

42/82

O N A P P E A L

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

CAROL MORIN

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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O N A P P E A L
FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

CAROL MORIN Appellant
- and -
THE QUEEN Respondent

R E C O R D O F P R O C E E D I N G S

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ON APPEAL
FROM THE COURT OF APPEAL OF JAMAICA

BETWEEN :

CAROL MORIN Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

No. 1

Indictment

In the
Resident
Magistrate's
Court

The Queen v. Carol Morin and Links Company Limited
In the Resident Magistrate's Court for the parish of
Saint Andrew
Hold at Half-way-tree on the day of 1978

No. 1
Indictment
(undated)

IT IS HEREBY CHARGED on behalf of Our Sovereign Lady
the Queen:

Links Co. Ltd. is charged with the following offence:-

STATEMENT OF OFFENCE - FIRST COUNT

Acts calculated by a resident in the Island to result
in the transfer of a house to a person resident outside
the Island, contrary to section 33(1)(a) and contrary
to paragraphs 1(1) and 3(b) of Part 11 of the Fifth
Schedule of the Exchange Control Act.

[3^B amended to read (4)(b) /s/ JDT_7

PARTICULARS OF OFFENCE

Except with the consent of the Minister, Links Company
Limited, a company registered in the Island of which
Carol Morin is a Director, between the period September,
1977, and 27th day of July, 1978, in the parishes of
Kingston and Saint Andrew, negotiated and entered into
a contract for the sale of a house to Jacqueline Marcia
Brown a person resident outside of Jamaica which were
acts forming part of a series of acts calculated to

In the
Resident
Magistrate's
Court

No. 1
Indictment
(undated)
(cont'd)

result in the transfer of the aforesaid house which is situated at 18 Manor Park Drive in Saint Andrew.

Carol Morin is further charged with the following offence:-

STATEMENT OF OFFENCE - SECOND COUNT

Acts calculated by a resident in the Island to result in the transfer of a house to a person resident outside the Island, contrary to section 33(1)(a) and contrary to paragraph 1(1) and 3(b) of Part 11 of the Fifth Schedule of the Exchange Control Act.

10

⌈^B amended to read (4)(b) /a/ J.D.T.7

PARTICULARS OF OFFENCE

Except with the consent of the Minister, Carol Morin, between the period September, 1977, and the 27th day of July, 1978, in the parishes of Kingston and Saint Andrew, negotiated and entered into a contract for the sale of a house to Jacqueline Marcia Brown a person resident outside of Jamaica which were acts forming part of a series of acts calculated to result in the transfer of the aforesaid house which is situated at 18 Manor Park Drive in Saint Andrew.

20

Carol Morin is further charged with the following offence:

STATEMENT OF OFFENCE - THIRD COUNT

Making a payment to the credit of a person resident outside of the Island, contrary to section 7(c) and contrary to paragraph 1(1) and 3(b) of Part 11 of the Fifth Schedule of the Exchange Control Act.

⌈^B amended to read (4)(b) /s/ J.D.T.7

PARTICULARS OF OFFENCE

30

Except with the permission of the Minister, Carol Morin in the Island, on the 26th day of July, 1978, placed the sum of \$10,000 (Ja.) in the First National City Bank in Saint Andrew to the Credit of Norman Mosesson, a person resident outside of Jamaica.

/s/ J.D. Taylor
Clerk of the Courts
Saint Andrew

No. 2
Proceedings

IN the
Resident
Magistrate's
Court

IN THE RESIDENT MAGISTRATE'S COURT FOR THE PARISH OF
SAINT ANDREW HOLDEN AT HALF WAY TREE ON THE 21ST DAY
OF SEPTEMBER, 1978, BEFORE HIS HONOUR MR. U.D.
CORDON, RESIDENT MAGISTRATE FOR THE SAID PARISH.

No. 2
Proceedings
21st September
1978

10 REGINA)
VS)
CAROL MORIN) BREACH EXCHANGE
LINKS COMPANY LIMITED) CONTROL ACT

Carol Morin - Counts 2 and 3
Links Company Limited - Count 1
Mr. F. Phipps, Q.C. and Earle DeLisser for Carol Morin
Mrs. S. Lewis, D.P.P. for Crown.

20 Summons were served on Carol Morin - a director and
secretary of Links Company Limited. Summons were
served on 7th November, 1978.
Mrs. S. Lewis opens to facts.
Mr. Taylor, Acting Clerk of Courts, asks for order
as indicated by Mrs. Lewis.

Mr. Phipps:

I object to my client being pleaded to Count 1. He is
not charged on it.

Mrs. Lewis:

In that event, I ask that a plea of Not Guilty be
recorded.

Plea: Not Guilty recorded re Count 1.

No. 3

Jacqueline Marcia Brown

Prosecution
Evidence

30 JACQUELINE MARCIA BROWN (Sworn):

No. 3
Jacqueline
Marcia Brown
Examination

I am also called Marcia Jacqueline Brown. I am
a citizen of Jamaica. I reside in Sweden at
Tingavagen Five 14556 Norsveng, Sweden. I work with
my brother in Sweden in a record shop. I help in the
shop sometimes I collect records. I earn a salary.
I left Jamaica the first time in January 1975. I
went to Switzerland. I was there about 7 months, I
did not work there. I can't remember when I left
Switzerland. I have been living in Sweden 6-7 months.

In the Resident Magistrate's Court

I go back to Switzerland sometimes. From I left Jamaica in 1975 I have returned to Jamaica. I have my family here. I have spent between 6 week to 3 months in Jamaica.

Prosecution Evidence No. 3 Jacqueline Marcia Brown Examination (cont'd)

I have returned to Jamaica at least once per year since 1975. During these visits to Jamaica I do not work. When in Jamaica I stay with my mother, 51 Hampton Drive, Spanish Town. When I left Jamaica I had just finished school. I have not work in Jamaica. In school I did shorthand, typing and accounts. I know accused Carol Morin. I first came to know him late April to May 1978. I met him at his house 18 Manor Park Drive.

10
10

I went there about the house. The house was for sale and I was interested in it. When I met accused I spoke to him at the house. I wanted to know the cost of the house and things like that. Accused told me the cost of the house. Accused and I came to an agreement that I would buy the house. I made no payment then. After we spoke about it - after the agreement was drawn up in May 1978 I made payment. I paid money at Mr. Peter Myers Office 20 Duke Street, Kingston. I signed Agreement at the Lawyer's office. I don't recall which I did first - pay or sign. I got a receipt for the money I paid - \$45,000.00. This is the receipt for the money I paid for the house.

20
20

Tendered and admitted. Exhibit 1.

I see my signature on this document. This is the agreement about the house. Mr. Morin's signature is also on agreement.

30

Agreement tendered and admitted. Exhibit 2.

Having paid \$45,000.00 and entered into agreement I expected to get the house 18 Manor Park Drive.

About 2-3 weeks after I signed Agreement I left Jamaica. In the 2-3 weeks period I had further discussions with accused Morin. I was to get possession of the house on 31/8/78. Having signed agreement - when I left Island I went to Sweden. I left Sweden to come to Jamaica.

30

While in Sweden I was in touch with Mr. Morin I spoke to him by telephone as far as I was aware he spoke from his house in Manor Park. I returned to Jamaica in July, 1978. I spoke to Accused Morin at his house re the house.

40

QUESTION: Up to the last time you spoke to Mr. Morin that was in July had you signed any other documents?

ANSWER: Yes at Mr. Peter Myers Office it was something to do with shares.

I don't think I have got possession of the house up to today. Since leaving Jamaica in 1975 I have been back. I still have my family here I am still Jamaican. I think Manor Park Drive is in the parish of St. Andrew.

In the Resident Magistrate's Court

Prosecution Evidence No. 3
Jacqueline Marcia Brown Examination (cont'd)

CROSS-EXAMINATION

10 CROSS-EXAMINED: I am a Jamaican citizen. I have not got nationality in any other country. I travel on a Jamaican passport. When I went to Mr. Morin I told him I resided in Jamaica. I also told him I visited Sweden from time to time. My address of residence I told him was 51 Hampton Drive in Spanish Town. When I told him so it was true. I also gave the Lawyers who prepared the agreement my address. The address in Agreement is address I gave. I told Morin where I could be located in Sweden. I gave him a telephone number. I also gave him town Norsveng. I visited Switzerland. I stay there with my sister. When I visit U.S.A. I stay at Hotel. I visit England I have 20 a sister there. I have been to Norway once, also to Denmark. I do visit several countries and in some of the country there is an address where I stay. For a person to be resident in Sweden one has to have a permit. I do not have my passport the police have it. I have not asked them for it.

