

ECSC E-NEWSLETTER



INSIDE THIS ISSUE

**Greetings from the
Chief Justice**
p. 1

**Eastern Caribbean Supreme
Court News**
p. 2

**New Developments
in the Court**
p. 4

**Conferences, Seminars &
Workshops**
p. 7

Court of Appeal Sitings
p. 12

Written Judgments
p. 27

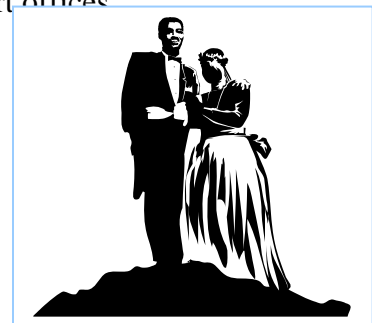


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GREETINGS FROM THE CHIEF JUSTICE

I bring Greetings for Christmas 2000 and New Year 2001. As the new year dawns I wish you all happiness, success in all laudable endeavours and increased prosperity. I believe that for the judiciary this wish will be realized in light of the Statutory Instrument regulating the new salaries. As I review the old year I give thanks for the wonderful things that have happened. As I attempt to chart a course for the new one I pray God's blessings and guidance. This is particularly important to as we expect to embark upon the implementation of the new rules of civil procedure and the computerization of the court offices.

This season has been specially rewarding to Master Hugh Rawlins who on 30th December 2000 took marriage vows with the lovely Ms Claudette Norville in Barbados. On behalf of the court I extend best wishes to them for a long, happy and fruitful life together.



EASTERN CARIBBEAN SUPREME COURT NEWS

Embracing Change

The gradual metamorphosis which court practices within Caribbean jurisdictions is undergoing was captured in dramatic form entitled "A Peaceful Christmas". This production was presented at the First Annual Cocktail party of the St. Vincent and the Grenadines Bar Association, held on Friday, 8th December 2000. Among its many distinguishing features, immediately noticeable, was the fact that the cast was comprised of members of the legal fraternity.

Pertinent issues such as legal aid, the establishment of the Caribbean Court of Appeal, and the new rules of court relating to civil procedure for the OECS were illustrated in a lighthearted, uncomplicated manner, appropriate for the ambiance. However, the significance and profound message was pellucidly clear- change is inevitable, we must embrace it.

The playwright, Mr. G. Bobby Fraser and his team of advisors must be commended for the delivery of a balanced perspective of the issues, raising both concerns and benefits to be had from the implementation of each of the relatively novel ideas to Caribbean jurisdictions.

The kaleidoscope of talent peaked with the grand finale of traditional Christmas carols and a dance, leaving the audience with a sense of Christmas cheer and the message that a love for humanity must be central if we are to achieve a peaceful Christmas- a functional world.

Saint Lucia Bar Associations – Dé Simenn An Kopani Justis (Two Weeks with the Law)

In October 1999, the Saint Lucia Bar Association initiated a 'Law Week'; the objective was for lawyers to become more involved in the community and to disseminate information on the law and justice system. During the week, a number of social and public activities, as well as media appearances by lawyers, took place. The theme for the week was **'Lawyers Exploding the Myth'**.

This year **'Law Week'** gave birth to **'De Simenn An Kopani Jistis'** (which is Creole for 'Two Weeks with the Law'). The two weeks were from 5th November to 19th November, 2000. The theme for this year was: **'Lawyers and Society: Strengthening the Bond'**.

Once again, a range of activities took place: church service; opening of the new Secretariat of the Bar Association; community outreach programme in the form of legal aid clinics; lawyers made media appearance; Madame Justice Suzie D'Auvergne delivered a lecture in the High Court titled **'Protocol and Etiquette in the Court'**; lawyers' lime at a popular venue; games night; a variety show showcasing talents of the lawyers was used, not only to entertain and inform a paying public but to raise funds for a charitable event.

COURT OF APPEAL

Meeting of the Judiciary of the Eastern Caribbean Supreme Court - Press Release

On Saturday 9 December 2000 the Chief Justice of the Eastern Caribbean, Sir Dennis Byron, convened a meeting of the Eastern Caribbean Supreme Court Judiciary at Sunset Shores Hotel in St. Vincent.

The Opening Ceremony was addressed by His Excellency the Governor General, Sir Charles Antrobus, GCMG, OBE, who welcomed the judges to St. Vincent on behalf of the Government of St. Vincent and The Grenadines. Opening prayers were said by Monsignor Michael Stewart. Attorney General the Honourable Carl Joseph was also present.

The main purpose of the meeting was the approval of a Draft Code of Ethics for Judges of the Eastern Caribbean Supreme Court. The draft had been prepared by a Committee under the chairmanship of Mr. Justice Adrian Saunders of St. Vincent, who is presently serving in Anguilla and Montserrat. This proposed Code of Ethics forms part of a comprehensive judicial reform programme initiated by Sir Dennis since he came to office some four years ago.

The Code of Ethics focuses on five principal areas:

- Canon One emphasizes that a judge should uphold the integrity and independence of the judiciary.
- Canon Two sets out guidelines for a judge to avoid impropriety and the appearance of impropriety.
- Canon Three deals with the need for judges to impartially and diligently perform the duties of the office.
- Canon Four encourages the judge to engage in extra judicial activities to improve the law, the legal system, and the administration of justice.
- Canon Five requires that a judge refrain from political activity.

The first item on the agenda for the meeting was a discussion led by three eminent Caribbean personalities. One of the panelists was Sir Fred Phillips, QC, a retired jurist and author. Another panelist was Mr. Eldon Mathurin of St. Lucia, a well-known Caribbean consultant on finance and administration. The third panelist was Mr. Justice Odel Adams, the most senior judge of the East Caribbean Supreme Court. They each gave their views on the need for and relevance of putting into writing the Code of Ethics, which guides the conduct of a judge. Sir Fred quoted from a 1978 publication of his in which he anticipated just such a code as was being discussed. Mr. Mathurin gave the public perception of the judiciary from the view of a lay person, and explained why he thought such a written code would be useful. Justice Adams spoke from the point of view of a judge. After extensive discussion by the meeting the Code was approved.

The common theme that ran through the discussion of the judges was the hope that, by putting into writing such a Code of Ethics, members of the public in the Eastern Caribbean would gain a better understanding of the principals that govern judges.

The full text and commentary will be published by the Office of the Chief Justice and should be available shortly.

Court of Appeal Sitting, St. Vincent and the Grenadines – December 4th to 7th, 2000

The Court of Appeal Sitting held in St. Vincent and the Grenadines, December 4th to 7th, 2000 will go down in the annals of the Eastern Caribbean Supreme Court as a historic one. For the first time, the Court sat in two divisions, the Criminal Division of Appeal and the Civil Division of Appeal. The Criminal Division of the Court of Appeal was presided over by the Hon. Chief Justice, Sir Dennis Byron. The Coram included the Hon. Justice Suzie D'Auvergne and the Hon. Justice Adrian Saunders, High Court judges, who were sworn in as acting Justices of Appeal for this special sitting. The Hon. Justice Satrohan Singh, Justice of Appeal, was President of the Civil Division of the Court of Appeal with Justices of Appeal, the Hon. Justice Albert Redhead and the Hon. Justice Albert Matthew making up the Coram.

NEW DEVELOPMENTS IN THE COURT

JEMS Update: Installation and Application Training

In preparation for the implementation of the new Civil Procedure Rules 2000, the Eastern Caribbean Supreme Court commenced the activities for the use of the case management software. These activities included the Installation Training and Application Training for selected users from the different islands.

The JEMS Installation Training Programme took place in Tortola, BVI, from November 15th to 17th, 2000. Thirteen participants from eight of the different territories were represented at the training.

The training covered a number of items ranging from the equipment requirements for the software, the software requirements and the standardization of the required software, the actual installation of the JEMS software, and some of the necessary information for the operation of Microsoft SQL Server 7.0.

The training was very productive and all the islands represented now have a local representative who can provide them with the necessary installation services for the software.

