

ECSC E-NEWSLETTER



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Volume 1 No. 3
March 2000

GREETINGS FROM THE CHIEF JUSTICE

The month of March has been full and interesting as the topics on which items have written will show. This is highlighted by the unprecedented meeting of the judges of the Eastern Caribbean Supreme Court on two separate occasions within the same month. The events ranged from the seminar with Lord Woolf in Barbados and the dinner in honour of Justice Isaac to discussions on the Dumas Report and advances in the restructuring of the Court.

I am particularly pleased that the Heads of Government concurred with the proposals for justice reform and made appropriate financial provisions, as outlined in the article entitled "Restructuring Programmes". This enables the court to undertake activities aimed at improving the quality of judicial services to our region. I sincerely hope that, now we have been cleared for "take off", the commitment and enthusiasm that has brought us to this point will be sustained and increased for the exciting and important "journey" ahead of us."

Please send any comments, suggestions and contributions to the EC Court Newsletter at appeal@candw.lc.



EASTERN CARIBBEAN SUPREME COURT NEWS

COURT OF APPEAL

St. Vincent & the Grenadines

The Court of Appeal sat in St. Vincent and the Grenadines, during the week commencing Monday, 20th March 2000.

There were thirteen [13] matters listed for hearing, comprising:

High Court Criminal Appeals against sentence	1
High Court Criminal Appeals against conviction	1
High Court Civil Appeals	3
Magisterial Criminal Appeals against conviction	1
Magisterial Civil Appeals	2
Applications/Motions	5

Three [3] reserved judgments from Grenada were delivered.

The Sitting concluded on Wednesday, 22nd March with the entire list having been disposed of as follows:

Appeals allowed	3
Appeals dismissed	4
Judgment reserved	1

Applications for the dismissal of three [3] High Court Civil Appeals were granted along with one application for the extension of time to appeal and one [1] application for extension was refused.

Written judgments were delivered in one [1] High Court Criminal Appeal, one [1] High Court Civil Appeals, one [1] Magisterial Criminal Appeal and two [2] Magisterial Civil Appeals.

The next Sitting of the Court of Appeal in Saint Vincent and the Grenadines is scheduled to commence on Monday 24th July 2000.

Dominica

The Court of Appeal sat in the Commonwealth of Dominica, during the week commencing Monday, 27th March 2000, instead of Monday 6th March. This change of sitting was necessary due to the fact that Carnival Monday and Tuesday in Dominica fell on the 6th and 7th days of March respectively.

There were nineteen matters listed for hearing, comprising:

High Court Criminal Appeals against sentence	1
High Court Criminal Appeals against conviction	1
High Court Civil Appeals	2
Magisterial Criminal Appeals against sentence	3

Magisterial Criminal Appeals against conviction	5
Magisterial Civil Appeals	7

There were two [2] matters, which did not appear on the Cause List but were heard in Chambers by a single Judge of the Court. These were applications for dismissal for want of prosecution and for a record of appeal to be deemed properly filed before the Court of Appeal, both applications were granted.

Two [2] reserved judgments one each from Grenada and St. Vincent and the Grenadines were delivered.

The Sitting concluded on Tuesday, 28th March with the entire list having been disposed of as follows:

Appeals allowed	6
Appeals dismissed	6
Appeals withdrawn	5
Adjourned to next sitting	2

Written judgments were delivered in one [1] High Court Criminal Appeal and in one [1] High Court Civil Appeal.

The next Sitting of the Court of Appeal in Dominica is scheduled to commence on Monday 11th September 2000.

HIGH COURT

St. Lucia

Primrose Bledman Esq.

On Wednesday March 22, 2000 the Supreme Court convened for a Special Sitting to mark the life of the late barrister-at-law, Mr. Primrose Bledman a 72 year old private practitioner of thirty two (32) years experience who passed away on March 15, 2000. The His Lordship, the Hon. Chief Justice, Mr. Dennis Byron presided over the said sitting with High Court Justices Suzie d’Auvergne and Indra Hariprashad-Charles in attendance.

Among those addressing the Court were Senator the Honourable Attorney General and Minister for Public Service, Mr. Petrus Compton. Mr. Bledman’s close friends and colleagues, Queens Counsel and newly appointed President of the St. Lucia Bar Association Mr. Kenneth Monplaisir and Mr. Winston Cenac reminisced fondly of school days both home and abroad.

Mr. Bledman was lauded by all for his humanitarian legal practice being described as “a one man legal aid clinic” and also for his contribution to the development of Culture in St. Lucia. The Bar Association has created a Legal Aid Fund in Bledman’s memory.

NEW DEVELOPMENTS IN THE COURT

Current Projects

Restructuring Programmes

The restructuring programme made significant advance during the month of March. On the day of March, 2000 the Authority met at a breakfast caucus at the Ocean Terrace Inn in St. Kitts. The Chief Justice was invited to make a presentation on the Reform Programmes required to improve the Administration of Justice in the Eastern Caribbean, which had been tabled for concurrence. The Authority approved the revised estimates for the ensuing year and concurred with the restructuring programme. The way is now cleared for the introduction of the New Rules of Civil Procedure, the introduction of a computerized case-flow management system and the development of a Department of Court Administration within the Judiciary.