Cross-Examination

Mr. Peter Myers is a Lawyer in the firm of Livingston Alexander and Levy. I did not understand much about the shares until afterwards my interest was in acquiring the house. The house is a dwelling house.

30 RE-EXAMINATION: When I spoke to Morin I gave him address in Agreement. That is where I was staying.

Re-Examination

No. 4

Thelma White

No. 4

Thelma White Examination

THELMA WHITE (SWORN)

40 Executive Officer at the Registrar of Companies Office, 11 King Street, Kingston. Records are kept in that office of all companies incorporated in Jamaica. On 11/8/78, I was requested to make a search of my records re Links Co. Ltd., There is in my office a Certificate of Registration in respect of Links Company Limited. Date of registration of company is 7/7/64.

In the
Resident
Magistrate's
Court

This is a certified copy of the certificate of
Registration of Links Company Limited. Tendered and
admitted Exhibit 3.

Prosecution
Evidence
No. 4
Thelma White
Examination
(cont'd)

The original articles and Memorandum are in Spanish
Town because Company was registered in 1964, at which
time all companies were regarded as public Companies
after the 1965 Act.

In 1969 amended Articles of Association were
recorded at my office. This is a certified copy of
the amended articles of association of Links Co. Ltd.,
under the Company's Act. An annual return is required
to be submitted by every Company registered. I have
returns for Links Company Limited. Latest return is
16/11/76. Coral Morin is stated in return as a
director of the Company.

10

Return tendered and admitted Exhibit 5 (and
exhibit to be returned by Registrar of Companies and
a certified copy supplied).

MR. PHIPPS: No objection.

If shares are recorded in a Company the transfer
as such would not usually be recorded but the Annual
returns would show the transfer. There is nothing in
our office to show transfer of Shares in Links
Company Limited.

20

Cross-
Examination

CROSS-EXAMINED: Articles would tell first directors.
Articles 78(4) sets out how a Director may relinquish
office.

No. 5
Merlene
Brammer
Examination

No. 5
Merlene Brammer

MERLENE BRAMMER (SWORN)

30

Operations Officer, First National City Bank of
Knutsford Boulevard, St. Andrew. Bank now named City
Bank, N.A. Current and Savings account are operated
at this bank. I have access to the records at that
Branch records relevant to Current Account and
Savings. 14/8/78. Detective Hibbert came to office
and made a request. I checked the records of the
Bank. Records disclosed a Current Account in the
name Norman Mosesson. In opening a Current Account
we interview the client, prepare an account opening
form, information included address and references.
One from a Bank. We are very careful in opening
Accounts. If it is a Joint Account both persons must
sign.

40

These documents having been completed they became a part of the record of the client. I have in my hand a copy of the original account "banking sheet" of an account. I have checked this copy against the original; it is identical. This document is signed Norman Mosesson.

In the
Resident
Magistrate's
Court

Prosecution
Evidence
No. 5
Merlene
Brammer
Examination
(cont'd)

MRS. LEWIS: I ask that document be admitted -
Exhibit 6.

10 MR. PHIPPS: I object. I do not see how this document can be admissible under Evidence Act. There are provisions re Bankers' books, but we are still bound by the general rule relating to documents.

MRS. LEWIS: I ask that document be admitted on the basis that it forms a part of the record of the bank which is used in their ordinary business of operating, in this case a Current Account. It is part of their system. Book in sense as stated in Law Section 32(1) of Evidence Act, be not interferred strictly as a book.

20 MR. PHIPPS: "Cooks" in Evidence Act clearly defines a category - we are restricted to books and not open sheets.

Court Rules: Document admissible.

Admitted as Exhibit 6.

30 Consequent on request made by Mr. Hibbert, I made request through the Control Department and Current Account Department. I received a copy of the original Deposit slip. I saw the original Deposit slip. I compared both and they were the same. I have copy Deposit slip here. This is copy.
Tendered

MR. DeLISSUR: I make some formal objection it does not fall within the general exception.

Court rules:- Document admissible.

Admitted as Exhibit 7.

40 Exhibits 6 and 7 are photo-copies. I got a copy of the statement sent to the client from the Current Account Department. I did not see the original. The person who does the statements is Mr. Arthur Brown. When a cheque is lodged to an account this cheque is processed through the clearing Department and goes to the bank on which it is drawn. In our bank we micro-film all records going to the customers accounts.

I got a copy of a A.M.S. (Bank of Nova Scotia) Cheque which was deposited to the account of Norman Mossesson.

In the
Resident
Magistrate's
Court

QUESTION: This cheque was drawn by

MR. PHIPPS: I object.

Sustained.

Prosecution
Evidence
No. 5
Merlene
Brammer
Examination
(cont'd)

When I got the copy of the cheque I placed the City Bank's stamp on it and signed it. Certifying that it is a copy of the original cheque lodged to the account. This is the copy cheque I recognise our crossing stamp and my certification to the back.

MRS. LEWIS: I ask that copy cheque be tendered in evidence.

10

MR. DELISSUR: I object - Evidence Act Part 2 - Bankers Books Crown must satisfy Court this is copy of original. Witness has never seen original. This is a cheque drawn on another bank so it can't be said to be a "book" of the bank.

MRS. LEWIS: Crown does not seek to tender cheque as a Banker's Book, but as a document. Tendered to the bank with lodgement slip Exhibit 7. Witness has explained the system used at bank.

Objection sustained.

20

MRS. LEWIS: May it be marked for identity.

Document marked 8 for Identity.

Miss O'Tensia Williams, an employee of the bank was responsible for micro-filming the cheque on 26th July 1978.

On Crown's application - Part heard and postponed to 1st November, 1978

1st November
1978

1st November, 1978

MERLINE BRAMMER (Sworn):

EXAMINATION CONT'D

30

An account number was given to Mr. Mosesson. I can't from memory give that account number. Monthly statements are issued re this account. The number of the account is recorded on the account. When a cheque is lodged to an account the teller uses her stamp to stamp cheque. This would identify teller. Stamp has date, name of bank, number of teller. If a cash cheque is lodged to a particular account the number of account to which cheque is lodged would be written on the back of the cheque. Teller's rubber stamp is also placed on slip and account number is written on slip. Statement shows deposits, withdrawals and balance as at date of

40

statement. Statements are a part of the bank's record. They are recorded in bank on films. Statement sent to customer is filmed before it is issued, record kept in ledger cards. Before account is opened customer is interviewed - interview sheet is prepared and signed by applicant. This is a copy of the original sheet for Norman D. Mosesson. I saw original of this document. I compared this copy with original. Copy is exact; it compares with all details of original.

10

MR. DELISSER: I make same objection as before.

Overruled.

Document admitted - Exhibit 9.

I checked record of this account yesterday. My cheque was on all statements as far back as June - July 1978. The account is still active. There has been no activity on this account since end of July, 1978.

CROSS-EXAMINED BY MR. DELISSER:

20

I do not know Norman Mosesson. No one could operate an account under another name - company name without ever seeing the company documents. People have been known to open accounts under assumed names. The account opening clerk can't take a decision on these matters. It would be referred to the manager.

TO COURT:

We have a few accounts operating where clients are not resident in Jamaica. Most of these accounts are active.

30

CROSS-EXAMINED BY MR. DELISSER (invited):

If account is non-resident, the account is classed external. No lodgment can be made to this account without approval of Bank of Jamaica, that is, if account is classified external. I can't remember now if Mosesson's account is classified external. I could check.

40

Assuming a lodgment was made to Mosesson in July, 1978, that would indicate it is not an external account. Mosesson's account was opened by Lorna Chung. Miss Fisher is now the accountant opening account. One has not got to check with Miss Fisher before any transaction with this account is done.

RE-EXAMINATION: Not to my knowledge is there any legal onus on bank to see that no lodgment is made to an external account by a Jamaican without the

In the
Resident
Magistrate's
Court

Prosecution
Evidence
No. 5
Merlene
Brammer
Examination
1st November
1978.
(cont'd)

Cross-
Examination

Re-
Examination

In the
Resident
Magistrate's
Court

Prosecution
Evidence
No. 5
Merlene
Brammer
Re-
Examination
(cont'd)

approval aforementioned. There are accounts we get approval coming in from B.O.J. saying that in any one year lodgments should not exceed X amount. Account would be so jacketed to see that this is complied with. "Jacketing" Account is monitory at branch level. I think tellers do get in touch with Current Account Department if they are not sure of status of account. Where there is no limited placed on accounts of customer resident abroad not classified as external there is no limit to lodgement.

