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On 27th October 2000 HRH Prince Charles, invested me with the Knight Bachelor's medal at Buckingham Palace. The ceremony was regal and impressive. On that day a total of 4 Knighthoods and 121 other honours were conferred. The experience was given a special



**Sir Dennis Byron,
displaying his Insignia of
Knighthood on the steps of
Buckingham Palace**

flavour by some of the social events surrounding it. I sat among the benchers of the Inner Temple as the luncheon guest of Lord Woolf. I was honoured that Mr. Karl Hudson-Phillips Q.C., the President of the Law Association of Trinidad and Tobago hosted a reception for me at the Small Pensions Room at Gray's Inn and the attendees included Mr. Othneil Sylvester Q.C., the Vice-President of the OECS Bar Association and Mr. Reynald Benjamin, the President of the Grenada Bar Association. The many distinguished guests included Lord Bingham of the House of Lords. Mr. Laurie West-Knights Q.C. of the English Bar also hosted a reception for me at his Chambers in the Inner Temple. The guests at this also included jurists from all of the English courts, of whom I should make special mention of Lord Woolf the Lord Chief Justice and Lord Hoffman of the House of Lords. Ms Anesta Weekes Q.C. a Montserrat-born jurist hosted at her flat at

Gray's Inn a reception for the Black Lawyers Association. The guests included Ms Cordelia Stewart the solicitor wife of Hon. Delano Bart Attorney General of St. Kitts-Nevis. In addition there were many reunions of long standing family and friendly relationships. Special mention should be made of the red-carpet treatment I received from the High Commission of St. Kitts-Nevis. I would like to take advantage of this medium to express my thanks to all who sent me congratulatory messages, who prayed for me and contributed to the occasion and my upliftment.



EASTERN CARIBBEAN SUPREME COURT NEWS

HIGH COURT

Anguilla



The New Anguilla High Court and Magistrate's Buildings

The opening of the new Anguilla Court House on Friday 13th October provided more than a little entertainment for those who attended. For a start, the Hon. Chief Justice, Sir Dennis Byron enlivened the solemnity of the morning's formal court proceedings marking the official opening. These proceedings were presided over by the Chief Justice himself, along with Justices of Appeal the Hon. Albert Redhead and the Hon. Albert Matthew, resident Judge the Hon. Adrian Saunders and visiting Judge, the Hon. Jacob Witt from the Netherlands Antilles. Chief Justice Byron

gave a PowerPoint presentation on the Independence of the Judiciary. This was probably the first time in the region that such a presentation formed part of Open Court proceedings and the lawyers and other well-wishers in attendance were fascinated by it. The presentation by Hon. Chief Justice was preceded by speeches from members of the Anguilla Bar and by an address from the resident Judge. Justice Saunders noted that the Court House had been truly christened by all three branches of Government, as the very first case to be tried in it was a civil suit instituted by the Chief Minister against the Speaker of the House of Assembly.

In the afternoon, a civil ceremony was held at which His Excellency the Governor, the Acting Chief Minister, the Hon. Chief Justice and His Worship, the Magistrate were among those delivering short addresses.

But by far the most enthralling aspect of the afternoon's proceedings was the duel between the judge and the lawyer. It is unclear as to who issued the challenge. Nor did the scores of spectators particularly care. All that they knew was that Anguillian barrister, Mr. Courtney Abel had been pitted against Hon. Judge Jacob Witt. The contest? Who had the richer baritone? What a duel it turned out to be. First on stage was Judge Witt who had had the presence of mind to bring his accompanying music with him all the way from Curacao. Judge Witt was a hit and Mr. Abel had a very hard act to follow. But the barrister is indeed an able fellow. With no accompaniment, Mr. Abel delivered a stirring performance of his old standard, I BELIEVE. The

gathering was ecstatic. The hapless Master of Ceremonies, Justice Saunders, had no choice but to declare the duel, by popular acclaim, a draw, thus bringing down the curtain on a very warm and pleasant day.

NEW DEVELOPMENTS IN THE COURT

Official Swearing-in Ceremony of the Masters

On Monday 16 October 2000 Master Charmaine Pemberton and Master Hugh Rawlins were sworn in by Sir Dennis Byron, the Honourable Chief Justice as the first Masters of the Eastern Caribbean Supreme Court at the headquarters in Castries St. Lucia.

The Honourable Justice of Appeal, Albert Matthew chaired the afternoon's programme at which the Chief Justice welcomed the Masters to the Court. Mr. Kenneth Monplaisir, the President of the St. Lucia Bar Association, also made brief remarks. Mrs. Ianthea Leigertwood-Octave, Chief Registrar, administered the oaths of Office.

The Honourable Justice of Appeal, Albert Redhead and Honourable Madame Justice Suzie d'Auvergne of the High Court, St. Lucia, attended the Ceremony.

The Attorney General of St. Lucia, the Honourable Petrus Compton, Queens' Counsel Kenneth Foster, Winston Cenac, Desmond McNamara and Parry Husbands, Director of Public Prosecutions, Mr. Norton Jack, Solicitor General, Ms. Louise Blenman and Senior Magistrate, Ms. Floretta Nicholas, were among the distinguished guests who also attended the Ceremony.

