

6/85

IN THE PRIVY COUNCIL

No. 50 of 1983

O N A P P E A L

FROM THE WEST INDIES ASSOCIATED STATES
SUPREME COURT (COURT OF APPEAL)

B E T W E E N:

PATRICK JOHN
JULIAN DAVID
DENNIS JOSEPH
MALCOLM REID

Appellants

- and -

THE ~~STATE~~
DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

RECORD OF PROCEEDINGS

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IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE WEST INDIES ASSOCIATED STATES
SUPREME COURT (COURT OF APPEAL)

B E T W E E N :

10 PATRICK JOHN
JULIAN DAVID
DENNIS JOSEPH
MALCOLM REID Appellants

- and -

THE STATE Respondent

RECORD OF PROCEEDINGS

No. 1

INDICTMENT

In the
High Court
(Criminal

No. 1
Indictment

THE STATE

V

3rd December
1981

20 PATRICK JOHN
JULIAN DAVID
DENNIS JOSEPH
MALCOLM REID

INDICTMENT presented by the Director of
Public Prosecutions of the Commonwealth of
Dominica.

PATRICK JOHN, JULIAN DAVID, DENNIS JOSEPH
and MALCOLM REID are charged with the
following offences:-

FIRST COUNT

STATEMENT OF OFFENCE

30 CONSPIRACY to overthrow the lawfully

In the
High Court
(Criminal)

constituted Government by force of arms.

PARTICULARS OF OFFENCE

No. 1
Indictment
3rd December
1981
(continued)

PATRICK JOHN, JULIAN DAVID, DENNIS JOSEPH
and MALCOLM REID on divers days between the
19th day of September, 1980, and the 29th
day of April, 1981, in the Commonwealth of
Dominica and elsewhere conspired together
and with Michael Perdue and Wolfgang
Droege and with other persons unknown to
overthrow the lawfully constituted
Government of the Commonwealth of Dominica
by force of arms.

10

SECOND COUNT

STATEMENT OF OFFENCE

CONSPIRACY to assault Police Officers
acting in execution of their duties.

PARTICULARS OF OFFENCE

PATRICK JOHN, JULIAN DAVID, DENNIS JOSEPH
and MALCOLM REID on divers days between
the 19th day of September, 1980 and the
29th day of April, 1981, in the Commonwealth
of Dominica and elsewhere conspired together
and with Michael Perdue and Wolfgang
Droege and with other persons unknown to
contravene the provisions of Section 36(2)
of the Small Charges Act, Cap.53 by assaulting
police officers in the execution of their
duties of guarding the Police Headquarters
at Roseau, Commonwealth of Dominica.

20

Dated the 3rd day of December, 1981.

30

(Sgd) S.J. Bertrand
DIRECTOR OF PUBLIC PROSECUTIONS

No. 2
PROCEEDINGS (ARRAIGNMENT)

In the
High Court
(Criminal)

The State

No. 2
Proceedings
(Arraignment)

Vs

12th May 1982

- (1) Patrick John
- (2) Julian David
- (3) Dennis Joseph
- (4) Malcolm Reid

First Count

10 Conspiracy to overthrow the lawfully
constituted Government by force of arms.

- No. 1 Defendant plead - Not Guilty
- No. 2 Defendant plead - Not Guilty
- No. 3 Defendant plead - Not Guilty
- No. 4 Defendant plead - Not Guilty

Second Count

Conspiracy to assault Police Officers
acting in execution of their duties.

- 20
- No. 1 Defendant plead - Not Guilty
 - No. 2 Defendant plead - Not Guilty
 - No. 3 Defendant plead - Not Guilty
 - No. 4 Defendant plead - Not Guilty

30 The Court invited attention to Second
Count both Counsel for the Prosecution and
Defence agree that the Second Count is an
alternative Count in the indictment -
Mr. Mottley, Q.C., Dr. Barnett and
Mr. McCauley Q.C. for the defence after
Court had referred them to R v Barnett
(1951) 1 ALL E.R. 917 and invited
consideration.

Mr. E. Mottley Q.C. Dr. Barnett, Miss S
Bertrand D.P.P. and Mr. Justin Simon for
Prosecution - the State.

Mr. B. McCauley Q.C. for Patrick John
(No. 1 Accused) and Malcolm Reid (No. 4).

Mrs. Margaret MacCauley for Dennis Joseph (No.3)

Dr. Randolph Williams for Julian David (No. 2)

Jury Empanelled

No. 3
Prosecution
Evidence

Dr. Lloyd Barnett opens the case for the State.