10

Lodgement of \$15,000.00 and upward to any account at all are monitored. The records I saw of Musesson's account do not indicate it was referred to the manager. If a lodgement is made by a Jamaican to an account that is not conclusive evidence that account is not external.

No. 6
Arthur Brown
Examination

No. 6
Arthur Brown

ARTHUR BROWN (SWORN)

Clerk, City Bank at Knutsford Boulevard branch, St. Andrew. My duties include dispatching of monthly accounts to customers. Before they are dispatched I make micro-films of the statements for future reference.

20

In August I received instructions from Mrs. Brammer. As a result I gave her a copy of a statement for Norman Musesson. I took micro-film from storage and made a copy of statement from it.

This shown me is copy of statement I made. It is for July to August 1978.

Tendered and admitted Exhibit 10.

30

Cross-
Examination

CROSS-EXAMINED: I am not the only person at the bank who make micro-films of records of the bank. People who do certain work in department are required to make micro-films. They may be people designated to do one special branch. But anybody can make micro-films. I am designated specially to do that job. I can say I personally made micro-film of original document Exhibit 10. I can't tell off hand date micro-film was made. I was at work on the date. I was not absent from work until my leave time in May. My leave ended 15/5/78. I have never been absent since I returned from leave.

40

NO RE-EXAMINATION

No. 7

Otensia Williams

In the
Resident
Magistrate's
Court

OTENSIA WILLIAMS (SWORN)

Prosecution
Evidence
No. 7
Otensia
Williams
Examination

Control Clerk, City Bank Knutsford Boulevard Branch. I have been so employed since May 1977. My duties at bank include recording of micro-films - of general ledger tickets, cheques and lodgements - I did this July - August, 1978.

10

In August I received instructions from Mrs. Brammer. I went for micro-film of a cheque for Account 1120662 - in name Norman D. Musesson. I made from micro-film a print copy of the cheque filmed. "8" for Identity is the copy of cheque I made from micro-film. I made print of what was on back of cheque also of front of cheque.

MRS. LEWIS: "8" for Identity tendered and

MR. DELISSER: I object, witness has not said she made films.

20

MRS. LEWIS: Even if this witness did not take film the system has been related by Mrs. Brammer. This witness said in relevant period she made films. On either part document can be admitted.

MR. DELISSER: I think court understands my objection.

Objection overruled.

"8" for identity admitted Exhibit 8.

CROSS-EXAMINED MR. DELISSER:

Cross-
Examination

30

Others at bank have duty of filming cheques and lodgements. I also make micro films of lodgements. I am solely in charge of micro-films. No one has access to them without my knowledge and approval. Sometimes I micro-film cheques. I can't say whether or not I micro-filmed the original cheque.

No. 8

Franklyn Martin

No. 8

Franklyn
Martin
Examination

FRANKLYN MARTIN (SWORN)

Secretary and Director of Administration and Accounts of Bank of Jamaica. 27/7/78 on that date I signed a letter addressed to Mrs. or Miss Coral Morin.

In the
Resident
Magistrate's
Court

I issued letter by virtue of the power given to the bank by the Minister of Finance. This is a copy of the instrument of delegation. It is a certified examined copy certified by me.

Prosecution
Evidence
No. 8
Franklyn
Martin
Examination
(cont'd)

Tendered Exhibit 11 - admitted.

As an officer of bank I am empowered to sign certain documents.

MRS. LEWIS: A notice to produce - 1 original was served on the defence and this original not having been produced I propose to adduce copy of letter sent defendant. 10

MR. PHIPPS: We admit the notice was served. When the time comes we propose to contest the legality of it.

EXAMINATION CONTINUED

Is that the copy of the letter you sent defendant.

MR. PHIPPS: I object on ground it is totally irrelevant to the charge. The persons charged are Links Limited and Coral Morin. Coral Morin is before Court and it can clearly be seen he is a man. Crown seeks to tender document addressed to Mrs. or Miss Coral Morin. Unless and until Crown can prove document points to accused without ambiguity document can't be admitted. 20

MRS. LEWIS: Defence is based simply on fact that letter is addressed to Mrs. or Miss Coral Morin. Crown proposes to call evidence to show what happened to letter, who accepted service of letter. Crown is only asking that letter be admitted in evidence to show persons who had power to administer interrogatories based on paragraph 1 of part 1 of 5th Schedule. 30

I submit name is irrelevant at this stage. I ask that it be admitted but if it can't be admitted at this stage I asked that it be marked for identity.

MR. PHIPPS: I do not oppose the latter statutory Provisions of Para 1(1) of 5th Schedule.

Simple point is a lady was directed to give information. It can't be established that accused, a male, was directed to give information. 40

Objection overruled.

Letter admitted Exhibit 11.

CROSS-EXAMINATION: Somebody made a request of me for a letter.

In the
Resident
Magistrate's
Court

QUESTION: Person asked for a letter to question a lady.

Prosecution
Evidence
No. 8
Franklyn
Martin
Cross-
Examination

MRS. LEWIS: I object. That is a means of eliciting hearsay evidence.

MR. PHIPPS: I don't wish to argue. I think question is admissible.

Objection overruled.

10 Some officers from F.I.U. made request 2 officers I do not recall the names. I made no enquiries I realise I was discharging an important and special function. I relied on the integrity of the officers concerned. I made no specific enquiries.

Part Heard and adjourned to 30/11/78 B/E.

No. 9

Proceedings

No. 9

Proceedings
30th November
1978

20 30/11/78 MR. DELISSER: Mr. Phipps has suffered a personal loss and is not physically nor emotionally able to be in Court, we crave an adjournment to 15/1/79.

Postponed to 15/1/79.

30 15/1/79 MRS. LEWIS: I am not sure this was done before but I have Fiat of D.P.P. dated 1/9/78. I am also applying to have indictment amended in statement of offence on 1st and 2nd Counts to delete the word and figure 3(b). In original act section was 3(b) but amendment published in July 1978, section is now 4(b). Jamaica G. S. P.R.R. 17/7/78. I ask all 3(b's) in all 3 counts be amended to read 4(b).

15th January
1979

MR. PHIPPS: The application surprises me but not to the extent which I would ask for an adjournment. I do not wish to make any submission.

Amendment granted.

Prosecution
Evidence
No. 10
Sylvester
Hemmings
Examination

SYLVESTER HEMMING'S (SWORN)

Corporal attached to F.I.U. In July, 1978, I was attached to that unit. On 27/7/78, 3 a.m. on duty at Norman Manley International Airport. I received certain information. I accosted Coral Morin the accused who was an out going passenger on Air Jamaica Flight 021 destined to Miami U.S.A. I spoke to accused, took him into immigration office at Airport. I searched his briefcase and his person.

10

In attache case I found a cheque drawn on City Bank Knutsford Boulevard payable to accused in sum of \$12,000.00 the drawer of cheque - signature, Norman Mosesson.

This is the cheque. Cheque tendered and admitted Exhibit 13. (Cheque No. 190289. 1120662 signed Norman Mosesson). Search was done in presence of accused. I saw a yellow sheet of paper on which were written certain particulars.

20

This is the yellow sheet of paper I found in the attache case. Tendered:-

MR. PHIPPS: I object: (1) No proper foundation laid.
(2) No relevance to any count in indictment.

MRS. LEWIS: Document was found in personal belongings of accused and in his presence.

Re relevance: Counts 1 and 2 refer to transfer of a house at 18 Manor Park Drive, Saint Andrew with Mrs. Jacqueline Brown being transferee. The document is relevant to case.

30

Objection overruled.

Document admitted Exhibit 14.

I subsequently took accused to F.I.U. office and handed him over to Superintendent Thompson. About 1 p.m. that day I went with accused to office of Myers Fletcher and Gordon. Mr. Morin was handed an Agreement by an official in office. He handed it to me and I took possession of it. Exhibit 2 is the document.

Cross-
Examination

CROSS-EXAMINED: MR. PHIPPS:

40

I took Exhibit 14 from accused's briefcase at Immigration Office at Norman Manley Airport. Accused

was subsequently questioned at F.I.U. office. I was in and out of office during questions. Others were there I dont recall who.

In the
Resident
Magistrate's
Court

10 I questioned accused at the Airport. Immigration Officers were there. I did not caution him before questioning him. I did not write down questions and answers. I asked formal questions. I asked him one question about cheque. I remember. I did not ask about the yellow paper. I did not have information before going to the Airport - I got information at the Airport about 7.45 a.m. Saw Morin about 8 a.m. As far as I can recall Accused was not questioned before I got Exhibit 2.