A small reception in honour of the Masters was hosted by the support staff of the Court of Appeal.

Family Law and Domestic Violence Project

The Family Law and Domestic Violence Project is intended to reform the justice system with respect to domestic violence and family issues, in keeping with Eastern Caribbean member countries' obligations as signatories to the CEDAW Convention and the United Nations Convention on the Rights of the Child.

The Canadian International Development Agency (CIDA), through the Canadian Caribbean Gender Equity Fund for Barbados and the Eastern Caribbean has approved the contribution of CDN \$60,000.00 to the Eastern Caribbean Supreme Court for Phase I of the Family Law and Domestic Violence project.

This phase entails a country by country research and reporting exercise necessary to develop a proper and relevant reformed justice system to adequately deal with domestic violence in the Eastern Caribbean. The expenses for the following areas will be covered by CIDA:

The presentation of a research document on domestic violence and proposed legislative changes will mark the end of Phase 1.

Technology Corner

Caseman Software

During the month of October, the Information Technology Manager installed the CASEMAN software at the Registries in Antigua and St. Kitts.

This software was specially designed to assist with the Backlog Reduction Program. There was an initial demonstration of the software at the Registrars' Workshop in August, 2000. At that time the software was still in the design phase.

The software can be used to generate the list of the cases filed in the Registry and also letters requesting Attorneys who are on record for the parties for feedback on the status of cases. The software has been successfully installed and tested at the St. Lucia Registry since late September.

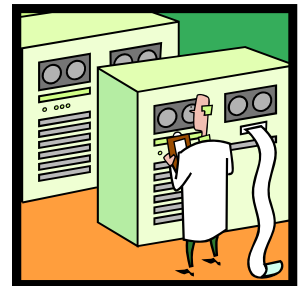
Once the attorneys responded, the Registry Staff is in a position to fix status hearings with the Masters. Once these dates have been set and entered, the system can generate schedules and these can be circulated among the attorneys.

One of the main advantages of the software is that it would permit the Registry to monitor cases which are "alive" in the system.

What Is A Network?

A *network* is nothing more than two or more computers connected by cable so that they can exchange information and share resources.

Of course, other ways to share resources and exchange information between computers exist besides networks. Most of us have used what computer nerds call the *sneaker net*. That's where you copy a file to a diskette and walk the diskette to someone else's computer to give access to a file or print to a special printer. The term *sneaker net* is typical of computer nerds' attempts at humor.



The problem with the *sneaker net* is that it's slow; plus, it wears a trail in your carpet. One day, some penny-pinching computer geeks discovered that connecting computers together with cables was actually cheaper than replacing the carpet every six months. Thus, the modern computer network was born.

To create a computer network, you hook all the computers in your office together with cables, install a special *network adapter card* (an electronic circuit card that goes inside your computer) in each computer so that you have a place to plug in the cable, set up your computer's operating system software to make the network work, and you have a working network. That's all there is to it.

At the Eastern Caribbean Supreme Court, we are currently in the process of examining our networking requirements for the Headquarters and the various Registry Offices. The implementation of a case management solution to assist with the new civil procedure rules when they are implemented later this year is one of the major areas which will require each registry office to have their own local area network or LAN. At some stage in the future, we will be looking into the possibility of linking all of these local area networks (*LAN's*) into a bigger network or what is referred to as a wider area network or *WAN* giving us the capability of sharing information and resources over the wider area.

JUDICIAL AND LEGAL SERVICES COMMISSION

Legal Appointments

Dominica

1. Miss Ivenia Benjamin, State Attorney has been appointed to act in the office of Magistrate for the period 1st October, 2000 to 31st December, 2000 vice Mr. David Harris recommended to act in the office of Chief Magistrate.
2. Mr. David Harris, Magistrate has been appointed to act in the office of Chief Magistrate for the period 25th September, 2000 to 1st January, 2001 vice Ms. Gail Royer has been granted vacation leave.

Grenada

1. Mr. Hugh Wildman has been appointed to act as Director of Public Prosecutions with effect from 1st August, 2000 to 31st October, 2000.
2. Mr. Hugh Wildman has been appointed to act as Director of Public Prosecutions with effect from 1st November, 2000 to 30th November, 2000.
3. Ms Sandra Belfon has been re-appointed to the office of Registrar, Supreme Court of Grenada for a period of one [1] year with effect from 1st October, 2000.

St. Christopher and Nevis

1. His Lordship, the Hon. Mr. Justice Frederick Bruce-Lyle has been confirmed as a High Court Judge of the Eastern Caribbean Supreme Court with effect from 1st February, 2000. His Lordship, the Hon. Mr. Justice Bruce-Lyle has been assigned to Saint Kitts and Nevis from 1st September, 2000.
2. Miss Pearletta Lanns has been appointed as Registrar of the High Court, Provost Marshall and Additional Magistrate, Districts A, B and C with effect from 1st January, 2000. Miss Lanns has acted in this position for the past [2] two years.