Committee on Code of Ethics

A Committee of judges has been established to produce a draft of a code of ethics for the judiciary of the Eastern Caribbean Supreme Court. The Committee comprises Justice of Appeal Redhead and High Court Judges d'Auvergne, Benjamin, Alleyne, Saunders and Mitchell. The Committee held its first meeting in Grenada on Friday March, 2000. It is expected that the Committee will complete a first draft within the next few months and that thereafter the entire judiciary will examine and discuss the same. [*See Attachment*]

OECS Reports

The lawyers and judges of the ECSC have been awaiting news on progress with the publication of the law reports of our region. Our jurisprudence has been at the mercy of others who select the judgments for publication that are of interest to them. Ian Randal Publishers of Jamaica have now agreed with the Chief Justice to publish both current reports and a selection of past reports of the High Court and of the Court of Appeal. In the following months, readers will be kept abreast of developments on this field.

JUDICIAL AND LEGAL SERVICES COMMISSION

Judicial Appointments

Antigua

Miss Veronica Thomas has been appointed acting Crown Counsel 11, Ministry of Justice and Legal Affairs, Antigua & Barbuda as Assistant Registrar, Registrar's Division with effect from 29th October, 1999.

Grenada

Mr. Lloyd St. Louis, Barrister-at-Law and former Magistrate has been appointed to act as Additional Magistrate, Grenada with effect from 17th April to 16th June, 2000 vice Her Worship, Miss Tamara Gill who is to proceed on vacation leave during this period.

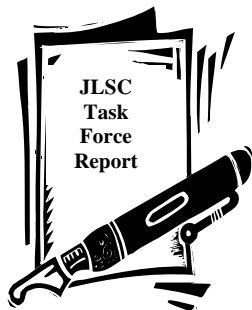
St. Lucia

- [1] Mrs. Veronica Barnard has been appointed to continue to act as Magistrate, in the Traffic Court on Fridays with effect from 1st April 2000.
- [2] Mrs. Kimberly Arlene Phulgence has been appointed to the post of Registrar, Corporate Affairs and Intellectual Property Registry in the Attorney General's Chambers with effect from 13th April 2000.
- [3] Ms Barbara Kathleen Pierre has been appointed to the post of Deputy Director of Legislative Drafting in the Attorney General's Chambers with effect from 3rd April 2000 for a period of two [2] years.

St. Vincent & The Grenadines

The contract of Mr. Errol Mounsey as Senior Magistrate, St. Vincent and the Grenadines has been renewed for a period of one [1] year with effect from 24th January 2000 on completion of his current contract.

The Judicial and Legal Services Task Force Report



Reporting

At paragraph 80 of the Dumas Report there is a recommendation that from now on, judges should report to the Chief Justice on a quarterly and an annual basis on all cases heard, or part-heard. At the Barbados meeting of the judges of the ECSC, Mitchell J presented a short paper. He approached the issue of reporting from the perspective of a practising barrister and solicitor for nearly 30 years. He argued that every lawyer bears an obligation to report to his client on how he is carrying out his duties to that client. For him that responsibility had easily carried over upon his appointment to the bench. He indicated that since his appointment he had been voluntarily reporting to the Chief Justice at the end of each court term, with a short note on every mention of any court file worked on by him during that time and of the order if any made on the file. He demonstrated that by his using a computerised listing system it was a nearly effortless exercise to produce a report at the end of any required period. A lively debate among the judges followed his presentation. Questions were raised as to whether reporting was an administrative exercise for the Registry staff or a personal obligation on a judge. No one appeared to doubt or to question the correctness of the recommendation for regular reporting on the work of the court.

CONFERENCES, SEMINARS & WORKSHOPS

Eastern Caribbean Supreme Court Judges Meeting in Barbados

At the invitation of the British Government through its High Commission to Barbados and the Eastern Caribbean, the entire Court of Appeal and High Court Benches of the Eastern Caribbean Supreme Court journeyed to Barbados to attend a seminar on Civil Justice Reform. In advance of the seminar, the Chief Justice seized the opportunity to convene a collegiate meeting of the Judges on Friday March 10, 2000 at the Accra Beach Hotel to present the Task Force Report then recently released by Mr. Reginald Dumas ("the Dumas Report"). There were limited discussions on aspects of the Report and further deliberations were stood over to a Judges' Meeting scheduled for March 18, 2000 in Grenada. [*See Attachment*]

Judicial Workshop with Lord Woolf

On March 11, 2000 Her Majesty's Government through the British High Commission based in Barbados convened a workshop with the Master of the Rolls, Lord Woolf, on Civil Justice Reform. All the Judges of the Eastern Caribbean Supreme Court joined the Chief Justice of Barbados, His Lordship Mr. Justice Henry Graham of the Cayman Islands and senior practicing lawyers and members of legal academic circles in Barbados in participating in a seminar structured upon a presentation by Lord Woolf followed by questions posed to him. [*See Attachment*]

