region. The report acknowledges that it is incomplete and requires further study to be done.

## **HIGH COURT**

### **Grenada**

The assizes which began in February 2000 closed on Monday 10<sup>th</sup> April, 2000. Sixty-one (61) cases were listed for hearing, fifty (50) cases were completed and eleven (11) cases traversed to the next assizes.

## **NEW DEVELOPMENTS IN THE COURT**

### **OECS Reports**

The Chief Justice has been explaining the purpose of the OECS Law Reports. The Reports will commence with the publication of two volumes in the year 2000. One will be a historic volume covering the period 1996-1998. The other volume will cover the year 1999. Thereafter, in addition to the current volume, one volume covering the historic period 1990 onward will be published each year.

As a guide for the selection process the publishers have suggested that each volume would be about 50 cases. In their assessment this would run to 500-600 pages.

For the initial publication of the 1999 and historic three-year volumes the selection process should be completed by the end of May 2000.

Criteria for selection will initially include novel points of law, clarification of points of law, unusual points of law, specialty points of law, style, and points of local significance.

## **JUDICIAL AND LEGAL SERVICES COMMISSION**

### **Judicial Appointments**

The Judicial and Legal Services Commission has approved of the following acting appointments in the position of High Court Judge of the Eastern Caribbean Supreme Court for a period of one [1] year:

- 1) His Lordship, the Hon. Justice Lyle St. Paul, OBE, CBE assigned to Grenada with effect from 18<sup>th</sup> February, 2000.
- 2) His Lordship, the Hon. Justice Henry Moe assigned to Antigua and Barbuda from 19<sup>th</sup> April, 2000.

The Judicial and Legal Services Commission also approved the assignment of His Lordship, the Hon. Justice Neville Smith to the British Virgin Islands with effect from May 1<sup>st</sup>, 2000 and His Lordship, the Hon. Justice Frederick Bruce-Lyle to St. Kitts and Nevis in the position of acting High Court judge with effect from 1<sup>st</sup> May, 2000.

His Lordship, the Hon. Justice Adrian Saunders was directed by the Chief Justice to give assistance to the two-circuit Jurisdiction of St. Kitts and Nevis during the summer term.

### **Legal Appointments**

## **St. Vincent & The Grenadines:**

The Judicial and Legal Services Commission has appointed the following appointment with effect with 1<sup>st</sup> April, 2000:-

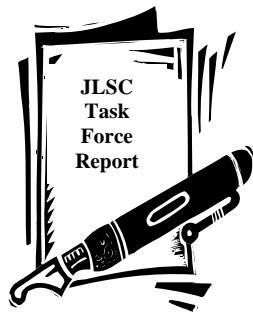
- 1) Ms. Suenel Fraser, as Magistrate
- 2) Ms. Coleen Mc Donald as Deputy Registrar, High Court
- 3) Mrs. Ada Johnson as Legal Clerk, Family Court

## **Tortola, BVI**

His Lordship, the Hon. Chief Justice, Mr. Dennis Byron has approved of the following appointments:-

- 1) His Lordship, The Hon. Justice Kenneth Benjamin, High Court Judge has been appointed as a Member of the Judicial and Legal Services Commission.
- 2) Mr. Cecil Dawson has been appointed as Magistrate from 21<sup>st</sup> to 30<sup>th</sup> April, 2000 vice Miss Gail Charles who is to proceed on vacation leave during that period.

## **The Judicial and Legal Services Task Force Report**



### **The Dumas Report**

In November 1999 the Chief Justice established a Task Force to examine the structure and functioning of the Judicial and Legal Services Commission and to report to him with recommendations. The Chairman was Mr. Reginald Dumas, of Trinidad. The report, known as the *Dumas Report*, was presented in February 2000.

The Report dealt with five separate areas: the JLS Commission itself, the Magistracy, the Registry, Judicial Ethics, and Terms and Conditions of Higher Judicial Office.