Saint Lucia

1. His Lordship, the Hon. Mr. Justice Adrian Saunders has been appointed to act as Justice of Appeal for the purpose of the sitting of the Court of Appeal in Saint Lucia with effect from 22nd October, 2000.
2. Her Ladyship, the Hon. Madame Justice Suzie' d'Auvergne has been appointed on temporary assignment to Anguilla with effect from 22nd October, 2000.
3. Ms Heather M. Franklyn has been appointed as Deputy Registrar on contract for a period of two [2] years with effect from 14th August, 2000.
4. The Judicial and Legal Services Commission has renewed the contract of Mrs. Andra Gokool-Foster as Registrar, for a further period of two [2] years with effect from 23rd November, 2000.
5. The Judicial and Legal Services has renewed the contract of Ms Floreta Nicholas as Senior Magistrate, for a further period of three [3] years with effect from 1st October, 2000.
6. Miss Viki-Ann Ellis has been re-appointed for promotion to the post of Crown Counsel 1V, for a further period of two [2] years with effect from 8th December, 2000 to 7th December, 2002.
7. Mrs. Kimberly Cenac-Phulgence has been re-employed as Registrar, Registry of Companies and Intellectual Property, Grade 17 on contract for a further period of two [2] years with effect from 13th April, 2001.
8. The Judicial and Legal Services Commission has approved of the termination of contract of Mr. George Charlemagne in the Attorney-General's Chambers with effect from 20th October, 2000 which marks the end of his current contract.

9. The Judicial and Legal Services Commission has approved the confirmation of Mr. Norton G. K. Jack as Director of Public Prosecutions with effect from 1st September, 2000.

St. Vincent and The Grenadines

1. The Judicial and Legal Services Commission has approved of the continuing appointment of Dr. Henry L. O. S. Browne to act as Director of Public Prosecutions with effect from 27th August, 2000 to 31st December, 2000.
2. Miss Louise Mitchell has been appointed as Deputy Registrar with effect from 1st October, 2000.
3. The following persons have been appointed as follows:-
 - a. Confirmation of Mrs. Judith Jones-Morgan, Acting Registrar, as Registrar of the High Court.
 - b. Mrs. Sharda Sinnan-Bollers, Crown Counsel as Assistant Director of Public Prosecutions.
 - c. Ms Suenel Fraser, Deputy Registrar, High Court as Crown Counsel, in the Attorney-General's Chambers.
 - d. Mrs. Petrona Sealey-Browne, Legal Assistant as Crown Counsel, in the Attorney-General's Chambers.
 - e. Mr. Jaundy Martin, Legal Assistant as Crown Counsel, in the Attorney-General's Chambers.
 - f. Mrs. Ada Johnson, Graduate Teacher/Attorney-at-Law, as Deputy Registrar, High Court.

CONFERENCES, SEMINARS & WORKSHOPS

Commonwealth Heads of the Judiciary Conference

Sir Dennis Byron, Chief Justice of the Eastern Caribbean Supreme Court, attended the Third Commonwealth Caribbean Heads of Judiciary Conference, which was held in Georgetown, Guyana from Friday 13 to Sunday 15 October 2000, at the Pegasus Hotel.

The Chief Justice, who traveled from Anguilla after the sitting of the Court of Appeal in that jurisdiction, arrived in Guyana on the morning of the 13 October 2000. On the evening of 13 October 2000, he attended a reception, which was an elegant affair, at the Tower Hotel. Members of the Judiciary from Guyana and around the Commonwealth, as well as members of the Bar, the President and the Prime Minister of the Republic also attended that reception.

A ceremonial parade and march past by a detachment of the Police and Police Band preceded the Official Opening of the Conference. The invited guests at the Opening Ceremony included members of the Judiciary, the Government, the Legal Profession and the Diplomatic Corps. Welcome and Introductory remarks were made by the Chancellor of the Judiciary of Guyana, Justice Cecil Kennard, and the feature address was given by Prime Minister Samuel Hinds.

The Working Sessions of the Conference took the form of presentations, which were followed by discussions. The following presentations were made:

- (i) The Relationship between the Judiciary and the Executive, by Hon. Michael De la Bastide, Chief Justice of Trinidad and Tobago;
- (ii) Ex parte Interim Injunctions, by Chancellor Hon. Cecil Kennard of Guyana;
- (iii) Implications of the ruling of the Privy Council in *Neville Lewis et al v. The Attorney General of Guyana and Another*, by Hon. Lensley Woolf, Chief Justice of Jamaica;
- (iv) The Independence of the Judiciary, by Hon. Anthony Smellie, Chief Justice of the Cayman Islands;
- (v) Contempt of Court in the 21st Century and Beyond: Some Questions for Caribbean Judiciaries, by Hon. Sir Dennis Byron, Chief Justice of the Eastern Caribbean Supreme Court; and
- (vi) Delay in delivering Judgments, by Chancellor Kennard.

Very full and interesting discussions followed the presentations. Sir Dennis's paper which was presented at the Conference, considered, inter alia, the rationale for vesting in the courts the power to punish for contempt of court. This, he stated, is usually justified on the ground that the dignity and order of the court and the sanctity of its orders can only be protected and preserved by its ability to take swift and effective punitive action. He focused in particular on contempt and the executive, and the Media and contempt.