Grenada was the only territory which was unable to send a representative due to the short notice. It has already been decided that the installation support for the Grenada Court Office will be provided by the Eastern Caribbean Supreme Court Headquarters so that there will be no delay in that territory once they have purchased the necessary software.

The second part of the training, the Application Training for the users, was held in Tortola at the H. Levity Stoute Community College from November 27th to December 8th, 2000. The computer facilities at the College were quite adequate and permitted users to have hands-on training during

the two-week session. There were approximately thirty users present at the training session from the various member states of the Eastern Caribbean Supreme Court.

All users were exposed to the operations of the software and the processes involved in its customization to meet the needs of the Eastern Caribbean Supreme Court. Master Charmaine Pemberton attended the training and worked with the Registrars and the Deputy Registrars in attendance to develop the different codes required to utilize the system. This exercise proved to be very lengthy and could not be completed during the time available. The group will continue working to complete this exercise during the month of January 2001. The information prepared will provide the basis for the customization of the software and will form an initial manual for the operations of the Court Office in an automated environment.

While Master Pemberton worked with the Registrars and Deputy Registrars, the remaining representatives of the Court Office worked on the software after the various customizations required were implemented. The users were shown the process of creating different actions on the system and linking those actions to various documents to be generated. Extensive exercises were conducted with the users in Word Merge which will be utilized to prepare documents automatically from the system. During the course of the training users were placed in small groups and assigned various aspects of the processes developed by the Master and Registrars group. They entered case information related to the process assigned and then made a presentation to the class to demonstrate how they achieved their objectives using the features available in the software.

The users who were trained in the use of the application have now been adequately prepared to use the software and can commence to pass on the knowledge acquired to the other staff who were not able to attend the sessions. While some preliminary discussions can be held with the other users before the system is installed, the installation of the software in the different Court Offices will enable a more complete training session to be conducted locally in each Court Office.

As at the end of November 2000, the British Virgin Islands had signed their contracts with the suppliers and paid for the software. A number of other Court Offices are now working on completing their arrangements to have the software installed at their location as soon as possible.

We are thankful to the High Court Office and the Government of the British Virgin Islands for their support in this exercise as well as the Principal and staff at the H. Levity Stoute Community College for their hospitality and the use of their facilities.

JUDICIAL AND LEGAL SERVICES COMMISSION

Judicial Appointments

1. Justice Adrian Saunders has been appointed to act as Justice of Appeal for the purpose of the sitting of the Court of Appeal in St. Lucia with effect from 22nd October, 2000.
2. Justice Suzie D'Auvergne has been appointed to act as Justice of Appeal for the purpose of the sitting of the Court of Appeal in St. Vincent and The Grenadines with effect from 3rd December, 2000.
3. Justice Adrian Saunders has been appointed to act as Justice of Appeal for the purpose of the sitting of the Court of Appeal in St. Vincent and The Grenadines with effect from 3rd December, 2000.
4. Master Hugh Rawlins has been appointed to act as a High Court Judge of the Eastern Caribbean Supreme Court from 4th to 8th December, 2000 vice Her Ladyship, the Hon. Justice Suzie' D'Auvergne who has been appointed to act as a Justice of Appeal during that period.
5. Master Hugh Rawlins has been appointed to act as a High Court Judge of the Eastern Caribbean Supreme Court from 8th to 31st December, 2000 vice His Lordship, the Hon. Justice Dunbar Cenac who is due to proceed on vacation leave.

Legal Appointments

Antigua

1. Mrs. Gretel Thom, Deputy Solicitor-General has been appointed to act in the position of Acting Crown-Solicitor, Ministry of Justice and Legal Affairs from 29th September, 2000.
1. Miss Gail Christian has been appointed as Crown Counsel II, Office of the Director of Public Prosecutions with effect from 2nd November, 2000.
2. Mr. Carden Clarke has been appointed as Crown Counsel II, Ministry of Justice and Legal Affairs with effect from 20th November, 2000.

Grenada

1. Mr. Errol Thomas has been seconded to the Grenada International Financial Services Authority for a period of three [3] months with effect from 10th October, 2000.
2. Mr. Lloyd St. Louis has been appointed to act as Magistrate, Western and Northern Districts for the period 15th November to 15th December, 2000 vice His Worship, Mr. Henry Paryag, Magistrate, Southern District, who has applied for 31 days vacation leave during that period.

3. Mr. Hugh Wildman has been appointed to act as Director of Public Prosecutions for a period of one month with effect from 1st to 31st December, 2000.
4. Mr. Michael Lindo has been appointed to act as Magistrate from 6th December, 2000 to 17th January, 2001 vice Mrs. Oforiwa Augustine who proceeded on leave for that period.
5. Mr. Hugh Wildman has been appointed to act as Director of Public Prosecutions for the period 1st January to 31st January, 2001

St. Kitts

1. Mr. John Benjamin has been appointed as Additional Magistrate for the period 20th November, 2000 to 31st March, 2001.
2. Ms. Gail Edwards, Crown Counsel in the Attorney-General's Chambers was been appointed to act as Registrar for the period 26th November to 10th December, 2000 vice, Ms. Pearletta Lanns, Registrar who was out of State on official duties during that period.

St. Lucia

1. Mr. David Anthony Cox has been appointed to the post of Crown Counsel I in the Attorney-General's Chambers with effect from 13th November, 2000.
2. Mr. Percy Mootoo's contract has been renewed for a further period of one [1] year as Magistrate, Second District Court with effect from 1st December, 2000.
3. Mr. Paul Thompson's Contract has been renewed as Senior Crown Counsel for a period of one [1] year with effect from 1st December, 2000.

St. Vincent & The Grenadines

1. Mr. Grenville John has been appointed to the post of Legal Assistant with effect from 20th November, 2000.

CONFERENCES, SEMINARS & WORKSHOPS

Law Reporting Workshop

The Law Reporting Workshop organised by the Caribbean Law Publishing Company of Jamaica was held at the Hugh Wooding Law School in Trinidad, November 17th – 18th 2000. Ms Christine Randle of the Caribbean Law Publishing Company coordinated the Workshop. The

Caribbean Law Publishing Company is the Company responsible for the publishing of the first four volumes of the Trinidad and Tobago Law Reports. The Company is also about to begin publishing the Eastern Caribbean Supreme Court Law Reports.

Judges, Registrars, Librarians, Law School staff and law students attended the Workshop. Participants came from as far as Jamaica in the north. The Hon. Justice Ian Mitchell from St. Vincent and the Grenadines, Ms Perletta Lanns, Registrar St. Kitts and Nevis, Ms Evelina Baptiste, Registrar Dominica and Ms Janice Modeste, Librarian, Court of Appeal St. Lucia represented the Eastern Caribbean Supreme Court at the Workshop.

Dr. The Hon. Lloyd G. Barnett, O.J. with the assistance of Ms Nancy Anderson presided over the Workshop sessions. The Workshop covered the topics "The Role of Law Reporting," and "Techniques in Headnote Writing." Dr. Barnett's address on "The Role of Law Reporting" was enlightening. This was followed by a very interesting session during which participants were exposed to the outline and essentials of headnote writing. Participants also went through the exercise of designing headnotes for a number of civil and criminal judgments from the Eastern Caribbean Supreme Court, Court of Appeal and the Trinidad and Tobago Courts of Appeal. At the end of the final session, the participants concluded that the Workshop was both effective and informative.

The Regional Reform Consultative Meeting on Family Law and Domestic Violence Legal and Judicial Reform

The Regional Reform Consultative Meeting on Family Law and Domestic Violence Legal and Judicial Reform was held in St. Lucia on Monday, 13 November 2000, at the Auberge Seraphine Hotel. The opening ceremony commenced with welcome remarks and introductions by His Lordship, the Hon. Justice Albert Matthew, Justice of Appeal of the Eastern Caribbean Supreme Court. His Lordship, the Hon. Chief Justice, Sir Dennis Byron made the feature presentation. The Chief Justice provided background information on the development of the programme for the reform of the law relating to Family Law and Domestic Violence.