Third Conference of Judges held in Grenada

Under the Chairmanship of the Hon. Mr. Justice Albert N. J. Matthew, Justice of Appeal, the entire bench of the Eastern Caribbean Supreme Court (only Hon. Mr. Justice Brian Alleyne, Q.C. being unavoidably absent) met for the third conference of its kind in Grenada at the Rex Grenadian Hotel on Saturday, March 18, 2000. The specific objective of the Conference was to consider the main recommendations of the Dumas Report. [*See Attachment*]

Eastern Caribbean Bench and Bar Honour Mr. Justice Julius Issac, Former Chief Justice of the Federal Court of Canada

Full Court Sitting

On Friday, March 17, 2000, the Hon. Chief Justice and the Appellate and High Court Judges of the Eastern Caribbean Supreme Court together with a formidable array of Queen's Counsel and other members of the OECS Bar Association joined their colleagues in Grenada for historic planned activities to celebrate the achievements and life's work of a native Grenadian, Hon. Mr. Justice Julius Issac, recently retired Chief Justice of the Federal Court of Canada. [*See Attachment*]

Meeting of Registry Staff in Dominica Convened at the Registry on Tuesday March 28, 2000 at 3:30 p.m.

In attendance were the Chief Justice, C. M. Dennis Byron, Matthew J. A. and Cenac J., the Registrar Ms. E. M. Baptiste, and twenty-two staff members. [*See Attachment*]

Meeting of the Dominica Bar Association Convened at the Civil Service Centre on Tuesday March 28, 2000 at 5:00 p.m.

In attendance were the Chief Justice, C. M. Dennis Byron; the Justices of Appeal Singh, Redhead and Matthew; the President of the Bar Association, Mr. Anthony W. Astaphan S.C., and thirty-one (31) members of the Bar. [*See Attachment*]

Criminal Law Reform on the Way in St. Lucia

The review of the Criminal Code of Saint Lucia and Criminal Law Reform proceeded a step further on Thursday 16th March 2000 with a workshop held at the Auberge Seraphine which included a number of the stakeholders involved in the reform. [*See Attachment*]

Tape Recording Interviews Of Suspects

Judges and others attending a workshop in Barbados during the month of March 2000 (which was addressed by Lord Woolf of the Privy Council) were given a short lesson by two officers of the Metropolitan Police Force (UK) relating to the tape recording of interviews with persons suspected of having committed criminal offences.

This procedure was introduced by the **Police and Criminal Evidence Act 1985 – UK**.

At later workshops, on 20, 21 and 22 March, the Police officers addressed Magistrates, Judges and Regional Police personnel in greater detail in relation to tape recorded interviews.

It was impressed upon participants that the use of tape recorded statements had considerably reduced the allegations of police misconduct, and that recording equipment itself made tampering with the tape recordings out of the question.

It was emphasized that training of sufficient policemen would be essential, and that the physical environment in which recordings were done would need to meet a certain standard, in the interest of acoustics.

Delegates from Barbados informed the workshop of 20 March that Barbados had passed legislation requiring tape recorded interviews, but that the date from which it was to take effect had not yet been proclaimed.

BVI BAR BIDES FAREWELL TO JUSTICE MOORE

At two well-attended functions held on Friday, March 3, 2000, the Bar of the Territory of the British Virgin Islands expressed appreciation to Hon. Mr. Justice Stanley Moore for his work as Resident High Court Judge on the eve of his passing into pre-retirement leave. [*See Attachment*]



COURT OF APPEAL SITTINGS MARCH 2000

Saint Vincent & The Grenadines - 20 March 2000

Coram: **Byron C.J.**
 Singh J.A.
 Redhead J.A.

1. **O'Garro v Cato et al**
 Civ. App. No. 7/98
 Appearances: Ms N. Sylvester for the appellant. No appearance by the respondent.
 Order: Dismissed for want of prosecution.
 Reason: Notice of appeal lodged 18th May 1998. No further action; breach of Order 64 rule 11.

2. **Punnet v James**
 Civ. App. No. 11/98
 Appearances: Mrs. J. Roberts-Antoine for the appellant and Mr. A. Williams for the respondent.
 Order: Leave to file record out of time within four weeks of the receipt of the notes of evidence from the court office.
 Reason: The respondent does not object. Appellant suffered impecuniosities and was only recently able to instruct legal counsel. The appeal raises serious issues.

3. **Richards v Edwards**
 Civ. App. No. 15/98
 Appearances: Mrs. J. Roberts-Antoine for the appellant and Ms N. Sylvester for the respondent.
 Order: Appeal dismissed for want of prosecution.
 Reason: The notice of appeal was filed in November 1998. The record of appeal was not lodged. Breach of Order 64 rule 11. No application for leave to file record late. Counsel admits that the order for contempt against which the appeal was filed has been spent and is no longer in force.

4. **Mowatt v Edwards**
 Civ. App. No. 3/99
 Appearances: Mrs. J. Roberts-Antoine for the appellant and Ms N. Sylvester for the respondent.
 Order: Appeal dismissed for want of prosecution with costs.
 Reason: Notice of appeal filed 5th May 1999. No further action. Breach of Order 64 rule 11. Order appealed against was an order sustaining an interlocutory injunction and ordering trial. Counsel concedes that the interlocutory injunction had been discharged in other proceedings.