Opening
Address
by Dr. Lloyd
Barnett

When Commonwealth attained Independence it took with it the principles of free and fair elections.

12th May 1982

In 1980 by this democratic process a new government was elected.

In the indictment there is a count to overthrow, then the "alternative" count of conspiracy to assault Police Officers acting in the execution of their duties.

10

A Conspiracy

The essence of the conspiracy is the agreement.

The crime is complete on the agreement.

If the means are unlawful and the objective criminal there could be a conspiracy.

Burden of proof on the prosecution.

20

You will hear that in September, 1980, a Michael Purdue arrived in this State.

There was a letter from No. 1 accused.

In December 1980, Purdue visited Dominica and conferred with Reid.

A witness Maffie discussed with Reid a "coup plot".

You seek to enlist the support of adventurers or those who by the criminal conduct are likely to lend support.

30

Maffie will tell you of meetings.

In the development of events money was received from U.S.A.

The Antigue Meeting: Patric John gave Maffie a document in two copies - one handed to Purdue and one returned to John.

A discussion was held with Purdue.

Discussions were at John's house.

All this occurred in early 1981.

In the U.S.A.: Purdue and mercenaries held. As a result of the intervention of special agents expedition did not leave.

Among things of Purdue were letters and other things.

10 Details of a plot discussed and agreed upon.

Witnesses will be called to prove handwriting.

In the
High Court
(Criminal)

No. 3
Prosecution
Evidence

Opening
Address by
Dr. Lloyd Barnett

12th May 1982

(continued)

No. 4

PROCEEDINGS

No. 4
Proceedings

12th May 1981

10 At this stage Mr. MacCauley asks for an adjournment of this hearing until the morning of Thursday 13th May, 1982 at 9.30 - because he did not have his papers when he came to this state as he came straight from Africa.

Dr. Barnett stated that he had agreed with his friend for a short adjournment but he did not think that he would have wished until 9.30 am - tomorrow.

Adjournment granted to 9.30 am on Thursday 13 May 1982.

Jurors sworn.

Jurors admonished.

Court commenced at 9.30 am.

30 Jurors checked all present.

13th May 1982

In the
High Court
(Criminal)

Mr. MacCauley states that the witness
for the defence Desiree John will not
now be called.

No. 4
Proceedings

13th May
1982

(continued)

Prosecution
Evidence

No. 5

ALBERTHA JNO BAPTISTE EXAMINATION

No. 5
Albertha Jno
Baptiste
Examination

Albertha Jno Baptiste duly sworn states:

13th May
1982

!I live at Kings Hill, Roseau.

I am employed at the House of Assembly,
Acting Clerk.

I am a Civil Servant.

10

I am Acting Clerk of the House of Assembly
of the Commonwealth of Dominica.

I am responsible for the publication of
notes in the Official Gazette and custody
and distribution of the Gazette.

I now produce the Official Gazette of
7th August, 1980: tendered, admitted and
marked Ex "A".

I refer to page 247 to page 251 of that
Gazette Ex "A".

20

They refer to Elected Members of the House
of Assembly.

On page 254 of the same edition of the
Gazette there is the notification of the
appointment of the Hon. Mary Eugenia
Charles as the Prime Minister of the
Commonwealth of Dominica with effect from
23rd July, 1980.

And on pages 254 to 256 the appointment of
the Ministers of Government of the
Commonwealth of Dominica.

30

At pages 263 to 266 there is the
appointment of the Parliamentary
Secretaries.

At page 267 there is the appointment of
persons as Secretaries of the Commonwealth
of Dominica."

xxd by Mr. MacCauley: Nos 1 and 4 Defendants.

There was a Prime Minister in the Interim Government, the Hon. Oliver Seraphin.

xxd by Mr. MacCauley for Dr. Williams for No. 2 Defendant declined.

xxd by Mrs MacCauley or No. 3 Accused declined.

By the Jury declined.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 5
Albertha Jno
Baptiste
Examination

13th May 1982

(continued)

10

No. 6

JONES POWELL EXAMINATION

Jones Powell duly sworn states:

"I am the President's Secretary and A.D.C. to the President of the Commonwealth of Dominica.

I am also an Asst. Supt. of Police of the Police Force of the Commonwealth of Dominica.

20

On 23/7/80 I was at the President's residence when a ceremony took place.

On that day the Hon. Prime Minister, Mary Eugenia Charles took the oath of office of Prime Minister of the Commonwealth of Dominica.