The Report consists of over one hundred pages. It took into account the Constitutional documents, and consultations with heads of states and governments; the OECS Secretariat; judicial and legal officials; and bar associations. A summary of the recommendations concludes the Report. In this issue of the Newsletter, the recommendations of the Task Force concerning the JLS Commission are attached. Further recommendations will be included in later issues of the Newsletter. [See Attachment]

## **CONFERENCES, SEMINARS & WORKSHOPS**

### **MEETING OF THE BAR ASSOCIATION OF ST. KITTS/NEVIS CONVENED AT THE O.T.I. CONFERENCE ROOM ON TUESDAY APRIL 4, 2000 AT 5:00 P.M.**

The Hon Chief Justice together with Singh JA and Matthew JA were recently invited to attend a meeting of the St Kitts-Nevis Bar Association. Ms Elizabeth Kelsick, the Secretary of the Bar Association, chaired the meeting. It was held at the OTI Conference Room on Tuesday April 4 at 5pm. There were some 30 persons present. The meeting dealt principally with judicial education, the draft new Rules of Court, and training for the Registry Staff. *[See Attachment]*

### **MEETING OF REGISTRY STAFF CONVENED AT THE ST. KITTS REGISTRY ON TUESDAY APRIL 4, 2000 AT 3:30 P.M.**

Members of the Court of Appeal met with some 17 members of the Registry staff in St Kitts at the April sitting of the Court of Appeal in Basseterre. The meeting took place on Tuesday April 4 at 3.30 pm. The meeting was chaired by Ms Pearletta Lanns, Acting Registrar. Matthew JA addressed the meeting on the value of judicial education. The Hon CJ addressed the meeting on the draft new Rules of Court. *[See Attachment]*

## COURT OF APPEAL SITTINGS APRIL 2000

### Saint Christopher & Nevis Court of Appeal Sitting - 3<sup>rd</sup> to 5<sup>th</sup> April 2000

**Coram:**       **Singh JA**  
                  **Redhead JA**  
                  **Matthew JA**

#### Monday April 3, 2000

1.     **Browne v The Queen**  
      Crim. App. No. 2/94  
      **Appearances:** Dr. Henry Browne for the appellant and Mr. Dennis Merchant, DPP for the respondent.  
      **Issue:** Murder. Juvenile sentence: Decision of Privy Council that sentence should be at Court's pleasure and not at pleasure of the Governor General. Appellant in detention since November 1994.  
      **Result:** Ordered that appellant be released forthwith and placed on probation for 18 months on certain conditions set out in the Written Judgment of the Court [**Singh JA**] [Order consented to by DPP].
  
2.     **Browne v The Queen**  
      Crim. App. No. 3/98  
      **Appearances:** Dr. Henry Browne for the appellant and Mr. Dennis Merchant for the respondent.  
      **Result:** Leave to discontinue appeal granted. Appeal dismissed: Conviction and sentence affirmed.
  
3.     **Solomon v Cornelius**  
      Civ. App. No. 2/00  
      **Appearances:** Mr. John Cato for the appellant. No appearance of or for respondent.  
      **Issue:** Application for leave to appeal out of time on a committal to prison Order by Magistrate after judgment summons.  
          Delay:       9 months.  
          Reason:     Could not find his Solicitor.  
          Prejudice:  Imprisonment for applicant; Deprivation of money judgment for respondent.  
          Merit:      Applicant not examined as to his means before committal.  
      **Result:** Leave granted applicant to withdraw the application.
  
4.     **Pinney v Guishard et al**  
      Civil Appeal No 8/99  
      **Appearances:** Dr. Henry Browne for applicant and Mr. Terence Byron for the respondent.  
      **Issue:** Application for leave to appeal to the Privy Council as of right.  
      **Result:** Application refused as having been filed out of time.