The imperatives for reform in this area of the law in the Eastern Caribbean outlined by the Chief Justice included the following:

- Elimination of those areas of the law relating to family matters which are archaic and perpetuate inequalities.
- Giving legislative expression to the rights, particularly for women, children, and the elderly, which form part of the International Conventions entered into by the governments within the Jurisdiction. These include the Convention on the Elimination of all forms of Discrimination Against Women, the UN Convention on the Rights of the Child, and the UN Declaration on Violence Against Women.
- Dealing with the increasing incidence of complaints with respect to violence against women, domestic violence, and sexual harassment.

The Chief Justice also thanked the funding agencies for their support of the programme. The agencies include:

- The Canadian International Development Agency (CIDA)
- The University of the West Indies, Faculty of Law, Cave Hill Campus, Barbados
- The United Nations Economic Commission for Latin America and the Caribbean (UNECLAC)
- Caribbean Association for Feminist Research and Action (CAFRA)
- United Nations Development fund for Women (UNIFEM)
- United Nations Children Fund (UNICEF)
- The Commonwealth Judicial Education Institute (CJEI)
- The Governments of the Eastern Caribbean States

Presentations were also made by members of the Planning Committee. In his presentation the Honourable Mr. Justice Albert Matthew, Justice of Appeal of the Eastern Caribbean Supreme Court gave an overview of the Programme Plan. Ms Roberta Clarke of UNECLAC made a presentation on the research aspects of the programme. Master Charmaine Pemberton of the Eastern Caribbean Supreme Court made a presentation on the aims and objectives of the proposed Domestic Violence Conference and the Family Law Reform Conference. The presentation by Ms Roslyn Hazelle, Permanent Secretary, Ministry of Gender Affairs, St. Kitts and Nevis, focused on the public awareness aspects of the programme. Observations and comments were made during the discussion period which followed the presentations. Delegates from Anguilla, Dominica, St. Vincent and the Grenadines, British Virgin Islands, Grenada, St. Lucia, St. Kitts and Nevis, and Antigua expressed endorsement for the Family Law and Domestic Violence Legal and Judicial Reform Project.

Seminar on Case Management under the Civil Procedure Rules hosted by the BVI Bar Association

On Saturday November 21, 2000 the BVI Bar Association hosted a seminar on the Civil Procedure Rules, 2000, with special emphasis on the Case Management procedures under Parts 25 to 27 of the CPR.

The special guest and chief presenter at the seminar was Master Hugh Rawlins. Mr. Justice Kenneth Benjamin, the Registrar of the High Court Mr. Graham Farinha, and 24 members of the public and private bars also attended the seminar.

The seminar was opened by the President of the Bar Association, Mr. Paul Webster, followed by a presentation by Justice Benjamin on the backlog reduction programme. Master Rawlins then took over the programme. He made brief remarks on the role of the Master, and proceeded to analyse the two case studies that had being prepared and circulated prior to the seminar. The case studies were designed to highlight issues that will arise at Case Management Conferences. Master Rawlins' knowledge of how Case Management works, acquired through his training in Canada and his own industry, was apparent in the way that he guided the seminar through the case studies. Many issues were highlighted, and the attendees were given a sound introduction to the system of Case Management.

The BVI Bar Association takes this opportunity to thank Master Rawlins for taking time out of his busy schedule to come to Tortola and participate in the seminar.

The seminar closed at 1 p.m, and was followed by lunch for all the attendees.

UNICEF Meeting

On November 28th, 2000 the Eastern Caribbean Supreme Court hosted a meeting with representatives from UNICEF and NCH Action for Children. Individuals present at the meeting were:

| | |
|----------------------------|---------------------------------------------------------------------------------------|
| Sir Dennis Byron | Chief Justice, OECS Supreme Court |
| Charmaine Pemberton | Master, Court of Appeal |
| Hugh Rawlins | Master, Court of Appeal |
| Ianthea Leigertwood-Octave | Registrar, Court of Appeal |
| Keith McKenzie | NCH Action for Children |
| Ena Trotman-Stoby | NCH Action for Children |
| Heather Stewart | UNICEF |
| Roberta Clarke | UNECLAC |
| Candia Alleyne | Senior Project Education officer, OECS |
| Felicia Robinson | Director of Family Services, St. Lucia |
| Jacqueline Sealy-Burke | Consultant - Family and Gender Affairs Grenada |
| Elaine French | Intern, Court of Appeal |
| Alana Simmons | Family Law and Domestic Violence Legal Reform Project Coordinator, Court of Appeal |

The purpose of the meeting was to discuss how the Law Reform initiatives of the Eastern Caribbean Supreme Court and UNICEF/NCH Action for Children could be dovetailed to the benefit of participating countries. The meeting reviewed the genesis of concepts of the projects, the methodological approach, project coordination, and funding sources.

During the consultation there was a general feeling that a merger of the three initiatives, UNICEF/NCH Action for Children and the Eastern Caribbean Supreme Court to produce reform legislation on family law with a focus on Child Rights was both inevitable and desirable. An extension of the UNICEF/NCH Action for Children partnership to include the OECS/ECSC family law reform project was agreed to in principle. The following plans were agreed to:

- The Eastern Caribbean Supreme Court would be approached to assume overall responsibility for this Inter-Governmental Project, which focuses on the creation of legal and social change.
- It was also agreed that the project would be approached in phases with each agency having specific responsibilities towards the process of the project. Phase 1 of which funding is secured from CIDA, UNICEF and NCH Action for Children. UNICEF is committed to ensure that this process is prioritized in the National Programme Plans of Action (PPA) for 2001.

MASTERS' CORNER

The Masters visit St. Christopher and Nevis and Antigua and Barbuda

The Masters of the Supreme Court continued their preparations for the introduction of the Civil Procedure Rules 2000. In this regard, Masters Charmaine Pemberton and Hugh Rawlins paid an official visit to St. Kitts and Nevis from Monday 20 to Wednesday 22 November 2000, and to Antigua from Wednesday 22 to Friday 24 November 2000. These visits were, in particular, for the purpose of reviewing the preparations which are being made in these jurisdictions for status hearings for the backlog reduction programme.

In St. Kitts, the Masters made a courtesy call on the Honourable Delano Bart, the Attorney General. At that meeting, they discussed a number of matters which relate to the implementation of the Civil Procedure Rules 2000, including the installation of the automation process which will complement the new rules. They also met with the Registrar of the High Court, Ms. Pearletta Lanns, the staff of the Court Office, the staff of the Office of the Director of Public Prosecutions, and the Judge's Secretary, Ms. Brenda Hodge. The Masters also held discussions with Mr. S.W. Tapley Seaton, CVO, QC, the President of the St. Kitts and Nevis Bar Association, and held a meeting with Lawyers at the High Court in Basseterre on various aspects of the implementation of the 2000 Rules and the procedure for status hearings.

In Nevis, the Masters held discussions with His Lordship, Justice F.N. Bruce-Lyle, the Resident High Court Judge for St. Kitts and Nevis, as well as with the members of staff of the Court Office. They also held a meeting with Lawyers at the Conference Room at the Administration Building in Charlestown. The outreach aspect of the implementation programme was facilitated by an interview which a reporter of the Observer Newspaper of St. Kitts and Nevis arranged with the Masters while they visited Nevis.

In Antigua, the Masters held discussions with the Resident High Court Judges, His Lordship Justice E. Georges and His Lordship Justice Henry Moe. They also held discussions with the Attorney General, Dr. Errol Court on a range of issues which relate to the introduction of the Civil Procedure Rules 2000.

At the Court Office, the Masters held discussions with the Registrar, Mrs. Sanyu Richards, Ms. Veronica Thomas, a Deputy Registrar of the High Court and with other members of staff. The Masters also held a meeting and discussions with Lawyers.

COURT OF APPEAL SITTING NOVEMBER 2000

Antigua and Barbuda Court of Appeal Sitting - 6th to 9th November, 2000

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

Monday November 6, 2000

1. **Auguste v Attorney General of St. Lucia**
 Civ. App. No. 23/99
 Appearances: Mr. Sydney Christian, Q.C. for Mr. Kenneth Monplaisir, Q.C. for the Appellant and Mr. Anthony Astaphan, Q.C. for the Respondent.
 Issue: To be or not to be a teacher. Charles J found Appellant not to be a teacher.
 Result: Appeal dismissed. Judgment of Trial Judge affirmed. Costs of appeal to the Respondent to be taxed if not agreed.
 Written Judgment of Redhead J.A.