The oath was taken before the President, His Excellency, Mr. Aurelius John Baptiste Lament Marie.

The Prime Minister also took the oath of allegiance and secrecy.

30

The Prime Minister and President both signed the respective oaths. On that day a number of Ministers of Government took the oath of allegiance and secrecy and signed the book also.

The President also signed the book after each Minister and each Minister also signed.

40

The persons signing as Ministers were Ronan Anthony David, Brian George Keith Alleyne, Henry George Dyer, Hesketh Andrew Alexander;

Prosecution
Evidence

No. 6
Jones Powell
Examination

In the
High Court
(Criminal)

No. 6
Jones Powell
Examination

I produce that oath book tendered,
admitted and marked Ex "B".
Immediately before the Elections in 1980,
Mr. Oliver James Seraphin was Prime Minister.
And immediately before Mr. Oliver James
Seraphin as Prime Minister, Mr. Patrick
John was Prime Minister."

xxd by Mr. MacCauley for No. 1 and No. 4
defendants declined.

(continued)

xxd by Dr. Williams for No. 2 defendant
declined.

10

xxd by Mrs MacCauley for No. 3 defendant
declined.

By the Jury declined.

Prosecution
Evidence

No. 7

ALGERNON MAFFIE EXAMINATION

No. 7
Algernon
Maffie
Examination

Algernon Maffie duly sworn states:

13th May
1982

"I am seaman and farmer.
I live at Glasgow Road.
I have nine (9) previous criminal
convictions.
Some involved allegation of violence.
I was born on 27th April, 1949.
I know the Accused Malcolm Reid for the
past year and seven (7) months.
I see him in Court (identified as
Accused 4).
I have gone to his home. The first
time I visited his home was
mid-December, 1980.
Henry Esprit alias Mal was with me when
I visited his home.
Malcolm Reid was not there when I arrived.
We waited on the porch for him.
He arrived about 45 minutes later.
On his arrival "Mal" spoke.
"Mal told Reid that we were waiting there
for him for a while.
They went inside the house.

20

30

I followed after.
When I got in "Mal" and Reid had a conversation.
"Mal" Esprit told Reid, 'This is the guy he was referring to'.
"This guy" referred to "I".
They said that I would represent the 'dreads'.
"Mal" Esprit said that "Mal" told Reid that I would represent the 'Dreads' in the operation of the coup plot.
The word 'coup' was mentioned by "Mal".
Reid said that there is nothing to be afraid of.
'We have backers at the back of us'.
He said (Reid), 'We will be getting outside help from friends from the outside of Dominica.'

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

Then I asked from which place, He (Reid) said from U.S.A. I asked him also, (that's Reid) what sort of help will you be getting? He said "Finance, arms and ammunition and some mercenaries".
I asked Reid personally what would be the purpose of these arms and ammunition.
He (Reid) said "It would be used to take over the Dominica Police Force and to overthrow the Dominica government".

I asked Reid whether he has any plans drawn up. He said "Yes". Then he said first I (referring to me Algernon Maffie) must study the plans and then I (Maffie) will give him (Reid) my opinion on that". I told Reid that I will have to study these plans before making any decision.
After that conversation I saw Malcolm Reid again. He came to my house.
On his visit to my house I told him that I am still considering his plans. On his visits to my home he wanted most of all to use my phone. I told him that if it is any overseas call it should be made collect. He agreed.

Having agreed he called the operator. Reid asked the operator to make a collect call to one Michael Purdue, Hewiston Texas. This happened on different occasions.

On a Sunday in January, 1981 I went to

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

Reid's home. Malcolm Reid was there.
While I was there Patrick John (No. 1)
came there and Julian David (No. 2) came
there. I know them long before.

Identified as No. 1 and No. 2 defendants.

Patrick John (No. 1) went to speak to
Reid (No. 4). They had a conversation
on the side away from me. I could not
hear what was being said. We all came
together. Mr. John, Julian David Reid
and Myself. Mr. John (No. 1) told Reid
that he would like to use more local than
foreigners.

10

(continued)

Mr. John said "Between 60 to 80 men would
be good enough for the operation.

Then Reid replied, "What about if we meet
stiff resistance." John said, "You will
have no choice but to use 200 mercenaries.
(two hundred). Reid asked me (Algernon)
whether I am capable of mobilising at
least twenty (20) dreads". I replied,
"I can try".