5. **Rawlins v Commissioner of Police**  
Mag. Crim. App. No. 1/00  
**Appearances:** Dr. Henry Browne for the appellant and Mr. Dennis Merchant, DPP for the respondent.  
**Issue:** Appeal against conviction and sentence of imprisonment for one-month for offence of stealing.  
**Result:** Appeal allowed. Conviction quashed and sentence set aside for reasons that appellant was not given a fair trial e.g. (1) Appellant was not told of her rights after case for prosecution was closed; (2) goods found on appellant not satisfactorily identified; (3) Appellant not given opportunity to cross-examine co-defendant; (4) statement of appellant relied on by Magistrate not part of the record of appeal; (5) DPP conceded.
6. **Walters v Commissioner of Police**  
Mag. Crim. App. No. 2/00  
**Appearances:** Mrs. D. Claxton for the appellant and Mr. Dennis Merchant for the respondent.  
**Issue:** Appeal against conviction and sentence of imprisonment for one month on conviction of stealing.  
**Result:** Appeal allowed. Conviction quashed. Sentence set aside. Only evidence against appellant were certain items found on her. They were not properly identified and she gave an acceptable explanation for her possession. DPP conceded.
7. **Gonsalez v The Queen**  
Crim. App. No. 2/98  
**Appearances:** Mr. Vernon Veira and Miss Hobson for the appellant and Mr. Dennis Merchant for the respondent.  
**Issue:** Appeal against conviction of murder.  
**Result:** At the request of Mr. Veira and with consent of DPP adjourned to next sitting as counsel for the appellant only received record last Wednesday.
8. **Isles v The Queen**  
Crim. App. No. 1/98  
**Appearances:** Dr. Henry Browne for the appellant and Mr. Dennis Merchant, DPP for the respondent.  
**Issue:** Appeal against conviction of indecent assault.  
**Result:** Leave granted Dr. Browne to withdraw the appeal. Appeal dismissed. Conviction and sentence affirmed.
9. **Gaskin v The Queen**  
Crim. App. No. 6/99  
**Appearances:** Mr. Lindsay Grant for the appellant and Mr. Dennis Merchant, DPP for the respondent.  
**Issue:** Appeal against conviction of unlawful carnal knowledge.  
**Result:** Mr. Grant indisposed. Adjourned to Tuesday April 4, 2000.

10. **Conway v Queensway Trustees Ltd.**  
Civ. App. No. 11/99  
**Appearances:** Mr. Murray Rosen, Q.C., Miss Giselle Clarke with him for the appellant and Mr. Nicholas Padfield, Q.C., Mr. Mark Brantley with him for the respondent.  
**Issue:** Application by respondent to dismiss appeal on grounds:  
1. Appeal filed without leave.  
2. Notice of appeal not served within prescribed time.  
3. Appeal frivolous and vexatious and abuse of process.  
4. Application for security of costs.  
Application by appellant for  
1. Leave to appeal.  
2. Extension of time to appeal.  
3. Leave to amend notice of appeal.  
**Result:** 1. Judgment appealed from was interlocutory.  
2. Leave to appeal was necessary.  
3. No jurisdiction under O 64 to extend time for leave to appeal.  
4. Assuming jurisdiction under O 3 R 5, application refused.  
5. Written judgment delivered (Singh J.A.).  
6. Appellant to pay respondent's costs on application for leave to appeal out of time, certified fit for two counsel.  
7. Application for security for costs withdrawn.
11. **Henry v O'Loughlin et al**  
Civ. App. No. 12/99  
**Appearances:** Mr. Terence Byron for the appellant and Mr. Damien Kelsick for the respondent.  
**Issue:** Interpretation of **S 33 (1)** of the **Election Registration Regulations 1984**.  
**Result:** Appeal dismissed. No order as to costs. [Written judgment **Singh J.A.**].
12. **Williams v Thompson**  
Mag. Civ. App. No. 12/99  
**Appearances:** Miss Joyah Sutton for the appellant. No appearance of or for the respondent.  
**Issue:** Appeal from Magistrate's order varying private agreement re welfare of child.  
**Result:** Appeal allowed. Order of Magistrate set aside. Agreement restored to its original form. Magistrate had no power to interfere with a private agreement between the parties.
13. **Brandy v Daniel**  
Mag. Civ. App. No. 26/99  
**Appearances:** Mr. Karlweis Liburd for the appellant. No appearance of or for the respondent.  
**Issue:** Appeal from Magistrate's order increasing maintenance order.  
**Result:** Question of fact. No reason to interfere. Appeal dismissed. Order of Magistrate affirmed.