5. **First St.Vincent Bank Ltd. v Guy et al**
 Civ. App. No. 2/00
 Appearances: Mr. B. Commissiong Q.C. for the appellant and Ms N. Sylvester for the respondent.
 Order: Appeal dismissed for want of prosecution with costs to the first respondent.

Reason: The delay was about 6 weeks. The managing clerk of the solicitor for the appellant got sick and then went on vacation. No one took action in his absence. The appellant did not adduce any material on the merits of the appeal.

6. **Lucas v Jack and Attorney General**

Civ. App. No. 6/99

Appearances: Mr. V. Cuffy for the appellant and Ms D. Lewis for the respondent.

Order: Appeal allowed. Order of trial judge is set aside. The appellant at liberty to enter judgment for a declaration that the alleged conduct of the first respondent was unlawful being inconsistent with S.R. & O 44 of 1959; that compensation be paid in the sum of \$2,000.00 general damages, \$250.00 special damages; the appellant to have costs for the trial and appeal, to be taxed if not agreed.

Reasons given orally: The first respondent is an assistant Teacher at the Stubbs Primary School and purported to administer corporal punishment to the appellant a fourteen year old student with a leather strap by virtue of regulation 9 of the Regulations in respect of Government and Assisted Primary Schools made under section 29 of The Education Ordinance 1937 (No. 29 of 1937). The appellant had to see his doctor who certified that he suffered multiple wheals on his chest wall and forearm. Regulation 9 specifically prohibited degrading and injurious punishment and regulated the manner in which corporal punishment may be administered. It was conceded, and we agreed, that corporal punishment of a student did not contravene the provisions of section 5 of the constitution. The first respondent contravened the regulations in that the punishment was injurious and it was not proved that the regulations, which required that the decision to administer corporal punishment was a last resort and be taken by the Head teacher and be administered in his presence and under his responsibility, were complied with. The appellant's skin was not broken and no blood was drawn. His expenses were one visit to the doctor and the cost of analgesics. **Written judgment.** *[See Attachment]*.

Saint Vincent & The Grenadines – 21 March and 22 March 2000

Coram: Singh J.A.
Redhead J.A.
Matthew J.A.

1. **Payne v Lewis**

Civ. App. No. 5/99

Appearances: Mr. Parnell Campbell for the appellant and Mr. Arthur Williams for the respondent.

Issue: Rectification of a deed of conveyance on the ground of mistake.

Order: Decision reserved.

2. **Browne v Jack**

Civ. App. No. 7/97

Appearances: Mr. Emery Robertson for the appellant and Mr. Arthur Williams for the respondent.

Agricultural small holding - tenancy - landlord dies - new owner - termination of tenancy - whether notice to terminate given - trespass by tenant after notice to quit - assault on tenant for the purpose of forceful eviction - reasonable force - damages for assault - damages for crops.

Issue: Trial judge held no notice to quit served on respondent. Awarded damages for crops on crop sharing basis. Awarded \$5,000 damages for unlawful assault which resulted in a small bruise on respondent arm.

Oral Judgment:

1. Enough evidence to show respondent received notice to quit.
2. Notice to quit gave respondent 6 months to reap crops.
3. Six (6) months reasonable to reap crops.
4. Award of damages for crops set aside.
5. Finding of assault by judge affirmed but damages reduced to \$750.
6. Appellant awarded costs in Court of Appeal and Court below.

22 March 2000

1. **Joseph v Commissioner of Police**

Mag. Crim. App. No. 1/00

Appearances: Dr. Ralph Gonsalves for appellant and Mr. Haymant Balroop DPP for respondent.

Possession of drugs with intent to supply - conviction – sentence \$4,000 to be paid in 2 months – appeal against conviction only – question of fact – strong direct and circumstantial evidence led by prosecution – no evidence led by defence.

Order: Appeal dismissed. Conviction and sentence affirmed. Fine to be paid within 2 months from date of this order. At the request of Dr. Gonsalves Court repeated the rule for the benefit of the Magistrate that once a no case submission is overruled, it does not automatically follow that an accused is guilty because the accused led no defence. In those circumstances, the Court should then return to the evidence led by the prosecution, assess it and then decide whether or not the prosecution had proved its case beyond a reasonable doubt.

2. **Daniel v Alexander**

Mag. Civ. App. No. 1/00

Appearances: Appellant in person and Mr. Huggins for the respondent.

Issue: Slander. Appeal against quantum. Magistrate awarded \$2,062. No justifiable reason to interfere with Magistrate's discretion.

Order: Appeal dismissed. Judgment of Magistrate affirmed.