20

Reid said to me that, "I must work on
that" immediately. I told Reid,
"Thats O.K.". Then I went on to ask,
"What about transportation." I told
Mr. John that he should try and get a
Suzuki jeep in good working condition".
Mr. John replied that, "He don't think they
can raise that amount of money to
buy a new Suzuki jeep immediately but he
can promise to get a second hand land rover
or a Volkswagon for me to make my
movements".

30

Julian David replied, "I think we have
that kind of bread" (referring to money)
in our possession.

Mr. John and Julian David went on their
way. Half an hour later I decided to
leave. Then Reid called me back. He
gave me a small slip of paper with a phone
number and a name Michael Purdue, Hewiston
Texas, written on the paper. He then
told me, "Try and get in touch with Michael
Purdue on my telephone! I can call him
collect". He told me what to say. He
told me to say, "Walter said 'hello' and
tell Purdue any message he would like to

40

pass on to Walter he (Purdue) can relay it to me and I should give him my phone number in order that Purdue could call at his leisure".

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

10

I understood the name "Walter" to represent "Reid". I then moved on. As soon as I get home I placed the call. I got Purdue and I passed the message. I made a collect call to Michael Purdue, Hewiston, Texas. Having passed on the message Purdue asked, "What about Walter?" I said, "He is O.K." (Mr MacCauley objects that the conversation with Mike Purdue is inadmissible for two reasons):-

(continued)

- 1) that there was no evidence by this witness of the identity of a Mike Purdue.
- 2) that the conversation so far, at this stage, is not a conversation in furtherance of the conspiracy.

20

It is conceded that evidence that the witness acted on what the four accused said to him is properly admissible, that he asked him to make a call.

30

Mr. Barnett for the Prosecution in reply said, "that he went further, that the fact of the telephone call being made because the call was made on the instructions of an Accused and those instructions included the receipt of messages on behalf of that accused person and the relaying of those messages back to him.

(The Court rules in the circumstances that the evidence is admissible.)

In this conversation I was asked about Walter and I replied. Purdue then asked me whether I (Maffie) can meet him in Texas. (Mr MacCauley objects formally to the admissibility of this evidence).

40

I asked Purdue, "Why?". Purdue said, "He can't talk on the phone in regards to what he would like to say. I told him "I can't travel to Texas because I don't have a U.S. Visa". He told me, "What about Canada?" I said, "Montreal would be O.K."

In the
High Court
(Criminal)

Purdue said, "Why not Toronto?" I
said, "It is out of it". Purdue suggested
Antigua. I said, "That would be fine".

Prosecution
Evidence

Then I went on to ask him about
transportation. He said, "He will send
\$300.00 U.S. through the Royal Bank of
Canada in care of Julian David. This
would be able to meet my ticket and other
expenses".

No. 7
Algernon
Maffie
Examination

I told him, that's O.K. I will inform
Julian about it".

10

(continued)

On the next day Malcolm Reid (4) came to
my home. He asked me, "Whether I made
the call to Purdue"? I told him, "Yes"
and explained to him the conversation
Purdue and I had.

Purdue also had given me a date and a
place to meet him in Antigua. That date
was 30 January, 1981, and the place was
the Castle Harbour Hotel - club and
Casino. Reid said, "Why the date was
fixed so low down"? I replied, "This
was the guy's suggestion."

20

I recall 26th January, 1981. In the
morning Julian David called me on the
phone at my home. Julian said to me
"to go down Maho, call Reid". I went
down to Maho. I did not see Reid.
Later in the afternoon of that same day
Reid came to my house. I had
conversation with him. He said that,
"He is glad that the date Purdue gave for
travelling to Antigua was so low down
because he will be able to accompany me
himself."

30

On the following day 27th, I went to Julian
David's office. I say Julian David. I
asked him, "If the money Purdue was
supposed to send arrived already." He
said that, "He had not yet checked the
bank. He will call them immediately."
He made a call and he asked to put him to
foreign exchange. He got in touch with
foreign exchange. He asked about the
money. He then told me that the money had
not yet arrived. On the following day
28th January, 1981 I went back to Julian's
office for the same purpose. I spoke to

40

him. He replied, "The position remains the same but we still have up to the 29th".

In the
High Court
(Criminal)

On the following day 29th I went to Julian's office and in my presence he called the bank. Having called the bank he told me that, "The money arrived". He made a telephone call. He asked that two tickets be made out in the name of Algernon Maffie and the other in the name of Malcolm Reid.