14. **TDC Rentals v Warner**  
Mag. Civ. App, No. 27/99  
**Appearances:** Mr. Damien Kelsick for the appellant. No appearance of or for respondent.  
**Issue:** Appeal from Magistrate's decision dismissing appellant's claim because of a defect in the written claim.  
**Result:** Cause of action disclosed in claim. Defect could be cured by amendment. Appeal allowed. Order of Magistrate set aside. Amendment granted. Matter referred to Magistrate for hearing.
15. **Matthew et al v Liburd**  
Mag. Civ. App. No. 1/00  
**Appearances:** Mr. John Cato for the appellants. No appearance of or for the respondent.  
**Issue:** Appeal from Magistrate's decision to commit appellants to prison for non-payment of a judgment.  
**Result:** Appeal allowed. Order of Magistrate set aside. Matter referred to Magistrate to examine means of Appellant before deciding on application to commit. Magistrate wrong to take judicial notice of fact that because one appellant was a lawyer and the other the Manager of DHL, that they had means to pay.
16. **Freeman v Maynard**  
Mag. Civ. App. No. 3/00  
**Appearances:** No appearance of parties.  
**Issue:** Appeal from Magistrate's decision declaring appellant father of respondent's child. Should the respondent's evidence be corroborated. **S 124 Cap 146** originally required corroboration of the mother's evidence. Act 2/1992 amended that law excluding the requirement of corroboration.  
**Result:** No appearance of parties. Appeal struck out and dismissed.
17. **Kelly v Monish**  
Mag. Civ. App. No. 4/00  
**Appearances:** Mr. Terence Byron for the appellant and Mr. Hesketh Benjamin for the respondent.  
**Issue:** Appeal from Magistrate's decision ordering appellant to provide \$50.00 p.w. maintenance for his child.  
**Result:** Question of fact. No reason to interfere. Appeal dismissed. No order as to costs.
18. **Maynard v Kisco Travel Ltd.**  
Mag. Civ. App. No. 5/00  
**Appearances:** Mr. John Cato for the appellant. No appearance for the respondent.  
**Issue:** Appeal from judgment summons order of Magistrate.  
**Result:** Leave granted Mr. Cato to withdraw appeal. Appeal dismissed.

**Tuesday April 3, 2000**

19. **Gaskin v The Queen**

Crim. App. No. 6/99

**Appearances:** Mr. Lindsay Grant for the appellant and Mr. Dennis Merchant, DPP for the respondent.

**Issue:** Conviction of unlawful sexual intercourse

**Ground of Appeal:** 1. Misdirection on corroboration.  
2. Misdirection on jury's approach to statement from dock.

**Result:** Direction on corroboration unhappily worded but no miscarriage as it conveyed the message. Misdirection on statement from dock but cured by a later direction. No miscarriage of justice. Appeal dismissed. Conviction and sentence affirmed.

**Wednesday April 5, 2000**

20. **Walter v Rosenfield**

Antigua

High. Civ. App. No. 8/99

**Appearances:** Mr. Gerald Watt, Q.C. for the appellant and Mr. Anthony Astaphan, Q.C., Miss Ann Henry with him, for the respondent.

**Result:** Decision reserved.

**Anguilla Court of Appeal Sitting - 6<sup>th</sup> April to 7<sup>th</sup> April 2000**

**Coram:**        **Byron CJ**  
                  **Singh JA**  
                  **Matthew JA**

**Thursday April 6, 2000**

**1.     Ward v Ward**

Civ. App 9/99

**Appearances:** Mrs. M. Walwyn holding for Sir John Roberts for the appellant and Mr. K. Porter for the respondent.

**Order:** Adjournment refused. Application granted for the striking out of the appeal. Costs to the Respondent.

**Reasons:** Notice of appeal against decree nisi lodged out of time on 21<sup>st</sup> December 1999 in relation to decree pronounced on 21<sup>st</sup> September 1999. No further action taken by the appellant. Breach of order 64. Additionally, the affidavit in support alleged that the notice was signed by person falsely purporting to be member of the Bar. Breach of section 74 of the Supreme Court (Anguilla) Ordinance. Appeal totally incompetent. There was absolutely no process capable of sustaining any application on behalf of the appellant. No reason to grant adjournment.

**2.     Rey v Commissioner of Police**

Mag. Crim.. 7/95

**Appearances:** Mr. K. Porter for the appellant and Mr. S. Reid for the respondent.

**Result:** Leave to withdraw the appeal granted. Magistrate Davis took a long time to produce notes of evidence and reasons for decision convicting the appellant for failing to stop.

**3.     Maynard v Commissioner of Police**

Mag. Crim. 8/98

**Appearances:** Mr. E. Gaskin for the appellant and Mr. S. Reid for the respondent.

**Result:** Leave to withdraw appeal granted.

**4.     Richards v Commissioner of Police**

Mag. Crim 9/98

**Appearances:** Mr. K. Porter for appellant and Mr. S. Reid for the respondent.

Leave to withdraw granted.