Dominica - 27 March 2000

**Coram: Byron C.J.
Singh J.A.
Redhead J.A.**

1. **Douglas v State**
Crim. App. No. 3/99
Appearances: Appellant in person and Mr. R. David and Mr. E. Douglas for the respondent.
Sentence 5 years on conviction for burglary; 25 years old; no previous convictions.
Appellant in person asks leave to withdraw appeal. Granted.
2. **George v State**
Crim. App. No. 4/99
Appearances: Mr. A Lawrence for appellant; Mr. R. David and Mr. E. Douglas for the respondent.
Murder: Appeal allowed: Manslaughter substituted. Sentence life imprisonment.
Written Judgment. [See Attachment].
3. **Williams v H. H. V. Whitchurch & Co. Ltd.**
Mag. Civ. App. No. 4 of 1999
Appearances: Mr. J. Harris S.C. for the respondent.
Order: Leave to withdraw Mag. Crim App. No.4/99 no order as to costs. Mr. Harris confirms letter that the appellant withdraws appeal and he is not asking for costs.
4. **James et al v Simpson**
Civ. App. No. 4/99
Appearances: Mrs. Blomquist-Williams for the appellants and Mr. M Bruney for the respondent.
Order: Appeal dismissed with costs. Reasons: Running down case damages Special damages of \$370 and general of \$7,500 and costs awarded to pedestrian hit by bus driven by first appellant and owned by second. The appellant complained that when judgment in default was set aside the trial started immediately. Evidence was adduced on same day and three days later and judgment given on the final day of hearing. We concluded that the court had power to order speedy hearing when giving leave to defend. The defence was a denial that the bus hit the pedestrian and an assertion that he simply fell or that he was not paying attention. We did not consider that the appellant suffered any injustice or prejudice in having to lead evidence on that defence immediately.
5. **Bertrand v Secretary, P.S.C**
Civ. App. No. 10/99.
Appearances: Mr. A. Lawrence for the appellant and Mr. R. Winston for the respondent.
Order: appeal allowed. The appellant at liberty to enter judgment to quash the decision of the PS.C. retiring him in the public interest. Costs to the appellant in this court and the court below. **Written Judgment.** [See Attachment].

6. **Williams v Police**
Mag. Crim. App. No. 1/00
Appearances: Mr. M. Bruney for the appellant and Mr. R. David and Mr. E. Douglas for the respondent.
Appeal withdrawn.
7. **Cadette v Austrie**
Mag. Civ. App. No. 1/00
Appearances: Mrs. Blomquist-Williams for the appellant and Mr. M. Bruney for the respondent.
Appeal withdrawn. Costs to the respondent of \$500.00.
8. **Moise v Police**
Mag. Crim. App. No. 9/99
Appearances: Mr. Lawrence for the appellant and Mr. R. David and Mr. E. Douglas for the respondent.
Appeal withdrawn.
9. **Wayland v Rodney**
Mag. Civ. App. No. 4/00
Appearances: Ms. Dyer for the appellant and Mr. Prevost for the respondent.
Order by consent: appeal allowed. Judgment set aside retrial ordered.
10. **Bontiff v Police**
Mag. Crim. App. No. 6/99.
Appearances: The appellant in person and Mr. R. David and Mr. E. Douglas for the respondent.
Order: Sentence set aside. The appellant put on bond to be of good behaviour for three years in default three years in prison. Reasons: sentenced to 3 years under the theft act. This appellant had a long record of non-violent offences but with an emphasis on stealing. He recently got married. His wife is unemployed and pregnant. He is now 36 years old and is an agricultural worker. We decided to give him a chance. He earns freedom if he keeps his promise to change if not he serves the three years.
11. **Merrifield v Police**
Mag. Crim. App. No. 7/99
Appearances: Appellant in person and Mr. David and Mr. Douglas for the respondent.
Order: Appeal against sentence dismissed. Reasons: Sentenced to 2 years under theft act. Long record mixed offences of theft, violence and controlled substances.

Dominica - 27 March 2000: [In Chambers]

Matthew J.A.

1. **The Commissioner of Police et al v Etinoffe**

Civ. App.No. 9/99

Appearances: Mr. Reginald Winston for the appellants and Mr. Alick Lawrence for the respondent.

Notice of Motion for order that the appeal be dismissed for want of prosecution. Notice of Motion filed March 14, 200. Notice of Appeal filed on August 19, 1999. Mr. Reginald Winston wrote letter some time ago to Mr. Lawrence saying they are no longer interested in proceeding with the matter. Does not oppose the application.

Order: This appeal No. 9 of 1999 is dismissed for want of prosecution. There shall be no order as to costs.

2. **Johnrose v Dominica Broadcasting Corporation et al**

Civ. App. No. 11/99

Appearances: Mr. Anthony Astaphan S.C. for the appellant/applicant and Ms Francine Baron holding papers for the Mr. Justin Simon for the respondents.

Application by Mr. Astaphan for extension of time and/or that the record be deemed properly filed before the Court of Appeal. No objections to the application.

Order: It is ordered that the record of appeal in this matter be deemed properly filed before the Court of Appeal. There shall be no order as to costs.

Dominica – 28 March 2000

**Coram: Singh J.A.
Redhead J.A.
Matthew J.A.**

1. **Christopher v Police**
Mag. Crim. App. No. 5/99
Appearances: Appellant in person and Mr. Ronan David, DPP (Ag.) and Mr. Ian Douglas for the respondent.
Appeal against sentence 2-years for theft under the Theft Act.
Held: Magistrate exceeded her jurisdiction on penalty.
Appeal Allowed. Sentence quashed. Sentence of 6 months imprisonment substituted therefore.