2. **St. James Club v Jeremiah**
 Civ. App. No. 1/96
 Appearances: No appearance of or for the Appellant and Mr. Hugh Marshall for the Respondent.
 Issue: Application to dismiss appeal for want of prosecution.
 Result: Granted. Appeal dismissed for want of prosecution.

3. **Graham & Co. et al v Antigua Commercial Bank**
 Civ. App. No. 2/00
 Appearances: Mr. Dane Hamilton for the Applicant and Mr. Lenworth Johnson for the Respondent.
 Issue: Application for leave to appeal.
 Result: By consent: granted.

4. **Knowles v James**
 Civ. App. No. 6/99
 Appearances: Mrs. Tecla Henry Benjamin for the Applicant and Mr. Charlesworth Browne for the Respondent.
 Issue: Extension of time to file record of appeal.
 Result: By consent: Time to file record of appeal extended to six weeks from date of receipt by Appellant of note of evidence from Registrar. High Court Judgment stayed pending determination of appeal.

5. **Francis v Dew**
 Civ. App. No. 10/99
 Appearances: No appearance for the Appellant and Ms Ann Henry for the Respondent.
 Issue: Notice of discontinuation of appeal filed by Appellant.
 Result: Appeal dismissed. No order as to costs.

6. **Bocciolini v Fuller**
Civ. App. No. 3/00
Appearances: Mrs. Tecla Henry Benjamin for the Applicant and Mr. Cordel Shepherd for the Respondent.
Issue: Application for extension of time to appeal.
 1. Application 3 years out of time. Inordinate.
 2. No leave obtained to appeal from Interlocutory Order.
 3. No evidence as to what was the judgment.
 4. No evidence to determine prejudice or merits.**Result:** Application dismissed. By consent: No order as to costs.

7. **Sunny Investments v Scott**
Civ. App. No. 3/00
Appearances: Mr. Hugh Marshall for the Applicant and Mr. Dexter Wason for the Respondent.
Issue: Filing of record of appeal.
Result: Record of appeal deemed to be properly filed.

8. **Antigua Public Utilities v Observer Cellular**
Civ. App. No. 8/00
Appearances: Mr. Anthony Astaphan, Q.C., Miss Rika Bird with him for the Appellants and Mr. Dane Hamilton for the Respondent
Issue: Filing of record of appeal.
Result: Application to serve notice of appeal out of time granted. Record of appeal deemed to be properly filed.

9. **BWIA v Payne**
Civ. App. No. 11/00
Appearances: Mr. Justin Simon for the Appellant and Ms Ann Henry for the Respondent
Issue: Filing of record of appeal.
Result: By consent: Record of appeal to be filed within one week from date of this Order.

10. **Richards v Harris**
Civ. App. No. 12/00
Appearances: Mr. Hugh Marshall for the Appellant and Mr. Dane Hamilton for the Respondent.
Issue: Extension of time to serve notice of appeal.
Result: Application for extension of time to serve notice of appeal granted, extended to 7 days from date of this Order. Costs to the respondent to be taxed if not agreed. Record of appeal to be filed within 6 weeks from date of receipt of Appellants of Judge's notes. Costs of this application to be costs in the cause.

11. **Martin v Quality Builders**

Civ. App. No. 1/00

Appearances: Mr. Trevor Kendall for the Appellant and Ms Ann Henry for the Respondent.

Issue: Extension of time to file record of appeal.

Result: By consent: Time to file record of appeal extended to 6 weeks from date of receipt by appellants of notes of evidence from Registrar.

12. **Ward v National Drug**

Civ. App. No. 15/00

Appearances: Mr. Justin Simon for the Appellant with Mr. Nicholas Fuller and Mr. Anthony Astaphan Q.C. for the Respondent with Mr. Curtis Bird.

Issue: Extension of time to file record of appeal.

Result: By consent: Time to file record extended to December 15, 2000.

Tuesday November 7, 2000

13. **Lazarenco v National Drug**

Civ. App. No. 14/00

Appearances: Mr. Hendrickson Kentish, Miss Joyce Kentish with him instructed by Charlesworth Brown for the Appellant and Mr. Anthony Astaphan, Q.C., Mr. Curtis Bird with him for the Respondent.

Issue: Extension of time to file record of appeal.

Result: Granted to be filed by 31st December 2000. By consent: Appeal consolidated with appeal No. 15 of 2000. [Consent Order elaborates this Order].

14. **Sunny Investment v Scott**

Civ. App. No. 3/00

Appearances: Mr. Hugh Marshall for the Appellant and Mr. Dexter Wason for the Respondent.

Issue: Wrongful dismissed. Industrial Court awarded \$72,500.

Result: Appeal allowed. Judgment of Industrial Court set aside. Respondent held to be properly dismissed.

Wednesday November 8, 2000

15. **Antigua Public Utilities v Observer Cellular**

Civ. App. No. 8/00

Appearances: Mr. Anthony Astaphan, Q.C. for the Appellant with Miss Rika Bird and Mr. Dane Hamilton for the Respondent.

Issue: Appeal against order of Mandatory Injunction.

Result: By consent: Injunction discharged on terms of settlement made order of Court.

16. **Bascus v Caribbean Publishing Co.**

Civ. App. No. 7/99

Appearances: Ms Mary White and Ms Ann Henry for the Appellants and Mr. Colin Derrick for the Respondents.

Issue: Libel - Appeal against quantum of damages awarded for pecuniary loss.

Result: No reason to interfere with Judge's discretion. Appeal dismissed with costs to the Respondents to be taxed if not agreed.

Thursday November 9, 2000

17. **State Insurance Corp. v McLean**

Civ. App. No. 20/99

Appearances: Mr. Dane Hamilton for the Appellant and Mrs. Mary White for the Respondent.

Issue: Marine Insurance Claim. Respondent awarded \$343,000 in court below.

1. Whether Appellant was agent or facilitator of foreign Company that issued policy.
2. Whether Appellant was agent of Respondent.
3. Whether there was lack of due diligence in Respondent which would vitiate claim.
4. Whether there was negligence in Appellant in causing Respondent to obtain policy from foreign Company.
5. Whether judgment obtained against foreign Insurance Company estopped judgment against Appellant.

Result: Held - Judgment against Wilmington Insurance estopped Respondent from claiming same reliefs against Appellant as agent of Wilmington.

18. **Wason v Commissioner of Police**

Mag. Crim. App. No. 1/00

Appearances: Mr. Dane Hamilton for the Appellant and Mr. Thom for the Respondent.

Issue: Conviction of Careless Driving. Question of fact.

Result: Appeal dismissed. Convictions and sentence affirmed.

19. **Africa v Commissioner of Police**

Mag. Crim. App. No. 2/00

Appearances: Mr. Dane Hamilton for the Appellant and Mr. Thom for the Respondent.

Issue: Conviction of Assault. Appeal against sentence only.

Result: Appeal allowed. Sentence of 6 months imprisonment quashed. Fine of \$250 to be paid within one month in default imprisonment for 3 months substituted. Order of \$1300 compensation confirmed. To be paid within 2 months, in default imprisonment for 3 months.

20. **Foster v Samuel**

Mag. Civ. App. No. 2/00

Appearances: Mr. Dane Hamilton for the Appellant and Mr. John Fuller for the Respondent.

Issue: Judgment entered for Respondent for \$700 and costs. Money owed. Question of fact.

Result: Appeal dismissed. Judgment of Magistrate affirmed. No order to costs.

Grenada Court of Appeal Sitting – 20th to 24th November, 2000

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

1. **Commissioner of Police v Mathurin**
Mag. Crim. App. No. 5/00
Appearances: Mr. Hugh Wildman, DPP (Ag.) holds for the DPP of Saint Lucia and Mr. Lloyd Noel holds for Mr. Richard Frederick of Saint Lucia.
Issue: Case stated by Magistrate regarding the **Firearms Act**.
Result: Question answered in the affirmative.