**5.     Davis v Commissioner of Police**

Mag Crim 8/99

**Appearances:** Mr. E. Gaskin for appellant and Mr. S. Reid for the respondent.

**Result:** Appeal dismissed sentence varied removing fine of \$250.00 for disorderly conduct.

**Reasons:** Appellant convicted for wounding M. Clarke; disorderly conduct; and battery of M. Clarke. Two female cricket clubs on same playing field at Blowing Point. Clarke tried to retrieve wicket and leave with it. Appellant resisted, fight broke out and the appellant burst Clarke's head with stumps. Question of fact decided by Magistrate that

wicket belonged to Clarke's club and she was entitled to use reasonable force to remove it. Appellant was not acting in lawful self defence and was aggressor. There was evidence to support findings of fact. Conviction affirmed. Sentenced to 30 days suspended pending good behaviour and for one year for wounding. The three charges brought by the police related to same conduct. In the circumstances Magistrate under no obligation to punish for each separately. The sentence of 30 days was grave enough for all the offences.

6. **Ruan v Fleming**

Mag. Civ 3/98

**Appearances:** Mr. E. Gaskin for the appellant. No appearance by the respondent

**Result:** Record ready late. Stood over for the next sitting.

7. **Anguilla Electric Company Limited v Mussington**

Mag. Civ. 6/99.

**Appearances:** Mr. Hamilton for the appellant Mr. T. Astaphan and Ms. M. Barret for the respondent

**Result:** Appeal dismissed. The Magistrate's varied to remove the option of repainting the appliances and for the damages of US \$3070.00 to be paid forthwith. Cost of appeal to the respondent to be taxed if not agreed.

**Reasons:** Damages were awarded for damage caused to electrical appliances in the respondent's house caused by the negligence of the appellant in maintenance of its electric supply lines.

**Result:** Reasons given by Magistrate sound and were well expressed. No basis for interference.

8. **Reid v Rogers**

Mag. Civ. 7/99

**Appearances:** Mr. V. Hodge.

**Result:** Leave granted to withdraw appeal

9. **Attorney General of Anguilla v Hansa Bank and Trust Co. Ltd. et al**

Civ. App. 7/98

**Appearances:** Mr. R. Scipio and Mr. I. Green for the appellant and Mr. S. M. Frookin Q.C. and Miss Y. Wallis for Hansa Bank and Trust Co. Ltd. and others. Ms P. Webster for the National Bank of Anguilla. Ms B. Lake Q.C. and Mr. E. Gaskin for Barclays Bank PLC.

**Result:** Decision reserved.

## WRITTEN JUDGMENTS

### Court of Appeal Judgments

The following are written Court of Appeal judgments available during the month of April 2000:

#### Saint Christopher & Nevis

##### **G. Browne v The Queen**

Saint Christopher & Nevis

Crim. App. No. 2/94

Singh JA

**Delivered:** 03/04/00

##### **D. F. Conway v Queensway Trustees Limited**

Saint Christopher & Nevis

Civ. App. No. 11/99

Singh JA

**Delivered:** 03/04/00

##### **T. Henry v L. O'Loughlin et al**

Saint Christopher & Nevis

Civ. App. No. 12/99

Singh JA

**Delivered:** 03/04/00

#### Saint Vincent & The Grenadines

##### **W. Ross v The Queen**

Saint Vincent & The Grenadines

Crim. App. No. 8/99

Singh JA

**Delivered:** 24/03/00

## High Court Judgments

The following are written High Court judgments received during the month of April 2000:

### Antigua & Barbuda

Agreement for sale of ten parcels of land by General Manager of plaintiff company to defendant – deposit not fully paid – no payment made in respect of outstanding balance – plaintiff claiming right to rescind agreement after 5 years of concluding same – declaration sought that defendant no longer has any interest in parcels of land and that plaintiff be at liberty to sell same.

#### **St. Clare Estate Limited v C. Halstead**

Antigua & Barbuda

Civ. Suit No. 374A/90

Georges J

**Delivered:** 21/03/00

Collision between motorcyclist and pillion rider and Bronco Jeep emerging from minor road onto major road – liability in negligence – claim for personal injuries – value of English cases in assessing general damages.