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

10 They were plane tickets to travel to Antigua for 30th January, 1981. He then said to me that is Julian, if I has an income tax clearance". I said, "Yes". Then he told me, "Collect one for Reid". I went immediately, got the clearance and returned to Julian's office with the clearance. I delivered both clearances to Julian then I left. At that same day Reid (4) came to my house with the tickets,
20 gave me my ticket and he told me that he also has a sum of money in his possession to meet our expenses. Reid also said, "We should be at the airport next day by 1.30 for the latest".

(continued)

On the following morning 30th January, 1981, Julian David called me on the phone at my home. He then said to me that I should meet Reid at Mr. John's house before 11 a.m. the same day". He then
30 said to me, "Meet him on the main road by 10.15 in order that he could pick me up to take me to Mr. John's home.

I got my bag ready changed my clothes and I went on the main road. Whilst there Piper's jeep stopped. Piper was driving and Julian was seated next to him. I joined them and we went to Mr. John's house. I met Mr. John (No. 1) in person and one Peter Thomas.

40 While I was there we waited for Reid. Reid did not arrive. By 11.45 Julian David and myself decided to go down to town to look for Reid. When I was about to leave Mr. John called to me and asked me to follow him in a room. Entering the room, I observed Mr. John fitting on a pair of rubber gloves. The colour was pink. And then he handed an envelope to me.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

When I was about taking it with my hands, he told me, "Don't allow my fingerprints to get on the envelope. I then took my tip of my shirt and I took the envelope from him placing it on my side bag. This envelope was sealed and stapled. Mr. John instructed me to give this envelope to Reid, tell him, "Please deliver that envelope to Michael Purdue". Then I and Julian David and Piper left. We headed down town. When we reached on the flat of Canefield we met Reid coming up on a Suzuki jeep owned by Mr. O.J. Seraphin, driven by Jonathan Williams.

10

At this stage both transports stopped. Reid jumped off the transport and entered into the land rover in which Julian, myself and Piper were. Reid told Piper to take him to his home at Maho for him to collect his bag and travelling documents.

20

I then told Reid, Mr. John gave me an envelope for him to deliver to Michael Purdue personally. I took the tip of my shirt and handed the envelope. I told Reid, "Don't allow his fingerprints to get on the envelope". He did not worry. He handled the envelope with his bare hands. He kept it.

From there we stopped at Maho. Reid collected his bags. While there I saw the same Suzuki transport from Mr. Seraphin. We stopped the jeep - Julian and myself. At the time Piper was checking his rear tyre. The jeep stopped - the Suzuki and Julian spoke to Jonathan Williams. He asked Jonathan a favour, to take us to the airport. He said Piper's rear tyre is getting flat and he did not have a "stepney" spare wheel.

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Jonathan said that it would be O.K. with him but he first had to notify Seraphin about that. He said (Jonathan) that he is going down to Belfast to make a message, he won't be for long and on his way back he can pick us up if we decide.

Julian David said, "O.K.". I eventually travelled to the airport in the same Seraphin Suzuki transport driven by Jonathan.

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10 On the way to the airport Reid gave Jonathan \$40.00 to buy gas. The gas was purchased. We went to the airport. On approaching the airport the plane was in the air already. We continued to the airport. Reid went to the desk of the airline, and returned from the desk. He said, "Julian had called to hold back the flight and the guy did so but for ten (10) minutes only". Reid said, "We can get on the first flight next day but as a "stand by". Reid told Jonathan that he can take us to Concorde, which Jonathan did on his way back to town and we stopped and spent the night at the "Stop and Go" Bar in Concorde.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

20 On the following morning 31st January 1981, Reid and I went to the airport. We went to the airline desk. Reid spoke to the same guy at the desk. The guy gave him two Immigration cards. He said that we should fill that first while we waited. I filled in one. This is the card which I filled in, tendered, admitted and marked Exhibit "C". I saw Malcolm Reid fill in his card. This is the card - tendered, admitted and marked Exhibit "D".

We got on the flight. We arrived in Antigua.

30 At the airport in Antigua we went through Immigration. We took a taxi to Castle Harbour Hotel - Mr. Reid was there. On our arrival at the hotel we went to the receptionist desk. Reid spoke to him.