2. **Armatrading v Police**
Mag. Crim. App. No. 8/99
Appearances: Mrs. Zena Moore Dyer for the appellant and Mr. Ian Douglas for the respondent.
Appeal against conviction of offence of simple “Wounding” when charge before Magistrate of “Wounding a police officer in the execution of duty” was dismissed.
Held: Magistrate without jurisdiction to convict for wounding in circumstances of the case. Reliance by Magistrate on **S 90 of Road Traffic Offences Act** to afford her jurisdiction misconceived.
Appeal allowed. Conviction quashed. Sentence set aside.

3. **Bernard v Police**
Mag. Crim. App. No. 10/99
Appearances: Mr. Lennox Lawrence for the appellant and Mr. Ian Douglas for the respondent.
Appeal against conviction of possession of controlled drugs.
Issue: Challenge to Magistrate’s finding of possession of the drugs in the appellant.
Held: Question of fact. Enough strong circumstantial evidence of possession in appellant.
Appeal dismissed. Conviction and sentence affirmed.

4. **St. Louis v Police**
Mag. Crim. App. No. 2/00
Appearances: Mr. Henry Dyer for the appellant and Mr. Ian Douglas for the respondent.
Appeal against conviction of dangerous driving. Magistrate rejected defences of “blackout” and mechanical defect.
Held: Question of fact. No justifiable reason to interfere.
Appeal dismissed conviction and sentence affirmed.

5. **James et al v Edwards et al**
Mag. Crim. App. No. 3/99
Appearances: Mr. Michael Bruney for the appellant and Mr. Ronan David for the respondent.
At the request of Mr. David who is now acting DPP, for an adjournment for that reason, and with the consent of Mr. Bruney, matter adjourned to the next sitting of the Court.
Leave granted to argue amended grounds.

6. **Stoute v Hector**
Mag. Civ. App. No. 2/00
Appearances: Mr. McDonald Christopher for the appellant. No appearance of or for respondent.
Appeal against judgment of Magistrate denying appellant's claim of trespass by Respondent and affirming respondent's claim for damages for wounding of her by the appellant.
Held: Question of fact. Finding of Magistrate that appellant did not discharge burden to prove trespass upheld. Finding of Magistrate that appellant wounded respondent upheld.
Appeal dismissed. Judgment of Magistrate affirmed.

7. **Herche v Commodore**
Mag. Civ. App. No. 5/00
Appearances: Mrs. Singoalla Blomquist-Williams for the appellant. No appearance of or for the respondent.
Appellant received appeal papers last Wednesday. Abandoned by original counsel. Briefed Mrs. Williams only yesterday. Application for adjournment to next sitting granted.

8. **Williams v Telecommunications of Dominica Ltd.**
Mag. Civ. 5/00
Appearances: Mr. McDonald Christopher for the appellant and Miss Elise Dawrnton for the respondent.
Appeal against dismissal of suit of the appellant for damages allegedly suffered by appellant as a result of alleged negligence by the respondent. Suit dismissed because appellant led no evidence to prove the respondent was responsible – Counsel for the appellant submitted that such proof was acceptable from hearsay evidence.
Held: No merit in submission.
Appeal dismissed. No order as to costs.

WRITTEN JUDGMENTS

Court of Appeal Judgments

The following are written Court of Appeal judgments delivered during the month of March 2000:

Dominica

R. George v The State

Dominica
High Court Crim. App. No. 4/99
Byron C.J.
Delivered: 27/03/00

Corporal Philbert Betrand v The Secretary, PSC

Dominica
Civ. App. No.10/99
Byron C.J.
Delivered: 27/03/00

Grenada

R. Gilbert v The Queen

Grenada
Crim. App. No. 7/99
Byron C. J.
Delivered: 20/03/00

St. George's University v E. Lampinstein

Grenada
Civ. App. No. 20/99
Byron C.J. and Singh J.A.
Delivered: 20/03/00

E. Gresham et al v Grenadian General Insurance Ltd.

Grenada
Civ. App. No. 1/00
Singh J.A.
Delivered: 20/03/00

Anderson and Anderson Construction Inc. v Project Control Associates

Grenada
Civ. App. No. 22/99
Redhead J.A.
Delivered: 27/03/00

Saint Vincent & The Grenadines

K. Lucas v M. Jack

Civ. App. No. 6/99

Byron C.J.

Delivered: 27/03/00

High Court Judgments

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

Antigua & Barbuda

Interlocutory mandatory injunction - principles governing grant of Right of Way – closure by defendant sanctioned by Government to facilitate defendant’s hotel expansion project on condition that satisfactory alternative bye-road be constructed by defendant – considerable investment expenditure undertaken by the defendant.

Extinguishment right of way – section 96 and 97 Land Registration Act – who may apply to Registrar as person affected by easement/right of way.

Galleon Beach Resort v English Harbour Hotel Development Company Ltd.

Antigua & Barbuda

Suit No. 34/00

Georges J

Delivered: 25/02/00

Vehicular accident – collision – driver towing another – no notice/warning or signal – emerging from bye-road on to major road – negligence – claim for loss and damage – excessive loss of use claim reduced – difficulty in obtaining spare parts – duty of plaintiff to mitigate loss.

P. Abbott v O. Zachariah et al

Antigua & Barbuda

Suit No. 216 of 1993

Georges J

Delivered: 07/03/00

Oral contract for transplanting fruits trees after removal of grit and marl by grading soil surface – digging holes 4 feet deep – filling with topsoil – transplanting over 100 trees – whether legally binding contract – substantial sum (\$15,000.00) paid to plaintiff by defendant – services alleged by defendant to have been voluntary – payments said to have been gratuitous.