The Chief Justice has reported that the Conference was hailed as a success. A decision was made that those who attended the Conference are to study the MacKay and the Georges Reports on the Independence of the Judiciary in Trinidad and Tobago. It was also decided that the Commonwealth Caribbean Chief Justice's Conference for 2001 would be hosted in Barbados, in the month of May.

Report on Seminar on Case Management under the Civil Procedure Rules, 2000 held in the British Virgin Islands

On Saturday October 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 28 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.

MASTERS CORNER

Status Hearings

On Sunday 28 October 2000, the Masters proceeded to St. Vincent and the Grenadines and to Dominica, and commenced the conduct of the first status hearing of matters under the Backlog Reduction Programme. This Programme is designed to bring a formal end to cases that were filed under the present Rules of the Eastern Caribbean Supreme Court and to place cases that are alive on track towards final resolution.

Status hearings in St. Vincent and the Grenadines were conducted on Wednesday 25 and Thursday 26 October 2000, in the Chambers of the Honourable Mr. Justice Ian Mitchell, and with the assistance of the Deputy Registrar of the High Court, Ms Ada Johnson and Mr. R. Burnett, the Acting Executive Officer. Special mention must be made of Mr. Ricky Burnett, whose role in the preparation of the programme must be highly commended.

The following is a breakdown of the matters that were disposed of during those hearings:

TOTAL NUMBER OF CASES	125
Cases dealt with	76
Cases finally disposed of – whether settled or abandoned	24
Cases in which Plaintiff is to apply for leave to discontinue	(7)
Cases transferred to a Judge in Chambers	(5)
Matters set for further consideration in December, 2000	62 (Inclusive of some of the 49 matters not dealt with in October.)
Matters set for case management and further consideration in January, 2001.	22 (Inclusive of some of the 49 matters not dealt with in October.)
Matters set for trial in November 2000	1
Matters set for trial in January, 2001	2
Matters set for trial in February, 2001	2
Matters set for trial in March, 2001	1

Status hearings in Dominica were conducted on weekdays from Monday 23 October to Thursday 2 November 2000, at the Conference Room of the Public Service Training Centre in Roseau. The Registrar of the High Court, Ms Evelina Baptiste, Ms Eva Rawle-Davis, Ms Joycelyn Seraphine, Mrs. Venita Campbell and Mr. George Bellot afforded invaluable assistance to this process.

The following is a breakdown of the matters that were disposed of during those hearings:

Cases listed on the 1990 – 2000 Inventory,	- 2932
Matters deemed abandoned by the operation of Order 34. Rule 11	- 47
Matters determined by a decision of the Court since listing	- 30
Orders for Discontinuance with leave of the Court because settled	- 224

Notice of Satisfaction filed or to be filed	- 5
Leave of the Court to Discontinue	- 394
Matters struck out because originating process spent	- 20
Adjourned for report on status on another day during week	- 60
Adjourned to the next sitting of Master for report	- 139
Adjourned to Case Management	- 16
File to be held to facilitate steps to be taken to enforce judgment	- 218
Matters to be placed on the High Court trial or Motions list	- 31
Set down for trial of Chamber hearing since listing	- 16
Total considered	1200

The Masters wish to place on record their appreciation for the assistance which they received from the Registrars of the High Courts of St. Vincent and the Grenadines and of Dominica, Mrs. Judith Jones-Morgan and Ms Evelina Baptiste respectively, as well as from the members of staff of their Departments who are mentioned above, and the many practitioners in both jurisdictions who facilitated the hearings.

COURT OF APPEAL SITTING OCTOBER 2000

Montserrat Court of Appeal Sitting - 9th to 10th October, 2000

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

1. **Lynch v Lynch**
 High Court Civ. App. No. 4/00
 Appearances: Mr. Markham holding for Mr. K. Allen Q.C. reporting that Counsel for both parties out of State and combining to request adjournment to next sitting.
 Order: Adjourned to next sitting.

2. **Mowry v Payne, Woodsville Development Corporation Limited, Sergeant**
 High Court Civ. App. No. 2/00
 Appearances: Mr. Jean Kelsick for the Appellant and Mr. Markham for the Respondent.
 Result: Time to file and serve record of appeal extended to 9th November, 2000.
 Reasons: Notes of evidence delivered late.