Prosecution
Evidence
No. 10
Sylvester
Hemmings
Cross-
Examination
(cont'd)

20 Between 8 a.m. and 1 p.m. we went to several places, to his store and his home. I never interviewed Marcia Brown. I made a mistake in name of office. I recall it is Alexander, Livingston and Levy. --- Livingston, Alexander and Levy. Exhibit 2 was got from a Lawyer. To the best of my recollection Morin was questioned after Exhibit 2 was obtained

No. 11

Irving Thompson

No. 11

Irving
Thompson
Examination

IRVING THOMPSON (SWORN)

30 Superintendent of Police in charge of F.I.U. Thursday 27/7/78, I was at the office about 9 a.m. Accused was brought there by Corporal Hemmings. Hemmings made a report to me. I sent to the Bank of Jamaica to get a letter under the exchange control act. I gave the letter to Mr. Morin in a sealed envelope. I requested him to read it. Exhibit 12 is a copy of the letter. Morin read letter. Corporal Hemmings and Woman Corporal Nevers were in office. I asked Accused if he understood contents of letter he said yes. I requested Corporal Nevers to get Foolscap papers as I was about to question Accused and I wanted Questions and Answers recorded. This was done.

40 I put the questions to Morin. Before so doing I examined briefcase brought there by Corporal Hemmings and Mr. Morin. I took from briefcase a number of documents. I told Morin I was going to ask him questions about them. I had not yet started questioning Accused, it was after I examined documents I dispatched Nevers to get paper.

I proceeded to ask questions. He replied to the questions. Questions and Answers were recorded. At

In the
Resident
Magistrate's
Court

Prosecution
Evidence
No. 11
Irving
Thompson
Examination
(cont'd)

Cross-
Examination

end of interrogation Question and Answers were given to Accused. He was requested to read them. He read them, he signed them. I witnessed his signature. On these 7 sheets of foolscap the Questions and Answers are recorded. I see Accused's signature; it is on each page. My signature is at the last page.

Questions and Answers tendered and admitted Exhibit 15.

Exhibit 14 is one of the documents found in the briefcase also Exhibit 13.

CROSS-EXAMINED BY MR. PHIPPS:

10

Mr. Morin was arrested that day. Not in my presence - sometime in late afternoon. Hemmings was present when Questions and Answers were taken. After Questions and Answers Morin and 2 other officers left for his home. He never left Office after he was brought in until after he was interrogated. I believe he was taken from office between 1 and 2 p.m. Could be about an hour after he came that questions and Answers were taken. Mr. Morin, Mr. Hemmings, Miss Nevers and myself were present. I can't recollect Mr. Hemmings going in and out during interrogation. My recollection he was there all the time. Questions and Answers might have taken about 1 - 1½ hours not 2 hours. I was told Mr. Morin is married. I requested a letter for Mr. Coral Morin. Exhibit 12 is a copy of letter from Bank.

20

Question: Was not Superintendent Buchanan present during the questions and Answers administered by me?

Answer: No, not during the entire period.

Question: Suggest the Questions and Answers were administered after midday?

30

Answer: I do not recall any precise time.

It is your suggestion that it was taken after midday but that is not my recollection. The time and persons present should be noted. I see on Exhibit 15 these are noted. It was written by Corporal Nevers - on my instructions. I did not tell her who to note as being present. Time noted on Questions and Answers is 2 p.m.

Adjourned 1:00 p.m.

40

Resumed 2:00 p.m.

I saw Exhibit 2 on 27/7/78. I saw name Marcia Brown on it. I sent for her at address stated in Exhibit 2. She was brought to my office. She was taken back home to the address stated. I did not know her before

that day. I saw her passport, a Jamaican passport. Miss Brown was not questioned in connection with Exhibit 14 by me or in my presence. I took Exhibit 14 from the briefcase. Not so accused was at F.I.U. office a matter of minutes in the morning of the 27/7/78. He was taken to his business place and his home that morning. My recollection is I took Exhibit 13 from the briefcase. All the documents I dealt with I took from the briefcase. The Questions and Answers deal with them. In the Questions and Answers no reference is made to Exhibit 14. No Sir, Mr. Hemmings did not say he got cheque, Exhibit 13, from an immigration officer. I can't recall him referring to the cheque individually when he brought in Accused. I did not caution Accused. I did not hear anyone caution him. Morin did convey to me that Mosesson had paid him money --- apart from the cheque. I don't recall his saying he was to receive consideration for the cheque. Whatever was said is recorded in the interrogatories. Cheque is on a Jamaican Bank in Jamaican Currency.

In the Resident Magistrate's Court

Prosecution Evidence No. 11 Irving Thompson Cross-Examination (cont'd)

RE-EXAMINATION: Apart from interrogatories no Caution Statement was taken. In examination I said I started interrogatories about 1 hour after Morin came in I made a mistake in sequence. The interrogatories were taken after he was taken to his house. I said in evidence after Questions and Answers he was taken out that sequence is wrong.

Re-Examination

I was not investigating any case against Miss or Mrs. Morin. When letter was handed to Coral and he read it he said nothing about the letter. He made no objections to the letter at any stage. I requested letter from Bank of Jamaica. Request was made in connection with Mr. Morin.

No. 12

Sylvester Hemmings (recalled)

SYLVESTER HEMMINGS (SWORN)

Re-called at Mr. Phipps' request.

No. 12

Sylvester Hemmings (Recalled) Cross-Examination

CROSS-EXAMINED: I got Exhibit 14 from the briefcase. I got cheque Exhibit 13 from the briefcase, not an immigration officer. When I first spoke to Morin he had, to the best of my knowledge, been in the presence of an Immigration Officer. Not as far as I recall did the Immigration Officer hand me cheque Exhibit 13.

I don't remember Immigration Officer saying he had searched briefcase or taken anything from it in presence of Accused.

In the
Resident
Magistrate's
Court

No. 13
Rupert Campbell

Prosecution
Evidence
No. 13
Rupert
Campbell
Examination

RUPERT CAMPBELL (SWORN)

Acting Corporal of Police attached to F.I.U.
27/7/78, I assisted in investigation of cases against
Accused. About 6 p.m. I received certain instructions
I went to the home of Accused at 18 Manor Park Drive.
I arrested Accused for Breaches of the Exchange Control
Act. Cautioned he made no statement.

12/10/78, I saw Accused that day I served on 10
him personally a subpoena to produce the Bank of
Jamaica letter that was served on him. He read the
notice. He said he had the letter at his house.
This is the notice to produce served on Accused.
Tendered Exhibit 16.

No CROSS-EXAMINATION

No. 14

Submission
of no Case
to answer
15th January
1979

No. 14

Submission of no Case to answer

MR. PHIPPS: Submit no case to answer on any of the 20
Counts in this indictment. Submission re Count 2
could of necessity applying to Count 1.

Restrictions are placed in statute with penal
provisions in the schedule. The defence will not
be calling any evidence and will be resting on the
submissions made. Trite law that the Court takes
Judicial notice of Acts of Parliament - but not so
of regulations or Ministerial orders. Interpretation
Act sets out how they are proved.

- (1) Power of Minister to make an order under the 30
exchange control act is restricted to where
he deems it necessary or expedient in the
interest of the economy of Jamaica. Section
45. I question the validity of any
ministerial order which purports to amend the
schedule to the act.
- (2) Purported amendment must be in the interest
of the economy of Jamaica.

Even if Minister has power to amend and even if it
is in interest of economy no evidence has been 40
presented to Court to show he has in fact exercised

the power to make such order - Gazette not tendered.

What seemed to have been amended in paragraph 1 sub paragraphs (3) and (4) and it seems the July 1978 amendment is same as the October, 1978, Amendment.

10 I am not conceding minister has power to amend. Can Court look at offences in form presented. A necessary ingredient of restrictions imposed by section 33 is that a party to the negotiations should be resident outside the scheduled territories. Secondly it must relate to transfer of land, building or other hereditaments. Evidence presented indicates:

(a) Jacqueline Marcia Brown is resident within the scheduled territories, and

20 (b) In so far as Accused is concerned there is nothing to show that he know or had reason to believe she is resident other than in the scheduled territories. Section can't be read as one of Strict liability. Evidence shows defendant did what any prudent man would do -- he went to his Lawyer. Agreement was prepared by Lawyer. Indicates residence within the scheduled territories. Nothing to put defendant on inquiry. Brown, not only lives in Jamaica, she is Jamaican and has Jamaican passport. Even on 27/7/79 when F.I.U. came in they sought Brown at Spanish Town in Jamaica.