#### **C. Francis et al v P. Maynes et al**

Antigua & Barbuda

Suit No. 414/92

Georges J

**Delivered:** 29/03/00

Plaintiff a minor traveling on LIAT allegedly lost her luggage on two occasions comprising clothing, haberdashery etc. totaling US\$3,800.00 – defendant maintains that company is not liable since plaintiff did not make a report of the loss of her luggage in the manner and within the time stipulated and was therefore in breach of the Conditions of Carriage of the Warsaw Convention which governs such claims – quare whether liability of carrier limited in any event.

#### **D. Stevens v LIAT (1974) Limited**

Antigua & Barbuda

Suit No. 411/87

Georges J

**Delivered:** 29/03/00

Claim for damages against defendant for unlawful possession, detention and conversion of 34 foot fiberglass fishing boat valued at \$70,000.00 owned by plaintiff's son who was reportedly lost at sea – defendant pleads she has a good claim to boat by virtue of a promissory note – plaintiff contends that note not stamped and not registered under Bill of Sales Act therefore collateral security of boat does not entitle defendant to possession – quare promissory note.

#### **C. Matthew Snr v Y. Hadeed**

Antigua & Barbuda

Suit No. 42/95

Georges J

**Delivered:** 05/04/00

Sale of newly constructed dwelling-house to plaintiff by first defendant businessman, property developer and supervisor of construction – defective construction by second defendant builder resulting in extensive and progressive cracks in walls and pulling away of a portion of roof from remainder of house – moving away of garage from rest of house – liability of defendants - privity of contract vis a vis defendants and plaintiff – measure of damages – Junior Books Ltd. and Murphy-Brentwood D.C. examined.

**E. Burns v A. Antonio et al**

Antigua & Barbuda

Suit No. 410/95

Georges J

**Delivered:** 13/04/00

**British Virgin Islands**

**D. E. Vanterpool v R. A. Vanterpool**

British Virgin Islands

Civ. Suit No. 29/99

Benjamin J

**Delivered:** 05/04/00

**L. Saus De Villalba v Adex International Limited et al**

British Virgin Islands

Civ. Suit No. 52/99

Benjamin J

**Delivered:** 07/04/00

**Dominica**

**J. Viville v R. M. Viville**

Dominica

Civ. Suit No. 24D/97

Cenac J

**Delivered:** 22/03/00

**C. Jean Jacques v The Attorney General of the Commonwealth of Dominica**

Dominica

Civ. Suit No. 136/99

Cenac J

**Delivered:** 30/03/00

**Grenada**

Professional negligence – consent judgment on pleadings – assessment of damages – defendant absent – judge refuses application for adjournment – witnesses called for plaintiff and expert witness for defendant – defendant dissatisfied.

**E. Baptiste v Henry, Henry & Bristol**

Grenada

Civ. Suit No. 116/98  
Alleyne J  
**Delivered:** 17/04/00

Payment into court – whether competent to pay in after judgment – interest – Property Transfer Tax Act of Grenada – adjusting the equities between the parties – which party liable to the tax.

**Grenada Insurance Services Ltd. v Grenadian General Insurance Co. Ltd. et al**

Grenada  
Civ. Suit No. 232/96  
Alleyne J  
**Delivered:** 19/04/00

**Saint Lucia**

**A. G. George et al v New India Assurance Co. (T & T) Ltd.**

Saint Lucia  
Civ. Suit No. 895/99  
d’Auvergne J  
**Delivered:** 14/04/00

**M. St. Juste v The Honourable Attorney General et al**

Saint Lucia  
Civ. Suit No. 9/99  
D’Auvergne J  
**Delivered:** 19/04/00

Application for judicial review - order 44 - preliminary issue – whether the defendant's acceptance or rejection of a tender for works and the works and the defendant's decision in regard thereto are private acts and are governed by private law or are public acts and governed by public law - remedies by way of judicial review - tenders for works - invitation to treat - case of Blackpool v Blackpool borough council referred to - statutory powers of defendant corporation - whether everything done by defendant is in the realm of public law.