40 Reid asked for one Michael Purdue - whether he had arrived. The receptionist said "Yes". She said that he was out at the present and she asked him his name. He told her his name and she said, "Purdue left a message saying 'he won't be long'". Reid asked the receptionist whether he left any orders for rooms to accommodate us - Reid and myself. The receptionist replied that he left one room. Reid said that he thought that it was two. Reid then said to her that he would like a next one - a next room. The receptionist called to a next worker. They both spoke. When they were finished they agreed to give us an
50 extra room because Reid had stated this should also be on Purdue's bill.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

She then gave us hotel registration cards which we filled in I filled in mine and Reid filled in his. This is the hotel card I filled in, tendered, admitted and marked Exhibit "E".

This is Reid's card - hotel card filled in by Reid, tendered, admitted and marked Exhibit "F".

Having registered we were taken to our rooms. I was taken to room No. 29 and Reid to Room No. 30. Having arrived at my room I went to take a rest. I heard a knock on my door. I opened it. I saw Reid in front of my door. Reid said "Purdue is here in his room and wish me to join him now. Reid went to his room (Reid) first. While Reid was at his room I was standing by his door. Reid came out with the envelope which Mr. John gave to me to pass on to Reid for Reid to deliver it to Purdue. From Reid's room we went to room No. 31. We knocked at the door. A guy opened the door Reid stepped in and I followed. Reid shook the hands of the guy. Then he introduced me to Purdue. We shook hands. Reid said - "This is Maffie. The guy he asked to call on the telephone from Texas to Dominica". Reid gave the envelope to Purdue. Purdue opened the envelope - the very same envelope Mr. John gave to me. Purdue opened the envelope and took out two smaller envelopes. I noticed one marked "Michael Purdue" and the other marked "copy". Purdue took the one marked "copy" and handed it to Reid and he said to Reid that he should keep that one. Purdue opened his envelope and he took out paper stapled together. Purdue began reading them to himself. Reid did likewise. Purdue called to Reid's attention. They were talking about the paper. He said that there was something written on the paper - by one glance he can disagree with certain things.

Purdue took a pen and made certain entry on the same paper. Then he ran through the rest and told Reid - "As far as he can see there will be a lot of amendments to be made". Purdue took his brief case opened it and removed one "Penthouse" magazine. He said "This is for Mr. John".

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He also removed a book. The cover of the book, the writing which I observed was "Democracy". He handed this book to Reid while I page through the Penthouse magazine. Purdue took the book away from Reid and he opened it while he explained to Reid about certain rifles.

In the
High Court
(Criminal)

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No. 7
Algernon
Maffie
Examination

I could not have seen what was in the book at the time.

10 Purdue told Reid, "The M16 rifle is a good weapon but it can give problems when water or mud get to it". He (Purdue) then turned the page and he spoke about the "Bushmaster" automatic weapon which is the rifle. He said, "This rifle was made for any weather especially for jungle warfare". He said (Purdue) that he can get his hands on a few of them but he is not too sure, how many at this time.

(continued)

20 After they had their discussion I saw in the book. I noticed that there were different types of rifles, grenade, launchers, jet fighters such as the F 16 and F 15 also tanks. There were also gun boats. This book which Purdue explained displayed the weapons which the United States produces. Purdue went into his brief case and came out with a sum of money. He handed it to Reid and he
30 told Reid that there is \$1500.00 U.S. in one hundred dollar bills. He told Reid, "This will help to meet certain expenses in Dominica". Reid took the money. Purdue invited us down town for lunch.

Adjournment taken at 1.41 p.m.

Jury warned.

Court resumed at 2.40 p.m.

After discussion with Counsel

Jury checked, all present.

40 Algernon Maffie duly sworn states further,

Purdue invited Reid and myself for lunch. I then went to town with Reid and Purdue to the Golden Peanut restaurant. We all then had lunch there. During the lunch we discussed many different things also

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

about the operations previously mentioned. We discussed about the police station - the Dominica police station - the areas of entry. Purdue and Reid spoke about that. After the lunch we went back to the hotel. At the hotel Purdue told Reid and myself that he (Purdue) was invited to the barbecue party and it is alright with him if we want to come along. Reid and myself did not come along. I decided to take a rest, Purdue left. Reid decided to take a rest also. While I was in my room Reid brought in the envelope that was marked "copy". He gave it to me. Reid told me to study it, for this is a contract which we will have to dispute on the return of Purdue, the night. I took it. Reid went to his room. I went to my room and I opened the envelope. There were papers stapled together. I went over the papers. There was typeprint on the paper. Later on that evening Purdue came back to the hotel. He knocked on my door and Reid's. He told us to join him at the Bar. I joined him there. He was in the company of a Canadian Navy Officer, one young American lady and a middle aged couple. From the bar we went upstairs on the balcony overlooking the "drive-in" theatre.