Re Count 3.

30 There is no evidence that Mr. Musesson resides outside of the scheduled territories to support allegations that defendant was in breach of section 7c of Exchange Control Act.

Before a court can accept an assertion by a defendant for it to amount to an admission there must be proof of the fact. Only evidence of Musesson's address is answer given by defendant in interrogatories - Q.58.

Delivering address in Exhibit 10 cannot be accepted. There is proof a lodgement was made. When it comes to residence that is subject of strict proof.

40 3:50 Part Heard - Adjourned to 17/1/79

An assertion may be true or false. If there can be a foreign and local account and a man goes to bank and lodges money to X's account assuming X is outside the scheduled territories what purpose of Foreign Exchange Act?

In the
Resident
Magistrate's
Court

No. 14
Submission
of no Case
to answer
15th January
1979.
(cont'd)

17th January
1979.

In the
Resident
Magistrate's
Court

No. 14
Submission
of no Case
to answer
17th January
1979.
(cont'd)

Crown has not established whether the account is or
is not a foreign account. This takes us into
question of Mens Rea ... Mens Rea..

- Exhibits 6 - 10 gives an address. This is not
proof of residence. Section 7c - Proviso submit
proviso covers the situation.

There is no question of any money going outside of
Jamaica. An internal debt was discharged. I submit
Proviso is applicable. Asks that Accused be found
Not Guilty on the indictment.

10

No. 15

Crown
Counsel on
No. 14
15th January
1979.

No. 15

Crown Counsel on No. 14

MRS. LEWIS:

Re regulations under section 45 (1) (b).

Amendment made by Exchange Control Order 6/78 dated
17/7/78 - relevant.

Amendment becomes a part of the original act and the
Court can take judicial notice of it. Offences are
contravention of substantive sections of act. If
indictment had not contained references to schedule
it would not have been bad. Regulations do not create
offences, but are part of act.

20

Palastanga vs Salmon 1967 C.L.R. 334. See section 37
of Act. Amendment in interest of Jamaica.

Under act, Minister has power under Section 45 and
presumption is, it is exercised in accordance with
provisions of act.

I admit that the 4 should be sub-paragraph 4 - a
matter of putting the 4 in parenthesis - trivial.

Question of residence of Miss Brown -

30

Despite her evidence it is for Court to determine
where is her residence: "Residence" is not defined in
the Exchange Control Act. It is probably only in
Revenue cases definition of residence may be found.

Read from 2nd Edition of Whiteman and Wheatcroft on
Income Tax. Chapter Page 50.

Fact that Brown says she resides elsewhere and has a
Jamaican passport means not much. Residence a question

of fact. Period of six weeks to three months would not make her a resident in Jamaica.

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Magistrate's
Court

Onus on accused to ascertain true place of residence of Brown before entering into contractual relationship. Brown resides out of country. She works out of Jamaica. She has never worked here. Crown is not asked to say where she resides save that she does not reside in Jamaica. Morin had telephone conversation with Brown while she was in Sweden.

No. 15
Crown
Counsel on
No. 14
15th January
1979.
(cont'd)

Re: Count 3:

Proviso to Section 7 - no evidence Mosesson owed Morin any money. There is evidence of accused lodging money to Mosesson's account. Re residence of Mosesson: Only person who can give direct evidence of residence is Mosesson himself. Crown has put evidence available. Exhibit 6 gives Mosesson's address in New York. Exhibit 7 - Lodgment slip - N.Y.C. (New York City) and account number.

Exhibit 8 - Cheque.

Exhibit 9 - Interview Sheet.

Exhibit 10 Bank Statement - all give Mosesson's address.

Section 33 of Evidence Act. Bankers book - does not necessarily mean book - documents admitted would certainly be a part of the bankers books. Court can accept that Mosesson's address is in New York.

Interrogatories - Q.58.

Accused given address, 25 Broad St., New York.

Crown not asking Court to rely only on what accused has said. He gave exact address on the record. \$10,000.00 was not repayment for any debt. Crown is under no obligation to prove money left island. No need for Crown to prove Foreign Account. All Crown has to prove it is account of non-resident. Only person onus is on is Mr. Morin.

Court adverts Mrs. Lewis attention to Section 37 of Act. 37(1)(a) and 2 (i) and (ii).

As long as Mosesson is non resident and as long as there is evidence that there was a lodgment to this act. The Crown has discharged burden of proof. Accused knows Mosesson resided outside the island. It would be quite easy for Mr. Mosesson to make available to Mr. Morin money elsewhere. That is the whole spirit and intention of the act.

Submit Prima Facie case had been made out.

In the
Resident
Magistrate's
Court

No. 16

Reply by Defence Counsel

No. 16
Reply by
Defence
Counsel
15th January
1979.

MR. PHIPPS: If Crown is correct a substantial portion of the citizen of Jamaica is guilty of offence under Section 7(c). No evidence of compensatory deal. No evidence of dealing in Foreign currency everything indicates - transactions local.

No inferences can be drawn from exhibits - bankers books. Ledger cards may be books but not the address for correspondence.

10

Ask Court to find that it is not proper to find address on cards as that of residence of Mosesson.

Mens rea a must.

No. 17
Ruling
15th January
1979

No. 17

Ruling

COURT RULES: No case to answer on Counts 1 and 2. Case to answer on Count 3.

MR. PHIPPS: In view of Court's ruling very little Accused can add. He will make a short statement from where he stands.

20

CORAL MORIN (ELECTS) I do not know as a fact where Mr. Mosesson lives.

MR. PHIPPS: CASE FOR DEFENCE

No. 18
Crown
Counsel
15th January
1979.

No. 18

Crown Counsel

MR. LEWIS: There is not much more I can add to what he has said. Accused has just said he does not know as a fact where the Accused lives.

Refers to Q. 58 in the interrogatories. Answer gives nothing to suggest he was not sure.

30

Ask Court not to accept from defendant that he does not know. In Q.59 he mentioned that he met Mosesson in New York.

Ask Court to take judicial notice that "N.Y.C." means "New York City".

Ask Court to accept that Mosesson is a non resident of Jamaica. Lodgment was made - offence proved.

In the Resident Magistrate's Court

No. 18
Crown Counsel
15th January 1979.
(cont'd)

No. 19
Defence Counsel

No. 19
Defence Counsel
15th January 1979.

MR. PHIPPS: Question for Court is where Mr. Mosesson in fact lives. Position now Court can find:

- (a) he lives within scheduled territories;
- 10 (b) he lives without scheduled territories;
- (c) he lives - where Court does not know.

If lodgment slip was made - the writing that of an officer of the bank - it is inadmissible. Only if it was made by Morin it is admissible. How do we know it was not a bank - to bank law. How do we know it was not an officer in bank who prepared it.

Assertion in Court "I do not in fact know where he lives."

Answer in Question 58 out of Court.

20 Submit essential burden has been discharged by the accused. Where is evidence beyond a reasonable doubt that Mosesson is resident outside scheduled territories.

No evidence on which Court can say it is satisfied beyond a reasonable doubt that Mosesson resides outside the scheduled territories.

No. 20
Court finding, verdict and sentence

No. 20
Court finding, verdict and sentence -
15th January 1979.

30 COURT FINDS: Question to be decided is where in fact does Mosesson reside?

- 1. (a) Documents from the bank indicate that he resides at the address given when the account was opened.

In the
Resident
Magistrate's
Court

No. 20
Court finding,
verdict and
sentence -
15th January
1979.
(cont'd)

- (b) No accommodating or other address in Jamaica given.
- (c) Address given in exhibit is in the United States of America.
- (d) Answer given by accused to question 58 indicates that to the accused's knowledge Mosesson resides in the United States of America.

- 2. I find Mosesson resides in the United States of America. 10
- 3. Lodgment of \$10,000.00 was made by accused to the credit of Mosesson's account on 26/7/78.
- 4. At time lodgment made accused knew Mosesson was resident in the United States of America. I do not accept accused's statement from the dock as true.

COURT finds accused guilty on Count 3.

Sentence: Mr. Phipps -

Accused has no previous convictions. Question now arises whether Court can take into account amendment as it stands or Act as it was before amendment. 20

Invite Court to adapt course taken in another jurisdiction in considering the alternative.

I ask that having regard to the realities of the situation that sentence be postponed to noon tomorrow.