3. **Charles and Dorsette v R**
 Crim. App. Nos. 5 & 6/99
 Appearances: Mr. Markham for the Appellants and Mr. C. Meade for the Crown.
 Issue: Handling stolen goods. Charles sentenced to 3 years imprisonment. Dorsette put on bond.
 Order: Appeal by Dorsette allowed, conviction and sentence set aside. Appeal by Charles dismissed. Sentence varied to commence from date of first conviction in 1999.
 Reasons: Regarding Dorsette: the entire case against the Appellant was that she lived with the Charles and the goods proven to have been stolen were found in the said premises. There was no evidence to show that she had knowledge or control over the goods. Regarding Charles: grounds of appeal rejected because of insufficiency of evidence as since there was ample evidence to support the conviction; grounds rejected based on errors in law in directions on the mens rea required. The judge clearly explained to the jury that they could not return a verdict of guilty unless they felt sure that the Appellant knew or believed that the said goods were stolen. The judge specifically explained that suspicion that the goods were stolen was insufficient for guilt. The defence was fairly put therefore there was no lurking doubt. On the issue of sentence, in 1998 the police had effected a search of the Appellant's premises and found goods alleged to have been stolen from different persons. Four indictments were filed, but at intervals. The first resulted in a conviction that was overturned on appeal. The second resulted in a dismissal by the judge on a no case submission. The third and fourth were tried together as the instant case. The Appellant has been in custody since before the first conviction. In order to discourage oppressive conduct we ruled that the sentence should run from the first conviction (which was set aside on appeal).

4.

Brade v West

Industrial Appeal No. T1/00

Appearances: Mr. J Kelsick for the Appellant and Mr. Markham for the Respondent.

Result: Preliminary objection on procedure was heard and dismissed. Matter set for hearing at Antigua sitting of court; parties at liberty to file amended grounds within 10 days.

Anguilla Court of Appeal Sitting – 12th to 13th October 2000:

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

1. **Brooks v Police**

Mag. Crim. App. No. 4/98

Appearances: Mr. T. Astaphan and Ms M. Barnett for the Appellant and Ms C. Petty for the Respondent.

Issue: Appeal against conviction for driving without due care and attention and fine of \$300.00.

Order: Appeal dismissed.

Reasons: Evidence to support the decision of the magistrate; the Appellant was driving too fast, failed to take care when approaching entrance to parking lot; overtook cars at a standstill indicating to enter the lot and collided with car eggressing the lot. The clear breaches established on the evidence were that the appellant was driving at an excessive speed and overtaking at a junction when it was not safe to do so.

2. **Martineau v Police**

Mag. Crim. App. No. 6/98

Appearances: Mr. T. Astaphan and Ms M. Barrett for the Appellant and Mr. S. A. Reid for the Respondent.

Issue: Appeal against conviction for possession of cannabis.

Order: Appeal allowed.

Reasons: No evidence adduced to show that the Appellant knew of the controlled substance or had control over it. Applying *R v Monica Williams 16 WIR 74* the case at its strongest did not establish anything more than that cannabis was found in the open and unfenced yard at a house occupied by Appellant. Additionally, the Magistrate did not give reasons. Perusal of the record suggested that the Magistrate considered testimony of one police officer that the Appellant started to run away as conduct of the Appellant tending to show guilty knowledge when the other police officers testified that the Appellant stated that he was going into his house for water and returned with a bottle.

3. **Maynard v Police**

Mag. Crim. App. No. 4/00

Barker v Police

Mag. Crim. App. No. 5/00

Appearances: Mr. Gaskin and Ms Bass for the Appellants and Mr. S. Reid for Respondents.

Issue: Appeal against conviction for robbery.

Result: Appeal dismissed.

Reasons: Evidence clearly established all ingredients of crime; joint enterprise; victim's car collided with car occupied by Appellants. Appellants who demanded money compensation on the spot while pushing knife against body of victim. Victim took out

\$25.00 which was taken. Victim went to his home. The Appellants followed him. The victim gave them US \$250.00.

4. **Ruan v Carter**

Mag. Civ. App. No. 7/00

Cable and Wireless v Carter

Mag. Civ. App. No. 8/00

Appearances: Mr. Gaskin and Ms Bass for the Appellant Ruan, Mr. Alex Richardson for Cable and Wireless and Mr. Bahadursingh for Carter.

Issue: Appeal against order of Magistrate that the Appellants each pay 50% of the award of \$14,169.19 damages for personal injuries caused by their negligence. And costs.

Result: Appeal dismissed.

Reasons: The Respondent was an employee of Ruan who provided transport to and from work in an open truck without any seating and while Respondent was being driven from work standing in the said truck he was struck in the neck by a sagging telephone wire across the road owned by Cable and Wireless and suffered injuries. The evidence and the law supported the learned Magistrate that Cable and Wireless was in breach of its duty to maintain the wire at a height of 17 feet when it crossed the road, and that Mr. Ruan failed to provide a safe carriage in breach of his statutory duty to provide seats on back of transport under the Road Traffic Act and of his duty of care as an employer. On the issue of quantum the evidence clearly indicated that the Appellant suffered a fracture of the thyroid cartilage and up to three years after the incident the Appellant was still suffering from the injury. He had been consulting his local doctor and had consulted a specialist in the Dominican Republic.

Saint Lucia Court of Appeal Sitting – 23rd to 24th October 2000:

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

Monday 23rd October, 2000

1. **Charles v Charles**
 Civ. App. No. 16/93
 Appearances: Mr. Kenneth Foster, Q.C. for the Appellant and no appearance of or for the Respondent.
 Issue: Application for an extension of time to file Order of the Court.
 Result: Granted 7 days to file Order.