2. **Edwards et al v Patrick**
Civ. App. No. 6/00
Appearances: Mr. George Prime holds for Ms Denise Campbell for the Appellant and Mrs. Steele for the Respondents.
Issue: Leave to appeal to the Privy Council
Result: Conditional leave to appeal to the Privy Council granted on the usual statutory terms – stay of execution of judgment granted until determination of appeal.

3. **Andrew v Commissioner of Police**
Mag. Crim. App. No. 1/00
Appearances: Miss Karen Noel for the Appellant and Mr. Hugh Wildman, DPP (Ag.) for the Respondent.
Issue: Application to reinstate appeal.
Result: By Consent: Application granted. Appeal to be heard at this sitting.

4. **Vincent v Augustine**
Mag. Civ. App. No. 1/00
Appearances: Mr. Raymond Anthony for the Appellant and Mr. George Prime for the Respondent.
Issue: Application to re-instate appeal.
Result: By Consent: Application granted. Appeal to be heard at this Sitting.

5. **Morne Rouge Holiday Apartments Ltd. v The National Commercial Bank of Grenada Ltd.**
Civ. App. No. 15/00
Appearances: Mr. Francis Alexis for the Appellant and Mrs. Steele for the Respondent.
Issue: Leave granted Appellant to withdraw appeal.
Result: By Consent: No order as to costs.

6. **Noel v The Queen**
Crim. App. No. 7/00
Appearances: Mr. Ruggles Ferguson for the Appellant, Mr. Nazim Burke with him and Mr. Hugh Wildman DPP (Ag.) for the Respondent.
Issue: Murder.
Result: Decision reserved.

7. **Joseph v The Queen**
Crim. App. No. 3/00
Appearances: Appellant in person and Mr. Hugh Wildman, DPP (Ag.) for the Crown.
Issue: Housebreaking – Identification – Question of fact for jury.
Result: No misdirection by Judge. Appeal dismissed. Conviction and sentence affirmed.
8. **Sylvester v The Queen**
Crim. App. No. 4/00
Appearances: Appellant in person and Mr. Hugh Wildman, DPP (Ag.) for the Respondent.
Issue: Burglary.
Result: No merit. Appeal dismissed. Conviction and sentence affirmed.
9. **Noel v The Queen**
Crim. App. No. 5/00
Appearances: Appellant in person and Mr. Hugh Wildman DPP (Ag.) for the Respondent.
Issue: Housebreaking – Identification – Question of fact.
Result: No fault in summing-up. Appeal dismissed. Conviction and sentence affirmed.

Tuesday November 21, 2000

10. **Charles v Reason et al**
Civ. App. No. 2/00
Appearances: Mr. Lloyd for the Appellant. Mrs. Pauline Hannibal and Miss Danielle Williams with her for the Respondent No. 3. No appearance of or for Respondent Nos. 1 and 2.
11. **Walker v Nvack et al**
Civ. App. No. 3/00
Appearances: Mr. George Price for the Appellant and Mr. Lloyd Noel for the Respondent No. 5. No service of notice of fixture on Respondents 1, 2, 3, 4 and 6.
Result: At request of Appellant and with consent of Mr. Noel adjourned to the February 2001 Sitting. Appellant to serve notice of February fixture no later than one month before that date. Costs of today agreed at \$2,500 to Respondent No.5 to be paid by the Appellant.
12. **Osprey Lines Ltd. v Attorney General of Grenada**
Civ. App. No. 10/00
Appearances: Ms Celia Edwards for the Appellant, Mr. James Bristol, Miss Nicola Bayer with her, Mr. John Tyne holds for Solicitor General for the Respondent.
Result: Solicitor-General ill. By Consent: Matter adjourned to next Sitting.
13. **Williams v Ross & Sons Engineering Works Ltd.**
Civ. App. No. 12/00

- Appearances:** Mr. Raphael Baptiste for the Appellant and Miss Wilkinson for the Respondent.
Issue: Judgment – Default – Application to set aside refused by Judge. Appeal. Affidavit of merits. Arguable defence.
Result: Appeal allowed. Judgment of Trial Judge set aside. Default judgment set aside. Appellant to file defence 7 days from today. Costs thrown away by this order to be borne by the Appellant and paid to the Respondent.
14. **Spronk et al v Calliste et al**
Civ. App. No. 14/00
Appearances: Mr. James Bristol for the Appellants and Mr. Gregory Delzin of the Trinidad Bar, Mrs. Steele with him for the Respondent.
Issue: Nuisance – Noise from loud music.
Result: Appeal dismissed with costs to the Respondents to be taxed if not agreed.
15. **Grenada General Insurance Company Ltd. et al v Grenada Insurance Services Ltd.**
Civ. App. No. 8/00
Appearances: Mr. Derek Knight, Q.C. for the Appellants and Mr. James Bristol for the Respondents.
Issue: 1. What is meant by “liberty to apply.”
2. What is meant by “payment in.”
3. Oppression attracting the jurisdiction equity.
Result: Decision reserved.
16. **Antoine v Bryden & Minors Limited**
Appearances: Mr. Anselm Clouden for the Appellant and Mr. James Bristol for the Respondent.
Issue: Application to set aside default judgment.
Result: Application dismissed with costs to the Respondents to be taxed if not agreed.
17. **Moore v Moore**
Appearances: Mr. Anselm Clouden for the Appellant and Mr. George Prime for the Respondent.
Issue: Application to set aside judgment in default.
Result: Application dismissed. Judgment of Trial Judge affirmed.
18. **John v The Queen**
Appearances: Mr. Anselm Clouden for the Appellant and Mr. Hugh Wildman DPP (Ag.) for the Respondent.
Issue: Conviction of Possession of Drugs. Appeal.
1. Non-disclosure by DPP.
2. Adequacy of directions on possession.
3. Imbalance in summing-up.
4. Order of forfeiture.
Result: No merit on any of the issues. Appeal dismissed. Conviction and sentence affirmed.
19. **Andrew v Commissioner of Police**

Mag. Crim. App. No. 1/00

Appearances: Miss Karen Noel for the Appellant and Mr. Hugh Wildman (Ag.) for the Respondent.

Issue: Conviction of two offences tried together by Magistrate without consent of Appellant. **Breach of S 80 (3) of Criminal Code Cap. 2** DPP conceded.

Result: Appeal allowed. Convictions set aside. Remitted to Magistrate Court for retrial.

20. **Smith v Commissioner of Police**

Mag. Crim. App. No. 1/00

Appearances: Appellant in person and Mr. Hugh Wildman DPP (Ag.) for the Respondent.

Issue: Larceny. No merit in appeal.

Result: Appeal dismissed. Convictions and sentences affirmed except sentence in case 25 August 2000, which is reduced to 9 months imprisonment.

21. **McDonald v Commissioner of Police**

Mag. Crim. App. No. 3/00

Appearances: Mr. Anselm Clouden and Mr. Hugh Wildman DPP for the Respondent. Mr. Clouden sees nothing in appeal.

Issue: Causing harm. Appeal against conviction.

Result: Appeal dismissed. Conviction and sentence affirmed.

22. **Noel v Commissioner of Police**

Mag. Crim. App. No. 4/00

Appearances: Appellant in person and Mr. Hugh Wildman for the Respondent.

Issue: Appeal against sentence of 9 months, imprisonment for robbery. .

Result: No merit. Appeal dismissed. Sentence affirmed.

23. **Michaud v Commissioner of Police**

Mag. Crim. App. No. 5/00

Appearances: Appellant in person and Mr. Hugh Wildman, DPP for the Respondent.

Issue: Appeal against sentence of a fine of \$500,000 for possession of drugs.

Result: Appeal withdrawn. Dismissed.

24. **Vincent v Augustus**

Mag. Civ. App. No. 1/00

Appearances: Mr. Raymond Anthony for the Appellant and Mr. George Prime for the Respondent.

Issue: Breach of Contract.

Result: Appeal allowed with costs to the Appellant to be taxed if not agreed. Judgment of Magistrate set aside. Judgment entered for the Appellant in the sum of \$3,000.