Adjourned to 18/1/79
4:40 P.M.

18/1/79 - Mr. DeLisser

It is established accused has no previous convictions. Having regard to the fact that gazette of the Amending Law was not tendered in evidence the old law applies and Court's discretion under that law is a very wide one. Offence for which accused is convicted is an unusual offence as far as Act. 30

Offence is one which will not come easily to a lay person. I imagine there are many however, ignorant of it. Several persons, in a position to assist Mr. Morin on the law, even though they knew of his turpitude, did not warn him. I ask Court for extreme leniency having regard to the facts. 40

Sentence:

Fined \$30,000.00 or three months imprisonment at hard labour.

IN THE RESIDENT MAGISTRATE'S COURT
FOR THE PARISH OF SAINT ANDREW
HOLDEN AT HALF-WAY-TREE

REGINA -v- CAROL MORIN
FOR BREACH OF THE EXCHANGE
CONTROL ACT.

10 TAKE NOTICE that the Defendant in the above-
mentioned case hereby gives Notice of Appeal against
Conviction and Sentence.

AND FURTHER TAKE NOTICE that the following are
his Grounds of Appeal:-

1. The verdict was unreasonable and cannot be supported having regard to the evidence.
2. The Indictment presented did not disclose offences known to the Law.
3. The sentence was manifestly excessive,

WHEREFORE THE APPELLANT HUMBLY PRAYS:

- 20 1. That his appeal be allowed
2. Conviction quashed
3. Sentence set aside.

Sgd. Carol Morin
APPELLANT

FILED By FRANK PHIPPS Q.C. of 18A Duke Street,
Kingston, Attorney-at-Law for and on behalf of the
Appellant herein whose address for service is that
of his said Attorney.

In the Court
of Appeal

30 No. 22
JUDGMENT

No. 22
Judgment
2nd May 1980

J A M A I C A

IN THE COURT OF APPEAL

R.M. CRIMINAL APPEAL NO. 134/79

In the Court
of Appeal

No. 22
Judgment
2nd May 1980
(cont'd)

BEFORE: The Hon. Mr. Justice Leacroft Robinson -
President
The Hon. Mr. Justice Henry, J.A.
The Hon. Mr. Justice Melville, J.A.

R. v. CAROL MORIN

Mr. Frank Phipps, Q.C. for the Appellant.

Mr. F.A. Smith for the Crown

January 18 & 23 : May 2, 1980

ROBINSON, P.:

The appellant was convicted in the Resident Magistrate's Court for the parish of St. Andrew on the 17th January, 1979, for making a payment to the credit of a person resident outside of the Island, contrary to section 7(c) of the Exchange Control Act and contrary to paragraph 1(1) and 4(b) of Part II of the Fifth Schedule thereto.

10

The evidence indicated that on the 26th day of July, 1978, the appellant lodged the sum of J\$10,000.00 in the First National City Bank in the parish of St. Andrew to the credit of one Norman Mosesson whose address was shown in the records of the bank as being at 25 Broad Street, New York in the United States of America.

20

It was argued that the fact that the records of the Bank showed the address of Mr. Mosesson as being outside of the Island was not conclusive to prove that he was in fact resident outside of the scheduled territories, i.e. outside of the Island of Jamaica. It is however not necessary to express an opinion on this contention as the appellant himself admitted in answer to a question put to him by the policy, that he knew Mr. Mosesson to "live" at the same address as that given in the records of the Bank, i.e. 25 Broad Street, New York, and the only remaining question was whether that answer was admissible in evidence. It was elicited in the course of an interrogation of the appellant by one of three police officers pursuant to directions contained in a letter addressed to "Mrs." Carol Morin, but intended for, delivered to, received, accepted and acted upon by Mr. Carol Morin, requiring him to furnish to anyone of a number of named persons, designated in the said letter as persons authorised to require same any information in his possession or control which the person so authorised may require for the purpose, inter alia, of detecting evasion of the Exchange Control Act. These directions were issued by an authorised officer of the Bank of Jamaica to whom the Minister had delegated, as permitted by

30

40

section 40(4) of the Act, the powers given him by paragraph 1(1) of Part I of the Fifth Schedule to the Act which reads as follows:

In the Court
of Appeal

No. 22
Judgment
2nd May 1980
(cont'd)

10 "1 - (1) Without prejudice to any other provisions of this Act, the Minister may give to any person in or resident in the Island directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to him, or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Minister or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act."

The delegation was permitted by section 40(4) of the Act, which provides as follows:-

20 "40- (4) The Minister may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers (other than any power to make orders or to give authority to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Act shall be construed accordingly."

And section 40(5) provides that -

30 "Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the Minister, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document."

40 It was not disputed that a proper delegation of the Minister's powers had been made to the Bank of Jamaica. In this appeal, however, it was contended that the directions issued by the Bank in the purported exercise of its delegated functions was ultra vires the provisions of paragraph 1(1) of Part I of the Fifth Schedule as it was tantamount to an unauthorised curtailment of the freedoms of a citizen to subject him to interrogation by any one or more than one of as many as 25 persons over a period of 6 months as was provided for in the directions contained in the letter which was delivered to the appellant.

We do not think that there is any merit in this contention. The Minister is empowered to delegate or to authorise the delegation of any of his powers to any person or class of persons and in his Instrument of

In the Court
of Appeal

No. 22
Judgment
2nd May 1980
(cont'd)

Delegation to the Bank of Jamaica, dated 22/3/77, he expressly authorised the Bank "for the avoidance of doubt to delegate any or all of the powers hereby delegated to any person, class or description of persons selected by the said Bank as to which person, class or description of persons, approval is HEREBY unequivocally granted by the Minister." See Exhibit 11. Of the 25 persons designated in the letter (Ex. 12) 18 were members of the Jamaica Constabulary Force and the remaining 7 were actively connected, along with the policemen, to the Financial Investigative Unit (the F.I.U.) - which unit was primarily concerned with detecting evasion of the Exchange Control Act. They were all of a class or description of persons selected by the Bank, any one of whom might conveniently be assigned the duties required of the persons named in the letter. And, indeed, only 3 of the named members of that class participated in the questioning which was actually done by one only of the three. What is more, the appellant was questioned, pursuant to the directions contained in the letter, on one occasion only and so by no stretch of the imagination could it be said that there was any abuse of the purpose and intent of the provisions of Paragraph 1(1) of Part I of the Fifth Schedule.

10

20

The lodgment complained of was made on the 26th July, 1978. The questioning took place the following day (27th July, 1978). The relevant questions and answers (as disclosed in Ex. 15) were as follows:

30

"Q. Where does this Mr. Norman. B. Mosesson live?

A. 25 Broad Street, New York.

Q. What's the relationship between the both of you?

A. I met him in New York in the early part of this year

There can therefore be no doubt, as found by the learned Resident Magistrate, that "at the time lodgment made accused knew Mosesson was resident in the United States of America".

40

Having regard to that finding, we can find no fault with the conviction.

The appeal against sentence having been abandoned, and rightly so as it too was devoid of merit, the appeal is dismissed. The conviction and sentence are affirmed.

Order for Conditional Leave to Appeal to Her
Majesty in Council

No. 23
Order for
Conditional
Leave to
Appeal
24th July 1980

IN THE COURT OF APPEAL
RESIDENT MAGISTRATE CRIMINAL APPEAL NO. 134/79

BETWEEN CAROL MORIN APPLICANT
A N D THE DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

10 TAKE NOTICE THAT UPON the motion for leave to
appeal to her Majesty in Council coming on for hearing
on the 28th day of May 1980 and after hearing Mr. Frank
Phipps Q.C. Attorney-at-Law for the Applicant and Mr.
Henderson Downer from the office of the Director of
Public Prosecutions for the Respondent. It was
ordered that leave to appeal to her Majesty in Council
be granted on the following condition:

That the Applicant take steps to dispatch the
record to the Registry of the Privy Council
within Ninety (90) days.

20 The Court in granting leave certified the following
points of Law.

1. Does paragraph 1(1) of Part I of the Fifth
Schedule to the Exchange Control Act authorise
the Bank of Jamaica as "delegatee" of the
Ministry to give directions for information to
be furnished to, and as required by, designated
persons, class or description of persons?
2. Is the person designated by the exercise of
powers in the said paragraph 1(1) obliged to
30 identify the specific information to be furnished
as distinct from conducting an Interrogation?
3. Must directions under the said paragraph 1(1)
allow time within which the information required
is to be furnished?
4. Is evidence obtained in breach of any or all of
questions 1, 2 and 3 (above) admissible?
5. Can information furnished by an accused as a
result of the exercise of the powers contained
in paragraph 1(1) of Part I of the Fifth Schedule
40 of the Exchange Control Act ever be proof of the
truth of such information?
6. If the answer to questions 4 or 5 is in the

In the Court
of Appeal

negative would this be a substantial miscarriage
of Justice?