**National Contractors Limited v National Development Corporation**

Saint Lucia  
Civ. Suit No. 02/96  
Hariprashad-Charles J  
**Delivered:** 19/04/00

**Saint Vincent & The Grenadines**

Plaintiff illegitimate child – deed of gift of portion of land with a house on it – defendant also illegitimate child made claim to the very land and house – claim on the basis of long possession and contention that the deed had been conditional and the conditions had not been met – will found some years after father’s death purported to give said property to defendant and another brother.

**F. Mapp v C. Mapp**

Saint Vincent & The Grenadines  
Civ. Suit No. 29/89

Adams J

**Delivered:** 11/01/00

Divorce – ancillary relief – Matrimonial Causes Act – property entitlement.

**J. Hall v J. Hall**

Saint Vincent & The Grenadines

Civ. Suit No. 463/98

Mitchell J

**Delivered:** 03/04/00

Land dispute – Limitation Act – father and daughter – aminus possidendi.

**G. Westfield et al v C. Brown**

Saint Vincent & The Grenadines

Civ. Suit No. 122A/98

Mitchell J

**Delivered:** 03/04/00

Bias – allegation of – judge recusing himself.

**Windward Properties Limited v Companies Act 1994**

Saint Vincent & The Grenadines

Civ. Suit No. 563/99

Mitchell J

**Delivered:** 04/04/00

Assessment of damages - industrial accident - 32 year old carpenter - fractured metacarpal - pain and suffering - loss of amenities.

**A. Franklyn v M. A. Kharafi & Sons WLL Ltd.**

Saint Vincent & The Grenadines

Civ. Suit No. 276/99

Mitchell J

**Delivered:** 05/04/00

Land dispute – family property – brother and sister – intention of the parties – costs.

**M. Glasgow v M. Glasgow**

Saint Vincent & The Grenadines

Civ. Suit No. 202/98

Mitchell J

**Delivered:** 06/04/00

Running down - handcart operator - duty to comply with Road Traffic Regulations - contributory negligence

**E. Bulze v E. Burgin**

Saint Vincent & The Grenadines

Civ. Suit No. 600/97

Mitchell J

**Delivered:** 10/04/00

Land dispute – sale of land – oral contract – part performance.

**M. Haynes et al v A. Roberts**

Saint Vincent & The Grenadines

Civ. Suit No. 41/98

Mitchell J

**Delivered:** 13/04/00

Land dispute - Crown grant - neighbour encroached for 16 years before suit - Limitation Act - whether period of 30 years before suit applies.

**J. Ashton v V. Forbes**

Saint Vincent & The Grenadines

Civ. Suit No. 3/96

Mitchell J

**Delivered:** 17/04/00

# EASTERN CARIBBEAN SUPREME COURT

As at 30<sup>th</sup> April 2000

## Court of Appeal

### The Chief Justice

His Lordship, the Hon. Chief Justice, Dennis Byron – Saint Lucia

### Justices of Appeal

His Lordship, the Hon. Justice Satrohan Singh – Saint Christopher & Nevis

His Lordship, the Hon. Justice Albert Redhead – Saint Lucia

His Lordship, the Hon. Justice Albert Matthew – Saint Lucia

## High Court

His Lordship, the Hon. Justice Odel Adams – Saint Vincent & The Grenadines

Her Ladyship, the Hon. Justice Suzie d’Auvergne – Saint Lucia

His Lordship, the Hon. Justice Ephraim Georges – Antigua

His Lordship, the Hon. Justice Lyle St. Paul, OBE, CBE – Grenada

His Lordship, the Hon. Justice Dunbar Cenac – Dominica

His Lordship, the Hon. Justice Kenneth Benjamin – British Virgin Islands

His Lordship, the Hon. Neville Smith – Saint Christopher & Nevis

His Lordship, the Hon. Justice Brian Alleyne, SC – Grenada

His Lordship, the Hon. Justice Adrian Saunders – Anguilla/Montserrat

His Lordship, the Hon. Justice Henry Moe – Antigua

His Lordship, the Hon. Justice Ian Mitchell, Q.C. – Saint Vincent & The Grenadines

Her Ladyship, the Hon. Justice Indra Hariprashad-Charles [Ag.] – Saint Lucia

His Lordship, the Hon. Justice Frederick Bruce-Lyle [Ag.] – Antigua

Ms Ianthea Leigertwood, Chief Registrar [Ag.] – Saint Lucia