Saint Vincent and the Grenadines – 4th to 7th December, 2000 - Criminal Division of Appeal Sitting

Coram: **Byron C.J.**
 D’Auvergne J.A. (Ag)
 Saunders J.A. (Ag)

1. **Davy v R**
 Crim. App. No. 12/99
 Appearances: Ms Samantha Robertson for the Appellant and Dr. H. Browne D.P.P and Ms Bollers for the Respondent.
 Issue: Convicted of incest. Sentenced to 10 years imprisonment. Appeal against sentence only.
 Result: Appeal dismissed. Maximum penalty of 14 years.
 Reason: Mitigating factors urged – daughter aged 16 age of consent; evidence of subsequent sexual activity; appellant had been recently bereaved by loss of wife. Aggravating factors – use of violence; no evidence of prior sexual activity; repetition; increasing number of reports; apparent physical underdevelopment of complainant.

2. **Cunningham v R**
 Crim. App. No. 4/00
 Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
 Issue: Convicted of unlawful sexual intercourse. Sentenced to 5 years imprisonment. Appeal against sentence only. Complained against conditions in prison.
 Result: Appeal dismissed.
 Reasons: No mitigating factors relating to offence.

3. **Thomas v R**
 Crim. App. No. 5/00
 Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
 Issue: Convicted of unlawful sexual intercourse. Sentenced to 5 years imprisonment. Appeal against sentence only.
 Result: Appeal dismissed.
 Reasons: Aggravating factors far outweighed mitigating factors. The appellant was 44 years old, has seven children including daughters aged 5 and 6. The victim was aged 13 and had a child resulting from offence.

4. **Hector v R**
 Crim. App. No. 7/00
 Appearances: The Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
 Issue: Convicted of handling stolen goods. Sentenced to 3 years imprisonment. Appeal against sentence only. Complained against conditions in prison. Has book of previous convictions for dishonesty offences
 Result: Appeal dismissed.

5. **Joseph v R**
Crim. App. No. 9/00
Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
Appearances: Convicted for handling stolen goods. Sentenced to 3 years imprisonment.
Appeal against sentence only.
Issue: Complained against conditions in prison. Has book of previous convictions for similar offences.
Result: Appeal dismissed.
6. **Lewis V R**
Crim. App. No. 11/00
Appearances: Ms M. Ferrara and Mr. K Starmer for the Appellant and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted of murder. Application for leave to adduce evidence to support irregularity of process on visit to *locus in quo*.
Order: Trial judge inquire. Counsel undertake to limit witnesses to two on each side. Report to be made at least 4 weeks before the next sitting of the Court of Appeal in St. Vincent, 26th February 2001. Liberty to apply.
7. **Henry v R**
Crim. App. No. 9/00
Appearances: Mr. Richard Williams for the Appellant and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted of unlawful sexual intercourse. Sentenced to 10 years imprisonment. Main ground of appeal against conviction based on fact that medical evidence admitted by deposition.
Result: Ground dismissed. Provisions of statute scrupulously followed. No unfairness. Appeal against sentence dismissed.
Reason: Heinous crime. Aggravated by violence, 13 year old complainant knocked unconscious and tied up, rape forcible and repeated, accompanied and followed by humiliating words and behaviour.
8. **Hazell v R**
Crim. App. No. 11/00
Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted of theft. Sentence to 5 years imprisonment
Result: Appeal dismissed.
Reason: Complaint against findings of fact. The Jury had accepted eye-witness evidence, and rejected alibi. The summing up was not faulted.
9. **Jack v R**
Crim. App. No. 18/00
Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted of robbery. Sentenced to 5 years imprisonment.
Result: Appeal allowed. Conviction and sentence set aside.
Reason: Too many procedural and administrative irregularities. Most serious was the inability to produce record of the summing up. Decision taken not to order retrial because of physical abuse suffered in prison.

10. **Adams v R**
Crim. App. No. 20/00
Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted for unlawful wounding. Sentenced to 5 years imprisonment.
Result: Conviction affirmed. Sentence reduced to 2 years from date of conviction.
Reason: Incident of passion commencing with fight.
11. **Daniel v R**
Crim. App. No. 3/00
Appearances: Appellant in person and Dr. Browne and Ms Bollers for the Respondent.
Issue: Convicted of rape. Sentenced to 15 years imprisonment.
Result: Appeal against conviction dismissed. Sentence varied to 10 years.
Reason: Complained about rejection of defence of consent. Appellant was a pointer and had offered to smoke out spirits from complainant who was 5 months pregnant at time of incident. Evidence strong and summing up fair. Aggravated by use of violence. Need to make sentences consistent.

5th - 6th December, 2000

12. **Williams v R.**
Crim. App. No. 10/95
Appearances: Mr. Guthrie Q.C., Mr. K. Starmer and Ms N. Sylvester for the Appellant and Dr. H. Browne and Ms Bollers for the Respondent.
Issue: Conviction for murder remitted from Privy Council.
Result: Decision reserved.

6th - 7th December 2000

13. **Spence v R**
Crim. App. No. 20/98
Appearances: Mr. Guthrie Q.C., Mr. K. Starmer and Ms N. Sylvester for the Appellant and Mr. A Astaphan S.C., Dr. H. Browne, Mr. J. Dinglemans, and Ms Bollers for the Respondent; *consolidated with*
Hughes v R
Crim. App. 14/97
Saint Lucia
Appearances: Mr. Fitzgerald Q.C., Mr. M. Foster and Mr. G. Walters for the Appellant and Mr. A Astaphan S.C., Mr. J. Dinglemans, Ms L. Bledman, and Mr. P. Thompson for the Respondent.
Issue: Both murder convictions on remittal from Privy Council.
Result: Decision reserved.

Saint Vincent and the Grenadines - 4th to 7th December, 2000 - Civil Division of Appeal Sitting

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

1. **Smith v Smith**
 Civ. App. No. 19/00
 Appearances: Mr. Olin Dennie for the Appellant and Ms Paula David for the Respondent.
 Issue: Extension of time to file record of appeal.
 Result: By consent, extension of time granted for seven days from today's date to file record of appeal.

2. **Richards et al v Edwards**
 Civ. App. No. 20/00
 Appearances: Mr. Olin Dennie for the Appellant and Ms Nicole Sylvester for the Respondent.
 Issue: Extension of time to file Record of Appeal.
 Result: Application granted to extend time for filing Record of Appeal to December 29, 2000.

3. **Carlton Construction Ltd. v Taylor et al**
 Civ. App. No. 24/00
 Appearances: Commissioning and Commissioning for the Appellant and Ms Paula David for the Respondent
 Issue: Extension of time to file Record of Appeal.
 Result: Application granted to extend time to file Record of Appeal to December 29, 2000.

4. **Joyette et al v Samuel**
 Civ. App. No. 25/00
 Appearances: Mr. S. E. Commissioning for the Appellant and Ms Zhing Horne for the Respondent.
 Issue: Extension of time to file Record of Appeal.
 Result: Order granted to file Record of Appeal by December 29, 2000.

5. **McLean et al v McLean et al**
 Civ. App. No. 30/00
 Appearances: Mr. Olin Dennie for the Appellant and Ms Nicole Sylvester for the Respondent.
 Issue: Extension of time to file Record of Appeal.
 Result: By consent, order granted to extend time to file Record of Appeal December 29, 2000.

6. **Huggins v Hamilton**
Civ. App. No. 31/00
Appearances: Mr. Olin Dennie for the Appellant and Ms Nicole Sylvester for the Respondent.
Issue: Extension of time to file Record of Appeal.
Result: By consent time to file Record of Appeal extended to December 29, 2000.
7. **Sheen v George**
Civ. App. No. 32/00
Appearances: Mr. Arthur Williams for the Appellant and Mr. Parnel Campbell and Ms Cheryl McSheen for the Respondent.
Issue: Extension of time to file Record of Appeal.
Result: Application for extension of time dismissed. Case to proceed to appeal.
8. **Layne et al v Williams et al**
Civ. App. No. 35/00
Appearances: Mr. Olin Dennie for the Appellant and Arthur Williams for the Respondent.
Issue: Extension of time to file Record.
Result: Application granted to extend time to file Record of Appeal to December 29, 2000.
9. **Ryan v Ryan**
Civ. App. No. 27/00
Appearances: Mr. Joseph Delves for the Appellant and Ms Nicole Sylvester for the Respondent.
Issue: Extension of time to file record of appeal.
Result: Time to file Record of Appeal extended to two (2) weeks from today's date.
10. **McDowall v Commissioner of Police**
Mag. Crim. App. No. 2/00
Appearances: No appearance of the Appellant and Mr. Jaundy Martin for the Respondent.
Issue: Theft.
Result: Appeal dismissed for want of prosecution.
11. **Little v Commissioner of Police**
Mag. Crim. App. No. 3/00
Appearances: The Appellant was unrepresented and Mr. Jaundy Martin for the Respondent.
Issue: Driving Uninsured Vehicle.
Result: Appeal dismissed.
12. **Collis v Commissioner of Police**
Mag. Crim. App. No. 4/00
Appearances: No appearance of the Appellant and Mr. Jaundy Martin for the Respondent.
Issue: Possession of Ammunition.