I. Murraine v S. Sergeant

Antigua & Barbuda

Suit No. 320 of 1994

Georges J

Delivered: 07/03/00

Claim for arrears of rent in respect of dwelling house cum business premises – defendant alleging that she had assigned tenancy whilst on three months visit to China – claim also for damage to premises by defendant and resulting cost of repairs by owner – claim not properly substantiated.

C. Richardson v B. Frank

Antigua & Barbuda
Suit No. 346 of 1992
Georges J
Delivered: 08/03/00

British Virgin Islands

L. Sa v Lomax Trading Co. Ltd.

British Virgin Islands
Civ. Suit No. 21/99
Moore J
Delivered: 27/01/00

G. Turnbull v Rainbow's End Ltd.

British Virgin Islands
Suit No. 82A/95
Moore J
Delivered: 01/03/00

Beacon Emerging Debt Fund Ltd. v Chase Manhattan Bank et al

British Virgin Islands
Civ. Suit No. 126/99
Benjamin J
Delivered: 03/02/00

L. Saus de Villalba v Adex International Ltd. et al

British Virgin Islands
Civ. Suit No. 52/99
Benjamin J
Delivered: 10/02/00

In the Matter of the Companies Act Cap. 285 and In the Matter of a Petition by Manhattan Investment Fund Ltd.

British Virgin Islands
Civ. Suit No. 19/00
Benjamin J
Delivered: 20/03/00

Dominica

Judgment in default of defence – draft defence and counterclaim - defence of estoppel – consolidation with Suit No. 479/94.

National Commercial Bank of Dominica v A. Toussant et al

Dominica
Civ. Suit No. 299/97
Cenac J
Delivered: 23/02/00

Architectural contract – time for performance – damages.

M. Salzer Trading as Cabrits Dive Centre v F. Thomas

Dominica
Civ. Suit No. 183A/98
Cenac J
Delivered: 28/02/00

Order to strike out the particulars of claim – dismissal of the action pursuant to Order 18 rule 19 (1) (a) – order for dismissal of application.

E. Fontaine et al v G. Cockrane et al

Dominica
Civ. Suit No. 575/99
Cenac J
Delivered: 08/03/00

Grenada

Companies Act - closely held company - oppression remedy - mutual allegations of fraud and dishonest dealing - breakdown of relationship - application for winding up order - nature of contribution to equity - valuation of equity.

Dabreo et al v H. Dolland et al

Grenada
Civ. Suit No. 81/95
Alleyne J
Delivered: 09/03/00

Montserrat

Contract to repair premises - whether costs plus percentage contract or contract for fixed sum - failure of contractor to present proper accounts - burden of plaintiff in civil case – whether contractor entitled to rely on quantum meruit.

Ryan Investments Limited v P. Downs et al

Montserrat
Civ. Suit No. 36/96
Saunders J
Delivered: 24/03/00

Saint Christopher & Nevis

Customs duties dispute.

Attorney General of Saint Christopher and Nevis v V. J. Martin et al

Saint Christopher and Nevis

Civ. Suit No. 41/94

Smith J

Delivered: 02/02/00

Common carrier of goods for reward – negligence by – voyage charter – damaged printing press
– Eastern Caribbean Supreme Court Act 1975 s.20.

H. Bramble et al v St. Kitts, Nevis, Anguilla Trading & Development Company Limited

Saint Christopher and Nevis

Civ. Suit No. 40/96

Smith J

Delivered: 02/02/00

Land dispute – Limitation Act – adverse possession – request to purchase.

C. Drew v G. Gerald

Saint Christopher and Nevis

Civ. Suit No. 11/93

Smith J

Delivered: 02/02/00

Banker and customer – deposit accepted by the floor supervisor for passing to teller –
discrepancy in deposit – negligence by bank.

G. Liburd v St. Kitts-Nevis-Anguilla National Bank

Saint Christopher and Nevis

Civ. Suit No. 13/93

Smith J

Delivered: 02/02/00

Running down – fractured tibia – 80 year old labourer – pain and suffering.

D. Maynard v J. Nisbett

Saint Christopher and Nevis

Civ. Suit No. 16/96

Smith J

Delivered: 02/02/00

Divorce – domicile of husband in Honduras – lack of jurisdiction.

C. E. Robinson v J. D. Robinson

Saint Christopher and Nevis

Civ. Suit No. 6/96

Smith J

Delivered: 02/02/00

Running down – both drivers at fault.

L. Roper v H. Bowen

Saint Christopher and Nevis

Civ. Suit No. 43/97

Smith J

Delivered: 02/02/00

Land – certificate of title – no easement of right of way over private road.

J. Vaughan v G. Knorr et al

Saint Christopher and Nevis

Civ. Suit No. 16/98

Smith J

Delivered: 02/02/00

Running down – assessment of damages – compound fracture of tibia and fibula – atrophy of left ankle – restriction of movement in left knee – bone graft – permanent limp – pain and suffering and loss of amenities.