2. **Vidhayasirinun v Keller**
 Civ. App. No. 1/00
 Appearances: Mrs. Brenda Floissac Flemming for the Applicant (Respondent), with Miss Shan Greer and no appearance of or for the Appellant.
 Issue: Application to dismiss appeal on grounds that (1) the notice of appeal was filed out of time and (2) that the Appellant has failed to file the record of appeal within the prescribed time.
 Result: Notice of Appeal struck out on the above grounds. Costs to the Respondent to be taxed if not agreed.

3. **Heirs of L.Z. Mathieu v Chief Surveyor et al**
 Civ. App. No. 2/00
 Appearances: Dr. Waldron-Ramsey for the Applicant, Mr. Kenneth Monplaisir, Q.C. for the Respondent George, Mr. Anthony Astaphan, S.C., Ms Louise Blenman and Ms Cheryl Mathieu with him for the Chief Surveyor and Attorney General.
 Issue: Application for leave to appeal to the Privy Council.
 Result: Application refused. No arguable grounds of appeal.

4. **St. Brice v The Queen**
 Crim. App. No. 2/00
 Appearances: No appearance of or for the Appellant and Mr. Norton Jack, DPP for the Respondent.
 Issue: Appeal from conviction of Causing Death by Dangerous Driving and sentence of a fine of \$8,000.
 Result: Appeal dismissed for want of prosecution.

5. **Lansiquot v Geest**
Civ. App. No. 1/00
Appearances: Mr. Michael Gordon of or for the Appellant and Mr. Kenneth Monplaisir Q.C. for the Respondent.
Result: Extension of time to lodge security granted. Application for final leave to appeal to Privy Council granted.

6. **Auguste v Attorney General**
Civ. App. No. 23/99
Appearances: Mr. Kenneth Monplaisir Q.C. and Mr. Deal Lee with him for the Appellant, Mr. Anthony Astaphan Q.C. and Miss Vicki-Anne Ellis with him for the Respondent.
Appeal from Hariprashad J dismissing Constitutional suit of Appellant that her employment with the Government of St. Lucia as a Curriculum Specialist in Music was employment as a teacher under the Teachers Pension Ordinance entitling her to retirement at the age of 60 years and not 55 years as allowed for a public officer.
Issue: Whether the Appellant's employment was governed by the Teacher's Pension Ordinance or under the Pensions Act 1967 as amended that referred to Public Officer.
Result: Decision reserved.

7. **Cooper v Browne et al**
Civ. App. No. 24/99
Result: Appeal withdrawn.

8. **B & D Construction Limited v Secure St. Lucia Limited**
Civ. App. No. 10/00
Appearances: Mr. Peter Foster for the Appellant. No appearance of or for the Respondent.
Result: Appeal withdrawn.

9. **Crafton v Gedeon**
Mag. Crim. App. No. 14/99
Appearances: No appearance of or for the Appellant and Mr. Sinclair for the Respondent.
Issue: Appeal against affiliation Order.
Result: Dismissed for want of prosecution costs to the Respondent.

10. **Alexander v Sonson**
Mag. Civ. App. No. 15/99
Appearances: No appearance of or for the Appellant and Mr. Evans Calderon for the Respondent.
Issue: Appeal against affiliation Order.
Result: Dismissed for want of prosecution with costs to the Respondent.

11. **Police v Mathurin**
Mag. Crim. App. No. 5/00
Appearances: Mr. Norton Jack for the Police and Ms Brenda Portland for the Defendant.
Issue: Case stated by Magistrate for interpretation: “Does **S 2** of the **Fire Arms (Amendment) Act 1998 No. 1 of 1998** exclude the Court from exercising any discretion under **S 1284** and **S 1289** of the Criminal Code of St. Lucia.”
Answer: No.
Written judgment to be given by Singh J.A.
12. **Rene v PC 493 Julien**
Mag. Crim. App. No. 7/00
Appearances: No appearance of or for the Appellant and Miss Victoria Charles for the Respondent.
Issue: Appeal against conviction for offence of committing an act of indecency.
Result: Appeal dismissed for want of prosecution.
13. **PC 82 Prospere v Joseph**
Mag. Crim. App. No.8/00
Appearances: No appearance of the Appellant and no appearance of the Respondent.
Issue: Appeal against conviction for assault and battery.
Result: Dismissed for want of prosecution.
14. **St. Rose v Leo**
Mag. Civ. App. No.1/99
Appearances: No appearance of parties.
Issue: Appeal against order of Magistrate refusing variation of maintenance order.
Result: Appeal dismissed for want of prosecution.

Tuesday 24th October, 2000

15. **Plummer v Conway Ltd. et al**
Civ. App. No.15/00
Appearances: Mr. Parry Husbands Q.C. for the Appellant and Mr. Anthony Mc Namara for the Respondents 1 and 2, Mr. Paul Thompson for the Coroner and the Attorney General.
Issue: Locus standi of Respondents to bring suit. Judge overruled preliminary objection that Respondents 1 and 2 had no locus standi.
Result: Appeal dismissed. Judgment of trial Judge affirmed. Costs to the Respondents to be taxed if not agreed.
16. **Edgecombe et al v Freund**
Civ. App. No. 1/00
Appearances: Mr. James Bristol, Miss Joan Slack and Miss Isabella Shillingford for the Appellant and Mr. Hilford Deterville for the Respondent.