Result: Appeal dismissed for want of prosecution.

13. **Williams v Commissioner of Police**
Mag. Crim. App. No. 5/00
Appearances: The Appellant was unrepresented and Mr. Jaundy Martin for the Respondent.
Issue: Driving without Insurance.
Result: Appeal dismissed.
14. **In the matter of an Application by Robert Joseph for leave to apply for an Order Certiorari and In the matter of the Sentence of Magistrate Haymant Balroop pursuant to Drugs Prevention of Misuse Act**
Civ. App. No. 3/00
Appearances: Mr. Richard Williams for Applicant and Mr. Donald Browne for Attorney General's Chambers
Issue: Appeal against the decision of a Magistrate
Result: Appeal allowed. Order of the trial judge set aside. Order for forfeiture made by Magistrate quashed and set aside.
15. **Anderson v Jack**
Civ. App. No. 22/00
Appearances: Mr. Arthur Williams for the Appellant and Ms Paula David for the Respondent.
Issue: Possession over property.
Result: Appeal is withdrawn and dismissed to be taxed if not agreed.
16. **Alexander et al v Wilson**
Civ. App. No. 23/00
Appearances: Mr. Arthur Williams for the Appellant and Mr. Samuel Commissiong for the Respondent.
Issue: Validity of property transfer.
Result: Appeal is dismissed with costs and taxed.
17. **John v Barnwell**
Civ. App. No. 29/00
Appearances: Mr. Richard Williams for the Appellant and Mr. Samuel Commissiong for the Respondent.
Issue: Whether wall erected by the Appellant was a public nuisance.
Result: Case adjourned to the next sitting to allow Counsel to reach settlement and return to court with a consent order.
18. **Sheen v George**
Civ. App. No. 32/00
Appearances: Mr. Arthur Williams for the Appellant and Mr. Parnel R. Campbell and Ms Cheryl McSheen for the Respondent.
Issue: Consent order.

Result: Consent Order DG2 of pleadings made into an order of the court, by consent. Further, Appellant is ordered to pay costs of \$5,000 on or before 8th December, 2000. Appeal is dismissed.

19. **John v Chance**

Civ. App. No. 33/00

Appearances: Mr. Parnel R. Campbell for the Appellant and Mr. Richard Williams for the Respondent.

Issue: Oral tenancy.

WRITTEN JUDGMENTS

Court of Appeal Judgments

The following are written Court of Appeal judgments available for the months of November and December 2000:

Dominica

Johnrose v Dominica Broadcasting Corporation

Dominica

Civ. App. No. 11/99

Delivered: 04/12/00

Byron CJ

Grenada

Noel v The Queen

Grenada

Crim. App. No. 7/00

Delivered: 04/12/00

Singh JA

Saint Lucia

Auguste v Attorney General of Saint Lucia

Saint Lucia

Civ. App. No. 23/99

Delivered: 06/11/00

Redhead JA

Police v Mathurin

Saint Lucia

Crim. App. No. 5/00

Delivered: 20/11/00

Singh JA

High Court Judgments

The following are written High Court judgments received for the months of November and December 2000:

Anguilla

Contract - specific performance - agreement to share fees - company created to employ Plaintiff - Plaintiff a non-belonger - company owned by two belongers - work permit as employee obtained for Plaintiff - Plaintiff not in reality an employee - self-employed work permit more expensive and difficult to obtain - agreement for directors of company to keep 10% and Plaintiff 90% of fees earned for work done by Plaintiff - company withholding Plaintiff's share of fees - Plaintiff suing on contract - counterclaim for damages for breach of contract - finding that contract tainted by illegality - company fronting for Plaintiff - company a mere device to evade labour laws - public policy - claim and counterclaim dismissed - order as to costs.

Butterworth v PC's Limited et al

Anguilla

Civ. Suit No 70/00

Delivered: 30/11/00

Saunders J

Antigua and Barbuda

Mair v Marble Villas Company Limited et al

Antigua and Barbuda

Suit No. 53/94

Delivered: 03/11/00

Georges J

British Virgin Islands

Hartwell v Laurent et al

British Virgin Islands

Civ. Suit No. 152/94

Delivered: 21/11/00

Georges J

Fennel et al v The Owners and other Persons Interested in The Ship "Crissy"

British Virgin Islands

Civ. Suit No. 149/96

Delivered: 24/11/00

Georges J

Fahie v Christopher

British Virgin Islands

Civ. Suit No. 114/96

Delivered: 27/11/00

Georges J

Penn v The Registrar of Lands

British Virgin Islands

Civ. App. No. 20/00

Delivered: 29/11/00

Benjamin J

Bass et al v Michael Helm Architects Ltd. et al

British Virgin Islands

Civ. Suit No. 108/92

Delivered: 12/12/00

Georges J

Dominica

Antoine v Antoine

Civ. Suit No. 32D/98

Commonwealth of Dominica

Delivered: 18/12/00

Hariprashad-Charles J

Grenada

Constitutional law - establishment of court - independence and impartiality - appointment of judges - retiring judge reappointed on contract to act - validity of his judicial acts called in question - whether appointment valid - finding that such appointment authorised by law - suit dismissed - West Indies Associated States Supreme Court Order 1967, sections 6, 8, 18.

Declaratory orders - plaintiff must prove infringement of personal right - no locus standi - Rules of the Supreme Court, Order 15, Rule 16.

Public wrong - private action - need for relator action by Attorney General - no locus standi.

Judges - privilege of immunity from suit - no locus standi.

Appointment of judge - made by Judicial and Legal Services Commission - Chief-Justice not correct party - members of the Commission should have been named.

Public policy - public officers - irregularity in appointment - validity of acts not to be questioned.

Alexis v St. Paul

Grenada

Civ. Suit No. 227/00

Delivered: 03/11/00

Adams J

E. C. G. Enterprises Limited v N. H. International (Caribbean) Limited et al

Grenada

Civ. Suit No. 497/99

Delivered: 10/11/00

St. Paul J

Ettienne et al v Grenada General Insurance Co. Ltd.

Grenada

Civ. Suit No. 218/97

Delivered: 01/12/00

St. Paul J

Deane v Deane

Grenada

Civ. Suit No. 103/97

Delivered: 01/12/00

St. Paul J

Technical and Allied Workers' Union v The Minister Responsible for Labour

Grenada

Civ. Suit No. 556/00

Delivered: 22/12/00

St. Paul J

Constitution of Grenada - right of freedom of expression - offence of criminal libel - discussion of political matters - conduct of public figures - suitability of persons for office of member of House of Representatives - imputation of misconduct in public office - offence not reasonably required in a democratic society - section declared unconstitutional - Constitution of Grenada, section 10 - Criminal Code of Grenada, sections 252, 258, 259 - Supreme Court (Constitutional Redress-Grenada) Rules, 1968.