No. 23
Order for
Conditional
Leave to
Appeal
24th July 1980
(cont'd)

Dated the 24th day of July 1980

Sgd. S. Dalcott (Mrs)
REGISTRAR
COURT OF APPEAL

TO: The Director of Public Prosecutions,
King Street,
Kingston.

FILED by HAMILTON & BENNETT Attorneys-at-Law of No. 10
20 Duke Street, Kingston for and on behalf of the
Applicant.

No. 24

Order for
Final Leave
to Appeal to
Her Majesty
in Council
18th December
1980

No. 24

Order for Final Leave to Appeal to Her
Majesty in Council

IN THE COURT OF APPEAL
RESIDENT MAGISTRATE'S CRIMINAL APPEAL
NO. 124/1979

BETWEEN CAROL MORIN APPLICANT
A N D THE DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

20

TAKE NOTICE that upon Application for Final
Leave to appeal to Her Majesty in Council coming
on for hearing on the 21st day of October 1980 and
after hearing Mr. Frank M.G. Phipps, Q.C., Attorney-
at-Law instructed by Mesdames Hamilton & Bennett
for the Applicant and Mr. Henderson Downer from the
office of the Director of Public Prosecutions for
the Respondent. It was ordered that the Applicant
be granted final leave to appeal to Her Majesty in
Council.

30

DATED the 18th day of December 1980.

Sgd. Illegible
REGISTRAR
COURT OF APPEAL

TO: The Director of Public Prosecutions
King Street, Kingston.

FILED by HAMILTON & BENNETT of 20 $\frac{1}{2}$ Duke Street,
Kingston Attorneys-at-Law for and on behalf of the
abovenamed Applicant.

40

EXHIBITS

12

Exchange
Control Act
Directions
27th July
1978
(cont'd)

(e)	Mr. B.A. Williamson	Detective Inspector Jamaica Constabulary Force	
(f)	Mr. V.G. Richards	Detective Inspector Jamaica Constabulary Force	
(g)	Mr. D.W. Brown	Detective Sergeant Jamaica Constabulary Force	
(h)	Mr. L.L. Stewart	Sergeant Jamaica Constabulary Force	
(i)	Mr. C.P. Barnaby	Sergeant Jamaica Constabulary Force	10
(j)	Mr. Dalton Lewis	Sergeant Jamaica Constabulary Force	
(k)	Mr. S.J. Hemmings	Corporal Jamaica Constabulary Force	
(l)	Mr. G.W. Morgan	Detective Corporal Jamaica Constabulary Force	
(m)	Miss E.L. Nevers	Detective Corporal Jamaica Constabulary Force	
(n)	Mr. C.L. McFarlane	Detective Corporal Jamaica Constabulary Force	20
(o)	Mr. R.B. Campbell	Acting Corporal Jamaica Constabulary Force	
(p)	Mr. L. Watson	Constable Jamaica Constabulary Force	
(q)	Mr. A. Campbell	Constable Jamaica Constabulary Force	
(r)	Mr. L. Melliss	Constable Jamaica Constabulary Force	
(s)	Mr. V. Blake	Constable Jamaica Constabulary Force	30
(t)	Mr. K.E. Morris	Assistant Director Exchange Control	
(u)	Mr. W.C. Jervis	Technical Adviser Financial Investigative Unit	
(v)	Mr. O.V. Carnegie	Technical Adviser Financial Investigative Unit	
(w)	Mr. Aston A. Powell	Accountant	
(x)	Mr. Lester Bernard	Accountant	
(y)	Mr. Paul Porter-Jackson	Clerk	

In accordance with paragraph I (2) of Part I of the Fifth Schedule to the Exchange Control Act, and by virtue of the said Instrument of Delegation, the Bank of Jamaica hereby directs for and on behalf of the Minister of Finance that you the said Mrs/Miss Carol Morin of Lot 20 Manor Park, Kingston 8 shall produce to the designated persons such books, accounts or other documents in your possession or control as may be required for the purposes of securing compliance with or detecting the evasion of the Exchange Control Act.

EXHIBITS
12.
Exchange
Control Act
Directions
27th July
1978
(cont'd)

Dated the 27th day of July 1978.

Sgd. F.C. Martin
F.C. Martin
Director of Administration
& Accounts

Sgd. C.T. Brown
C.T. Brown
Director, Monetary & Foreign
Exchange Policy

Bank
of
Jamaica

For and on behalf of the Minister of Finance

Exhibit 15.

Statement of Carol Morin

15.
Statement of
Carol Morin
27th July
1978.

DATE: 27th July, 1978
TIME: 2.00 p.m.
PLACE: Office of the F.I.U., Ministry of
National Security
PRESENT: Mr. Carol Martin, Supt. I.L. Thompson,
Supt. L.A. Buchana, Det. Cpl. E.L. Nevers.

Jamaica Letter in accordance with Paragraph 1(2)
Part 1 of the Fifth Schedule of the Exchange Control
Act.

1. Ques. Are you a Jamaican?

Ans. Yes, Sir, I am a Jamaican Citizen residing
in Jamaica.

2. Ques. What is your occupation?

Ans. I am a Company Director of Roy Morin Limited
and Thermoset Limited.

3. Ques. Are you married?

Ans. Yes.

4. Ques. Is your wife a Jamaican Resident?

EXHIBITS

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Statement of
Carol Morin
27th July
1978.
(cont'd)

- Ans. She resides in the United States and is a Citizen living at 212 Downing Avenue, Sea Cliff, Long Island, N.Y.
5. Ques. What are the business with which you are associated here?
- Ans. Tri-mon Investments Limited, 12 $\frac{1}{2}$ King Street, Bay Shore Ltd, Runaway Bay, St. Ann, Links Co., Ltd.
6. Ques. Does your wife own assets in Jamaica?
- Ans. The only assets my wife, Angella Morin has in Jamaica is 4% of Links Co. Ltd. 10
7. Ques. Is Links Ltd an existing Company?
- Ans. Yes, it is
8. Ques. When was it incorporated?
- Ans. It could be around 1971 - 1972.
9. Ques. Who are the officers of this Company?
- Ans. My wife, who is the Secretary and myself, the other Director
10. Ques. For what purpose was this Company formed?
- Ans. We were really going into the Real Estate Business, but as you know the Real Estate Market is dead 20
11. Ques. What are the assets of Links Limited?
- Ans. The residence of No. 18 Manor Park Drive, Kgn. 8.
12. Ques. When did you arrange with Jacqueline Marcia Brown to purchase the house at 18 Manor Park Drive?
- Ans. Sometime in May, 1978, she visited the house and expressed her desire to purchase it. She came back on another date in late May 1978. 30
13. Ques. When did she sign an agreement for purchase?
- Ans. It was sometime in May, 1978 but in the latter part, the exact date I do not now remember.
14. Ques. What was the agreed purchase price?
- Ans. J\$45,000.00

EXHIBITS

15. Ques. Do you know where Jacqueline Marcia Brown lives?

Ans. The only address I know for her is 51 Hampton Drive, Spanish Town, Jamaica. I know this only because it appears on the agreement.

15
Statement of
Carol Morin
27th July
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(cont'd)

16. Ques. Did you tell me earlier, Mr. Morin that Jacqueline Marcia Brown lives in Sweden?

10

Ans. Yes, she lives in Sweden in the town known as Tomba and her telephone No. is 0753 76838 which is written on the file marked "House"

17. Ques. Have you received payment for the house?

Ans. The lawyer received \$45,000.00 on my behalf.

18. Ques. What currency did she pay this money in?

Ans. In Jamaican Dollars which was a Managers Cheque handed over to Mr. Peter Myers, my Solicitor, on my behalf

20

19. Ques. Have you received from Jacqueline Marcia Brown, whether directly or indirectly any further sum of money in respect of that transaction?

Ans. No, I have not, she had suggested to me that she could pay in foreign currency as well as Jamaican the term being for the foreign currency \$2.75-\$3.00 U.S. to \$1.00, which I had refused

20. Ques. When was the Contract finalised?

30

Ans. We last met on Wednesday July 26, 1978, with the Lawyer at his office

21. Ques. Was this arrangement made with Mrs. Brown to come down to Jamaica?

Ans. I knew she was coming on a visit, but not for that business alone

22. Ques. How long is Mrs. Brown living abroad?

Ans. No, I do not know.