Issue: Appeal against Order of Hariprashad J refusing the Appellant leave to amend defence.

Result: Appeal dismissed with costs to the Respondent.

17. **Francois v Frederick et al**

Civ. App. No. 7/00

Appearances: Mr. Albertine Richelieu for the Appellant and Mr. Michael Gordon for the Respondent No. 2.

Issue: Appeal against Order of d'Auvergne J deeming Appellant's suit abandoned under O 34 R II (1) (a) of the R.S.C.

Result: Appeal withdrawn.

By Consent: No order as to costs.

WRITTEN JUDGMENTS

Court of Appeal Judgments

The following is the written Court of Appeal judgment available for the month of October 2000:

Saint Lucia

Police v Stephen Mathurin

Saint Lucia

Crim. App. No. 5/00

Singh JA

Delivered: 23/10/00

High Court Judgments

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

Antigua and Barbuda

Offshore banking - appointment by Supervisor of International Banks and Trust Companies of receiver/manager - **International Business Corporations Act Section 287 - Constitution of Antigua and Barbuda Section 9** - whether appointment is a compulsory taking of possession of property not reasonably justifiable in a democratic society - whether impugned legislation is confiscatory and not regulatory - finding that the section is designed to protect the public interest and is purely regulatory - motion dismissed.

Worldwide International Bank Limited et al v Attorney General of Antigua and Barbuda et al

Antigua and Barbuda

Suit No. 94/99

Georges J

Delivered: 20/09/00

Registered land - land dispute - plaintiff the executor of the previous registered owner - defendant the administratrix of the common-law-wife of the deceased registered owner - defendant obtaining from the Registrar a registered title by prescription - finding on the facts in favour of the plaintiff - defendant's prescriptive title declared to have been obtained by fraud and/or mistake and set aside - order for possession granted.

K. L. Swift v G. Irish et al

Antigua and Barbuda

Suit No. 71/93

Georges J

Delivered: 09/10/00

Assault and battery - incident between two bank staff in staff kitchenette - claim for aggravated and exemplary damages - award of \$10,000.00 damages against both defendants.

V. Andrew v A. Stevenson et al

Antigua and Barbuda

Suit No. 157/94

Georges J

Delivered: 17/10/00

Trespass to goods - claim that concrete mixer wrongfully taken away and was damaged - special damages claimed but not proved - claim dismissed.

W. Carr et al v R. Jeffers et al and W. Martin (trading as Willy D Trucking Services)

Antigua and Barbuda

Suit No. 213 of 1989

Georges J

Delivered: 17/10/00

Registered land - land dispute - encroachment by neighbour - claim of adverse possession-finding on the facts for the plaintiff.

S. Maynard v A. Browne

Antigua and Barbuda

Suit No. 294/96

Georges J

Delivered: 20/10/00

The MCCA Trust Corporation v Monica Matthew

Antigua and Barbuda

Suit No. 275/96

Georges J

Delivered: 25/10/00

Callendar PC v Crabbs Slipway and Marina Ltd.

Antigua and Barbuda

Suit No. 107/89

Georges J

Delivered: 31/10/00

British Virgin Islands

Revocation of insurance licence - **Insurance Act 1994** - Governor empowered to cancel a subsisting licence - rules of natural justice - general duty to act fairly - statutory requirement for Governor to give insurer reasonable notice of intention to cancel - insurer required to be given an opportunity to make representations - need for grounds to be specified in the notice - Commissioner of Insurance signing letter of intent to cancel licence for failure to submit audited accounts or to appoint two directors - omission to give deadline for making representations - failure to give insurer an opportunity to make representations - subsequent letter of cancellation

signed by Commissioner and not by Governor - letter stating that Governor has authorised the cancellation - Governor enabled to delegate certain regulatory requirements - Governor not able to delegate power to grant, refuse or cancel a licence - principles governing the exercise of a statutory power vested in the Governor or a Minister - **Interpretation Act Section 24** - jurisdiction of a court rehearing an appeal from an original tribunal - decision of Governor reversed.

Security Trust Insurance Ltd. v The Governor of the Virgin Islands

British Virgin Islands

Civ. Suit No. 133/99

Benjamin J

Delivered: 06/10/00

Practice and procedure - summons to strike out statement of claim – **Rules of the Supreme Court Order 18 Rule 19** - claim that no reasonable cause of action, frivolous and vexatious, abuse of the process of the court - principles underlying jurisdiction to strike out claims - allegation of fraudulent misrepresentation not struck out - allegation based on a contract previously held by the court to be unenforceable struck out .

Zeevi Communications Ltd. et al v Rathbone Trustees Ltd. et al

British Virgin Islands

Civ. Suit No. 52/00

Benjamin J

Delivered: 12/10/00

Habeas corpus - applicant released prior to hearing - application for costs - principles governing costs in habeas corpus proceedings - applicant detained without warrant for 90 hours on suspicion of robbery and murder without having been told of the charge or having been brought before a magistrate - respondent ordered to pay the applicant's costs.