Commissioner of Police v George Worme et al

Grenada

Civ. Suit No. 219A/00

Delivered: 09/11/00

Alleyne J

Bristol v The Comptroller of Inland Revenue

Grenada

Civ. Suit No. 240/00

Delivered: 24/11/00

Alleyne J

In the matter of the West Indies Associated States Supreme Court (Grenada) Act CAP. 336 of the Laws of Grenada, 1999 and In the matter of the application of Cajeton Anthony Kelvin Hood to be admitted to practice as a barrister-at-law of the Supreme Court of Grenada and the West Indies Associated States

Grenada

Civ. Suit No. 574/00

Delivered: 30/11/00

Alleyne J

Flemming Estate Limited v Grenada Co-operative Bank Limited

Grenada

Civ. Suit No. 487/00

Delivered: 21/12/00

Alleyne J

Saint Lucia

Practice and procedure - amending pleading - parties - striking out - amendment after limitation period expired not allowed - Code of Civil Procedure, Articles 2222, 2129 - Rules of the Supreme Court 1970, Order 20 rule 5.

Handley v Joseph et al

Saint Lucia

Civ. Suit No. 310/00

Delivered: 01/11/00

d' Auvergne J

Henry v Windward & Leeward Brewery Ltd. et al

Saint Lucia

Civ. Suit No. 903/99

Delivered: 28/11/00

d' Auvergne J

Practice and procedure - judgments and orders - default judgment - setting aside - filing defence out of time - defendants residing out of State - principles to be applied - default judgment set aside on Defendants paying security for costs - Code of Civil Procedure, Article 38 - Rules of the Supreme Court, Order 13.

Cenac et al v Tate et al

Saint Lucia

Civ. Suit No. 983/99

Delivered: 29/11/00

d' Auvergne J

Fontenelle v Transport & Handling Services Ltd. et al

Saint Lucia

Civ. Suit No. 434/96

Delivered : 19/12/00

d' Auvergne J

Saint Vincent and the Grenadines

Family law - status of children - paternity declaration - practice and procedure - originating summons procedure - need for a plaintiff and a defendant - lack of a public trustee - need to appoint a personal representative to represent estate of deceased defendant - need to serve proceedings on personal representative - right of other persons interested to intervene - RSC Order 5, rule 3 Family law - status of children - paternity declaration - nature of the evidence required - application of ejusdem generis rule - civil standard of proof - corroboration not required - Status of Children Act, Cap 180, sections 7, 8, 10, 17.

Wendy Hilda Carter nee Marsden v Michelle Amanda McCree

Saint Vincent and the Grenadines

Civ. Suit No. 43/00

Delivered: 03/11/00

Mitchell J

Trust law - constructive trust - family arrangements - bank savings accounts - sister placed as joint signatory on bank account - entire account emptied - claim that withdrawals unauthorised - duty of sister to account for withdrawals from brother's account - judgment for plaintiff.

Cecil Moore v Maggie Moore

Saint Vincent and the Grenadines

Civ. Suit No. 104/98

Delivered: 06/11/00

Mitchell J

Law of tort - fraud - price controlled vehicle - price charged in excess of maximum certified by Ministry - requisite particulars not displayed in prominent place on vehicle - preparation costs incurred by dealer after certification in getting used vehicle ready for market - applicability of Act to used vehicles - duty of dealer - Price and Distribution of Goods Act, Cap 112 Statutory interpretation - "any mechanically propelled vehicle" - application to used vehicles - Price Control) Motor Vehicles Regulations, 1978.

Hudson Soso v Da Silva's Motors Limited

Saint Vincent and the Grenadines

Civ. Suit No. 480/99

Delivered: 20/11/00

Mitchell J

Tort - negligence - running down case - plaintiff speeding - defendant coming on to plaintiff's side of the road to overtake parked vehicle - plaintiff swerving onto defendant's side of road to avoid accident - collision occurring on defendant's side of road - duty of driver overtaking to ensure that it is safe to do so - judgment for the plaintiff.

Sydney 'Tony' Clarke v Benedict Charles

Saint Vincent and the Grenadines

Civ. Suit No. 523/98

Delivered: 28/11/00

Mitchell J

Sale of land - oral contract - part performance - claim by plaintiff that open contract concluded orally - written receipt issued on payment of deposit - deposit paid by plaintiff by cheque - cheque never cashed - parties to the discussion not ad idem as to the parties to the contract, the price, or the property - plaintiff's case dismissed.

Leon Da Breo v Robin Punnett et al

Saint Vincent and the Grenadines

Civ. Suit No. 149/95

Delivered: 28/11/00

Mitchell J

Law of contract - insurance - conditions of a comprehensive policy of motor insurance - notice of any claim to be given by insured - writ to be forwarded to the insurer - insurer to have the conduct of any proceedings - no admission or payment to be made by insured without the written consent of the insurer - plaintiff insured with the defendant - plaintiff served with a writ by a third party - writ taken to plaintiff's personal solicitor - defendant insurance company not notified about writ - judgment in default entered against plaintiff - plaintiff consenting to order on JDS by third party - breach of fundamental conditions of contract of insurance by plaintiff - claim by plaintiff against insurer dismissed.

Andrew Gibson v St. Insurance Limited

Saint Vincent and the Grenadines

Civ. Suit No. 392/96

Delivered: 28/11/00

Mitchell J

Land dispute - right of way - claim of neighbour to road - duty of surveyor in conducting survey - no regulations made under Act - dimensions in plaintiff's deed inaccurate - finding of fact that right of way had existed - plaintiff's claim against neighbour and surveyor dismissed - Land Surveyors Act, Cap 266.

Amos Stewart v Leslie Noel et al

Saint Vincent and the Grenadines

Civ. Suit No. 198/98

Delivered: 28/11/00

Mitchell J

Land dispute - adverse possession - licensee coupled with an interest or mere licensee - claim by plaintiff that defendant was a mere licensee - claim by defendant's predecessor of adverse possession - finding on the facts that defendant was always a mere licensee - judgment for the plaintiff.

McConnie Yammie and Company Limited v St. Clair Phillips

Saint Vincent and the Grenadines

Civ. Suit No. 203/99

Delivered: 28/11/00

Mitchell J

Husband and wife - matrimonial home - domestic violence - ex parte injunction with power of arrest granted to wife on 6 November 2000 - return date fixed for 4 December - period requested to permit other matrimonial property applications to be brought - application by husband to discharge ex parte injunction - claim wife breached duty to make full disclosure of all material

facts - claim return date too distant - claim that injunction did not specify the date on which it expired - claim that no evidence of bodily harm - finding that the need in matrimonial cases of alleged violence is to protect the position of each of the parties until the court can rule on the substantive issues - in situations of alleged violence ex parte orders are desirably - strict requirements of disclosure do not apply in domestic violence cases - return date did not deprive husband of the right to approach the court earlier - Acts confer wide powers on the Court to preserve the peace between the parties and to provide a roof over their heads until the Court can rule - husband's application dismissed - Matrimonial Causes Act, Cap 176 - Domestic Violence and Matrimonial Proceedings Act, Cap 165.

West v West

Saint Vincent and The Grenadines

Civ. Suit No. 490/00

Delivered: 14/12/00

Mitchell J

Trusts - settled land in St Vincent & the Grenadines - secret trusts - constructive trusts - trusts for sale - whether conveyances by deceased prior to death were subject to secret or constructive trusts - whether devise to Defendants was subject to secret or constructive trust - whether previous law suits and orders obtained by Defendants were frauds on the Plaintiff - finding on the facts that conveyances not subject to trust - finding that devise not subject to trust - finding that earlier law suits not a fraud on the Plaintiff - claim by Plaintiff dismissed.

Mills v Mills et al

Saint Vincent and The Grenadines

Civ. Suit No. 129/99

Delivered: 21/12/00

Mitchell J

EASTERN CARIBBEAN SUPREME COURT

As at 31, December 2000

Court of Appeal

The Chief Justice

His Lordship, the Hon. Chief Justice, Sir 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 [Ag.] – Grenada

His Lordship, the Hon. Justice Dunbar Cenac – Dominica

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

His Lordship, the Hon. Neville Smith – Tortola, British Virgin Islands

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 [Ag.] – Antigua

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

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

His Lordship, the Hon. Justice Frederick Bruce-Lyle – Saint Christopher & Nevis

His Lordship, the Hon. Justice Hugh Rawlins [Ag.] – Saint Lucia & Dominica

Master Charmaine Pemberton

Mrs. Ianthea Leigertwood-Octave, Chief Registrar - Saint Lucia