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We stayed there for a while talking casually. Then the Navy Officer left. Fifteen minutes later the young lady asked Purdue to take her home. They all left the balcony together and went downstairs. Purdue called a taxi and told us that he join us in 15 minutes time. We went to our rooms - Reid and myself. And indeed, in 15 minutes time Purdue was back. Purdue and myself joined Reid in his room. There we went over the papers called "the Contract". Purdue in particular said, "First thing we got to change this paper is the name "Black Revolutionary Council!". I had seen that name on the same contract that Reid gave to me. That contract came from the large envelope Mr. John (No. 1) gave me to deliver to Reid in order that Reid would in turn deliver it to Purdue personally. Purdue said that the word "Black" would prejudice the minds of the financiers and investors. Reid agreed. Then we went further to discuss a certain section pertaining to \$50,000.00 U.S.

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dollars. Purdue said that the deal which he made was for \$200,000.00 U.S. dollars and this he must have as soon as possible. He gave a reason about the \$200,000.00 U.S. He said, "This would allow the military wing of the Revolutionary Council to operate independently."

In the
High Court
(Criminal)

Prosecution
Evidence

10 One (1) is to obtain arms and ammunition, two (2) medicine and uniforms, three (3) to be able to pay the soldiers.

No. 7
Algernon
Maffie
Examination

He said (Purdue) that he would settle for a \$150,000.00 U.S. dollars in three (3) weeks and the other \$50,000.00 later down. Reid said that he can agree with that in principle but this will have to settle by the Council.

(continued)

20 This word Council was discussed at previous meetings with Dennis Joseph, Mr. John, Julian David, Malcolm Reid and myself. In those meetings, the discussion which took place was about positions which each member of the Council would hold in the Council.

The Council would replace the Government of Dominica after a successful operation to take over the Dominica police station, the Radio Station in Dominica, Cable and Wireless, and to capture all H AN radio sets.

30 During the discussions Purdue was making entries with a pen on his copy of the contract. I was able to see these entries being made by him. I would recognise that document if I saw it again. This is a photocopy of the document Exhibit "G" identified. After the discussion about the agreement I was dozing off. Purdue advised me to go and catch a rest after 12 in the night. On the following morning I saw Reid and Purdue. Purdue came to my
40 room. He told me that he feel for a walk. He went for a walk down town. We returned to the hotel. When we got back Reid was in his room. We - the three of us went to the bar. Before going to the bar, Reid made a phone call to the airport to find out about a flight for Reid and myself. Whilst at the bar there was a telephone call for Michael Purdue. Purdue went to answer and then he returned to the bar. He
50 told Reid, "Julian would like to talk to

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

(continued)

him". Reid went. Reid returned to the bar.

After some time at the bar, Reid and I went to our rooms and packed our bags and to secure the contract. The contract was secured. It was folded very small by Reid, wrapped up in plastic and scotch taped, placed in a bottle of body cream. The bottle was properly wiped out and placed in Reid's bag. From the hotel we took a taxi.

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The taxi was obtained by Purdue. Purdue accompanied us - Reid and myself to the airport on 1st February 1981. We took an aircraft from Antigua to Dominica.

Reid and I handed in Immigration Cards in Dominica.

This is the one I filled in and handed in, tendered, admitted and marked Exhibit "H". This is the one which Reid filled in tendered, admitted and marked Exhibit "J". On arrival in Dominica on 1/2/81 we travelled in two separate taxis from the airport. From the airport we stopped at Concorde. From Concorde we went our separate ways.

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At Concorde we stopped at the "Stop and go" bar where we had overnighted. On the Tuesday following - 3rd February, 1981, Reid and myself went to Mr. John's house. Reid took me there on a motor cycle. On arrival there I met Mr. John and Julian David. Whilst there Dennis Joseph arrived. On Joseph's arrival the five of us came together and discussed the trip to Antigua.

30

We discussed the Contract and the amendments.

Reid went to the bathroom and he came back with the Contract.

When he came back from the bathroom Reid had the contract in his hand. We sat down together first and gave every individual sitting there to take a look at the entries made by Purdue while in Antigua.

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Mr. John asked a question concerning the name "Black Revolutionary Council".

Reid replied with the reasons Purdue gave. Reid said, "The word Black would block future financing, especially investors." Mr. John agreed on that. The other members of the Council took the same line. We the Council went down to the section of the entries made pertaining to \$200,000.00 dollars. Reid explained what Purdue said. Mr. John replied, "Thats crazy he is not sure of raising that kind of money immediately".