S. Warner v G. Chaderton et al

Saint Christopher and Nevis

Civ. Suit No. 11/99

Smith J

Delivered: 02/02/00

Sale of goods – diesel – contamination – contributory negligence – damages.

E. Hanley v Delta Petroleum

Saint Christopher and Nevis

Civ. Suit No. 10/96

Smith J

Delivered: 03/02/00

Land dispute – family land – injunction.

S. D. Maynard v C. Dore

Saint Christopher and Nevis

Civ. Suit No. 2/98

Smith J

Delivered: 03/02/00

Natural justice – St. Kitts Cricket Association – disciplinary proceedings – prejudice – bias - right to fair treatment.

C. Cannonier et al v I. Liburd et al

Saint Christopher and Nevis

Civ. Suit No. 107/98

Smith J

Delivered: 09/02/00

Running down – whip-lash injury – pain and suffering.

L. Hawley v V. Halliday

Saint Christopher and Nevis

Civ. Suit No. 29/96

Smith J

Delivered: 09/02/00

Detinue – vehicle – damages.

U. Henry v F. Crawford

Saint Christopher and Nevis

Civ. Suit No. 207/95

-Smith J

Delivered: 09/02/00

Industrial accident – labourer – cut to thumb – failure to supply gloves – assessment of damages.

R. Jefferson v Edgehill Associates (Moorjani Ltd.)

Saint Christopher and Nevis

Civ. Suit No. 166/95

Smith J

Delivered: 09/02/00

Running down – head-on collision – damages.

C. Roberts v A. Parris

Saint Christopher and Nevis

Civ. Suit No. 113/95

Smith J

Delivered: 09/02/00

Sale of goods – used bus – no warranty.

G. Smith v G. Gilfillan

Saint Christopher and Nevis

Civ. Suit No. 13/96

Smith J

Delivered: 09/02/00

Libel – assessment of damages.

M. Stapleton v H. R. Daniel

Saint Christopher and Nevis

Civ. Suit No. 9/99

Smith J

Delivered: 09/02/00

Detinue – drive shaft.

T. Issac v M. Galloway

Saint Christopher and Nevis

Civ. Suit No. 298/94

Smith J

Delivered: 10/02/00

Libel – imputing fraudulent and dishonest conduct – defence of justification – damages.

D. Astaphan v I. Beach et al

Saint Christopher and Nevis

Civ. Suit No. 22/93

Cenac J

Delivered: 15/02/00

Land dispute – claim of equitable interest – intimate relationship – children – Eastern Caribbean Supreme Court Act 1975 s.20 – right of occupation.

I. Dolphin v H. Ward

Saint Christopher and Nevis

Civ. Suit No. 2/96

Smith J

Delivered: 16/02/00

Sale of land – real estate agent fee.

E. Griffin v T. Francis

Saint Christopher and Nevis

Civ. Suit No. 141/94

Smith J

Delivered: 16/02/00

Damages for breach of contract.

R. La Place v C. Daley et al

Saint Christopher and Nevis

Civ. Suit No. 307/94

Smith J

Delivered: 16/02/00

Building contract – defective workmanship – waste of materials – delay in completion.

L. Mills v L. McDowell et al

Saint Christopher and Nevis

Civ. Suit No. 17/96

Smith J

Delivered: 16/02/00

Landlord and tenant – non payment of rent.

R. Parker v D. Liburd

Saint Christopher and Nevis

Civ. Suit No. 130/95

Smith J

Delivered: 16/02/00

Running down – assessment of damages.

E. Pemberton v C. Palmister

Saint Christopher and Nevis

Civ. Suit No. 17/97

Smith J

Delivered: 16/02/00

Saint Lucia

Verbal application for adjournment to set aside judgment refused – delay regarded as too long.

C. Elias v I. T. Robinson

Saint Lucia
Civ. Suit No. 774/97
d' Auvergne J
Delivered: 14/01/00

Writ of summons endorsed with a statement of claim – renewal of writ and substituted service by advertisement - validity of writ of summons – Order 2 Rule 2 of Rules of the Supreme Court 1970 – reasonable time.

C. Changoo v I. Gabriel et al

Saint Lucia
Civ. Suit No. 862/98
d' Auvergne J
Delivered: 21/01/00

Detention – section 23 of the Immigration Ordinance 1957 Vol. 1 Ch. 76 of the Revised Laws of St. Lucia - prohibited immigrant - failure to renew permit or leave the state before expiry date on entry permit – summons for writ of habeas corpus ad Subjiciendum – detention illegal and prolonged – breach of the rules of natural justice.

S. Duah v Superintendent of Prisons et al

Saint Lucia
Civ. Suit No. 973/99
d' Auvergne J
Delivered: 07/03/00

Libel – publication of article in Crusader Newspaper – reference to plaintiff's deceased daughter and common-law wife – reference to plaintiff by association – whether words capable of conveying a defamatory meaning of the plaintiff – defence of justification and fair comment – quantum of damages.

F. G. Polidore v Crusader Caribbean Publishing Company 1971 et al

Saint Lucia
Civ. Suit No. 380/90
Hariprashad-Charles J
Delivered: 13/03/00

EASTERN CARIBBEAN SUPREME COURT

As at 31st March 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