In the Matter of Tyrone Daniel and In the Matter of an Application for a Writ of Habeus Corpus Ad Subjiciendum

British Virgin Islands

Suit No. 16/00

Benjamin J

Delivered: 13/10/00

Grenada

Interlocutory injunction - principles upon which an injunction is granted - whether plaintiff has made out a prima facie case - balance of convenience - injunction refused.

R. Hurley v D. Greaves et al

Grenada

Civ. Suit No. 390/99

St. Paul J

Delivered: 13/10/00

Defamation - libel - matter heard in absence of the defendants - damages of \$12,500.00 awarded to each plaintiff.

R. Duncan et al v E. Maitland et al

Grenada

Civ. Suit No. 376/96

St. Paul J

Delivered: 20/10/00

Constitution of Grenada Section 87(8) - Public Service - Director of Audit - constitutionally established and protected office - claim by applicant that office of Prime Minister and Minister of Finance were responsible for unauthorised alterations of her audited report prior to its being laid before Parliament - complaint of misconduct brought by Prime Minister - Tribunal appointed by Governor General to inquire into conduct of applicant - finding by Tribunal that applicant had misbehaved - Tribunal recommending to Governor General that applicant be removed from office - decision of Governor General to remove applicant from office - Tribunal misunderstanding its mandate - Tribunal failing to properly enquire - Tribunal failing to objectively evaluate the evidence before it - Tribunal basing its findings of fact and its recommendation on irrelevant considerations - Tribunal thereby depriving the applicant of the benefit of protection of law - recommendation of Tribunal declared void - decision of Governor General declared void - applicant reinstated in office.

J. Lawrence v Attorney General

Grenada

Civ. Suit No. 153/00

Alleyne J

Delivered: 05/10/00

Debt - sale of security by mortgagee - motion for injunction restraining mortgagee from selling - duty of mortgagee to obtain true market value - mortgagee possessing valuations of the security in excess of \$2,000,000.00 - mortgagee possessing valuation of \$900,000.00 - mortgagee entitled to enforce its security by exercising its power of sale - injunction refused.

Flemming Estates Limited v Grenada Co-operative Bank Limited

Grenada

Civ. Suit No. 487/00

Alleyne J

Delivered: 20/10/00

Saint Lucia

Industrial relations - wrongful dismissal - finding that behaviour of plaintiff was grossly improper - plaintiff previously warned on several occasions - case dismissed with costs.

J. Dupre v Colombian Emeralds International Limited

Saint Lucia

Civ. Suit No. 553/93

d'Auvergne J

Delivered: 05/10/00

Saint Vincent and The Grenadines

Plaintiff sole authorised distributor in St Vincent for Xerox - Defendant an ex-employee of Plaintiff describing himself as specialising in and stocking parts for all Xerox machines - Defendant holding Xerox manuals and approaching Xerox to be allowed to represent Xerox - detinue - passing off - libel - judgment on the facts for Plaintiff.

Express Data Systems Ltd. v V. Alexander

Saint Vincent and The Grenadines

Civ. Suit No. 119/98

Mitchell J

Delivered: 10/10/00

Landlord and tenant - tenant claiming adverse possession of the land - whether time runs from the date of the last payment of rent or from expiry of last period of lease - animus possidendi - finding that limitation period had not expired - judgment for landlord plaintiff.

L. Chance v V. John

Saint Vincent and The Grenadines

Civ. Suit No. 17/96

Mitchell J

Delivered: 18/10/00

Land dispute - right of way - whether 2 ft or 8 ft - judgment on the facts for the Plaintiff.

H. Williams v E. Da Breo et al

Saint Vincent and The Grenadines

Civ. Suit No. 172/96

Mitchell J

Delivered: 25/10/00

Probate action - will proved in England - fraudulent Letters of Administration applied for in St Vincent - executor participating in the fraud on the estate - lands in St Vincent wrongfully vested beneficially in the fraudulent executor - fraudulent grant and deed set aside - beneficiary permitted to reseal the UK Grant of Probate in St Vincent and to hold the St Vincent property on the trusts in the will.

I. R. Isles nee Burke v L. Burke et al

Saint Vincent and The Grenadines

Civ. Suit No. 370/89

Mitchell J

Delivered: 30/10/00

Land dispute - Plaintiff holding by 1974 deed from his mother - fraudulent grant of Letters of Administration taken out by widower of the mother in 1978 - fraudulent deed to son of widower and step-brother of Plaintiff in 1978 - step-brother occupying the property openly as owner from 1980 - Plaintiff living in England - no licence or other agreement with step-brother over occupation of property - Plaintiff bringing suit in 1994 against step-brother for possession of the property - step-brother relying not on his fraudulent deed but on his adverse possession for a period in excess of that required by the Limitation Act - Plaintiff's case dismissed.

L. O. Gordon v V. Andrews

Saint Vincent and The Grenadines

Civ. Suit No. 137/94

Mitchell J

Delivered: 30/10/00

EASTERN CARIBBEAN SUPREME COURT

As at 31st, October 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

Master Charmaine Pemberton

Master Hugh Rawlins

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