23. Ques. Are you engaged in any business whatsoever outside of Jamaica?

40

Ans. Yes, my business is export of plastic laminated sheets to Caricom Countries, Haiti, etc. now I am concentrating on the South Eastern part of the United States.

EXHIBITS

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Statement of
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(cont'd)

I am also trying to develop export of flowers. My wife has an interest in P.K Foods which is a Manufacturer of Shrimp Egg Rols and Knish in Florida and whenever I pass through Florida I go to the factory on her behalf

24. Ques. Are you purchasing a house in Atlanta?
Ans. No, my wife is making all the arrangements financially
25. Ques. Have you subscribed any money to the purchasing of this house? 10
Ans. No, my wife is totally responsible for the deposit and maintenance of the mortgage payment.
26. Ques. Is this the floor plan of the house? (Shown Village Oaks)
Ans. Yes, but there are certain alterations to be made.
27. Ques. What does the \$66,500.00 on this plan indicate? 20
Ans. That's the base price of the house but I should mention now that no contract was signed re the purchase of the house and only \$100.00 was paid as deposit, to which this message from Stonehenge relates.
28. Ques. Have you ever gone to Georgia to see this house?
Ans. I have gone to Georgia to see the model house, both my wife and myself. The real house hasn't been built yet. I also saw the Developers who gave me a Memo addressed to Ms. Lyna R. Campbell in which is set out various additional costs which are to be confirmed. This new figure was brought to the attention of Frank Murphy, a Real Estate Development Consultant who advised me in letter dated 17th July, 1978, that the realistic price for the house was \$67,175.00. 30
29. Ques. When did you last visit Atlanta?
Ans. The last week in June, 1978. 40
30. Ques. What does F.X.M. mean?
Ans. Frank Xavier Murphy.

EXHIBITS

31. Ques. Did you purchase an airline ticket for Father Joe Brennan in Jamaican Dollars?

Ans. Frank Murphy telephoned me and asked me to pay for the ticket from funds which he has at Royal Bank Jamaica Ltd.

15.
Statement of
Carol Morin
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(cont'd)

32. Ques. Shown sheet of paper marked Trip: Whose writing is it?

Ans. Mine.

10 33. Ques. On this sheet of paper I see a note - letter from Dominion Life re Equitable Mortgage, letter from Joan Dioguardi re Equitable Mortgage - what does this signify?

Ans. The developers Village Oaks suggested that both my wife and I provide supporting letters of recommendation as referred to above

20 34. Ques. There is a notation also on this paper - Send U.S.\$1,000.00 and U.S. \$66.00 to Sigman & Jones - 1000 Dad - 66 Jacket & Pants

Ans. My wife is sending these two amounts c/o Sigman & Jones as indicated above for Dad and the jacket

35. Ques. What is Pioneer Plastics?

Ans. They are located in Auburn Main and are the Suppliers for the raw material to make our plastic laminated sheets

36. Ques. Who do you refer as John?

30 Ans. John Marshall is my brother-in-law. He is the Managing Director of Global Management (Bermuda) Ltd.

37. Ques. Did you write this letter dated 2/5/75 to John?

Ans. Yes. It is my handwriting and my signature too

38. Ques. For what did Pioneer Plastics owe you U.S.\$7,000.00?

40 Ans. Pioneer Plastics thought that the commission for raw materials should be paid into an account in Bermuda, namely, Ingenisra Urraca, S.A. but their legal firm forbade them to pay this commission as it was illegal

EXHIBITS

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Statement of
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(cont'd)

39. Ques. What interest do you have in Ingenisra Urraca, S.A.?
Ans. None at all, Sir, it was a Panamanian Company, that's all I know
40. Ques. Do you know of anyone who has interest in that Company?
Ans. No, Sir, I received instructions from Panama
41. Ques. This letter seems to me instructions from you to John Marshall which indicate that \$7,000.00 was due to you, and that he should deposit the proceeds in the Company stated above. 10
Ans. I wrote that letter, but the money was never paid, which I have already stated. The instructions for deposited the money as referred to above were given to me by Mr. Will Scannell of Pioneer Plastics of Auburn Main who also advised me that this Company is registered in Panama. Mr. Scannell is the Accountant of Pioneer Plastics Corp. 20
42. Ques. Did you full out this application for Mortgage with Equitable Life Assurance Society of the United States?
Ans. Yes.
43. Ques. Are the informations thereon correct?
Ans. Yes.
44. Ques. Is the Real Estate held in Grand Cayman registered with the Bank of Jamaica? 30
Ans. Yes
45. Ques. Is it also correct that you have a Current Account in National Bank of Georgia?
Ans. Yes, I do
46. Ques. What is the balance?
Ans. \$2,160.00
47. Ques. Have you declared this to the Bank of Jamaica?
Ans. No, it was opened on my last trip there and it is a Joint Account 40

EXHIBITS

48. Ques. From what source did you get the money in this Account?

Ans. From my wife

49. Ques. Do you have business with Sigman & Jones of Suite 514, 6600 Trans Canada Highway, Point Claire, Quebec, Canada?

Ans. Sigman & Jones have been the Buying Agent and Confirming House for Roy Morin Limited for over twenty years

10 50. Ques. Do you know C. Patrick Savoury of that Company?

Ans. Yes, very close, in fact, he was here the other day

51. Ques. Did you on the 26th December, 1975 deposit \$16,369.60 Canadian to the credit of that Company or Mr. Savoury's Credit?

Ans. Yes, I know about the deposit.

52. Ques. What was that for?

20 Ans. My Accountant, Mr. Roberts will be more qualified to give you a correct answer on that.

53. Ques. Are you a registered Alien of the United States of America and the holder of Alien Registration Card No. A - 35-670-993 dated 1st June, 1978?

Ans. Yes.

54. Ques. Do you have a Credit Card Account in the United States?

Ans. No.

30 55. Ques. Is this Citibank Knutsford Boulevard Cheque No. 1120662 signed by Norman D. Mosesson for \$12,000.00 belonging to you?

Ans. Yes.

56. Ques. What is this payment for?

40 Ans. Mr. Mosesson gave me this cheque to hold for him, but he told me not to lodge it to my Account as he did not have enough funds in the Citibank Account. He later asked me to put into his Jamaican Account at Citibank \$10,000.00 which I did yesterday the 26th July, 1978, as an advance to Mr. Mosesson.

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Statement of
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(cont'd)

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57. Ques. How did you hope to recover from Mr. Mosesson the \$10,000.00 which you deposited on his Account?
- Ans. Well, Mr. Mosesson would have to refund me in Jamaican Dollars in Jamaica
58. Ques. Where does this Mr. Norman.B. Mosesson live?
- Ans. 25 Broad Street, New York
59. Ques. What's the relationship between the both of you? 10
- Ans. I met him in New York in the early part of this year and he was interested in securing some raw materials for the factory, so I have only seen him a few times
60. Ques. Do you know a man by the name of George Domingues, Casa International Corporation 1000, Ponce de Leon, Coral Gables, Florida?
- Ans. Yes. I have only heard of him. I should have spoken to him about getting some equipment for the factory 20
61. Ques. Are all the answers to the foregoing questions true?
- Ans. They are absolutely true, Sir
62. Ques. Did you get Bank of Jamaica's approval to receive payment for your house at Manor Park Drive in Jamaican Dollars?
- Ans. No, I did not, but surely, my Lawyer should have known that
63. Ques. In your possession were found three Air Jamaica travel tickets in the name of L.J. Selznick, Mrs. G. Kilar and Mr. Charles Wace. How did you come in possession of those tickets? 30
- Ans. I booked those tickets through Allied Travel of Jamaica upon the request of Mr. Selznick by telephone and they are to be paid for from funds owing to him in Jamaica by Carol Morin.
64. Ques. Have you ever bought tickets for Mr. Selznick payable by money owing by you to him? 40
- Ans. Yes, as well as he had a Bank Account here, too.

/s/ Carol Morin
27/7/78

O N A P P E A L

FROM THE COURT OF APPEAL OF JAMAICA

B E T W E E N :

CAROL MORIN

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

PHILIP CONWAY THOMAS & CO.,
61 Catherine Place,
London SW1E 6HB.
Solicitors for the Appellant

CHARLES RUSSELL & CO.
Hale Court,
Lincoln's Inn
London WC2A 3UL.
Solicitors for the Respondent