In the
High Court
(Criminal)

Prosecution
Evidence

No. 7
Algernon
Maffie
Examination

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Mr. John (No. 1) said that he would try to see what he could do about that but he can't promise anything at this point in time.

(continued)

On the following week-end there was a next meeting at David Kentish's home, Camefield. Mr. John (No. 1), Dennis Joseph, Julian David, Malcolm Reid, Accused persons and myself were present.

20

At that meeting was discussed (1) the landing site given by Malcolm Reid for the mercenaries. The site was the Dominica Mining Co. at Rockaway beach. Reid said that distance would be easy to cover to attack the Dominica Police Headquarters. The time of landing which is 2 o'clock in the morning, that would allow them one hour to take up position for the attack.

30

Mr. John said to find out who controlled HAM radio sets and to organise transportation for the mercenaries and to get together my twenty (20) men and Reid's men on the grounds of Rockaway Beach to await landing operation.

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We discussed the position that every member of the Council will have to take up. Mr. John indicated those positions. John said Dennis Joseph would handle the position - Radio and Communication; Julian David would be the Council's treasurer; Mr. John would hold the position as Chairman of the Council, Prime Minister, Minister of Foreign Affairs and Defence. Reid would be in the position in charge of the military and I would be second place to Reid.

John told Reid that he had to relay decision taken at this meeting concerning the contract and the entire operation.

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(Criminal)

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Evidence

The decision taken at this meeting was that he Purdue can go ahead as planned in respect of the operations like obtaining the weapons and he Purdue must set a date which he Purdue will be able to get to Dominica for the operation.

No. 7
Algernon
Maffie
Examination

A new contract would replace with all amendments entered.
These amendments are the name of the Council and the Independent part, the military will have to shoulder.

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(continued)

I did not attend other meetings with the Council or the That was the last one.

Cross-
Examination

xxd by Mr. MacCauley for No. 1 John,
No. 4 Reid Accused

I was a member of a plot by certain persons to overthrow the government of Dominica.

There was a charge of "Murder" pending against me in August, 1980. I was in custody in Goodwill prison pending my going to the Magistrate's Court for the matter to be heard. The Superintendent of Prison was Mr. Cuffy. I was removed from the prison to the police station. It is not true that I escaped. I was in Guyana. That was after I was being transferred from the prison to the police station.

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I did not in fact inform any policeman that I was leaving Dominica for Guyana. I was in Guyana for less than seven (7) months. From Guyana I went to Barbados. There I did not see an Inspector Blanchard of the Dominica Police Force. I do know a man by the name of Anworth Edwards. I do know Inspector Blanchard of the Dominica Police Force now Assistant Supt. of the Police Force - Desmond Blanchard.

30

We were in Court No. 2 in February 1982 this year. I can't remember the date. We spoke outside the Court. When I was in Guyana I remember a police Inspector going to see me. It was not A.S.P. Blanchard as he now is. I returned to Dominica on 29th July, 1981. Before I left for Guyana I was not in jail. Since I came back to Dominica I have not reported my return to the police. I have not reported my return to the Magistrate's Court. I surely know the

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penalty for Murder. It is "Death by hanging".

In the
High Court
(Criminal)

10 On my return the police picked me up at the airport. The police have not taken me to the Magistrate's Court for the murder charge which is pending up to now. I do not know whether the charge is still pending. I did not escape from Prison when a charge was pending. I made a statement to the police in this matter. They did not force me to give a statement. The police asked me questions and they wrote the answers down. I agreed to answer the questions. They did not beat me. I disagree that I agreed to answer questions because I hoped that the charge of murder would not follow through.

No. 7
Algernon
Maffie
Cross-
Examination

(continued)

20 It is true, I am a man of violent character. I have nine (9) previous convictions. That's true, that six (6) are for violence. I have been convicted for assaulting the police and also for resisting arrest. I disagree that I was hoping that the police would not press the murder charge. The answers which I gave the police - I did not give hoping that the police would not press the charge.

30 When I came back from Antigua certain meetings were held. The first meeting after my return took place on 3rd February, 1981. I know a man called Vincent Robinson. The second meeting took place on the week-end following the 3/2/81. It was on the Saturday night after the 3/2/81. This meeting took place at David (Dave) Kentish's house. I know David Kentish.

40 I gave my answers to the police on the day after 29/7/81. I did not give the statement to the police on the 30/2/81 not immediately. I can't remember the date when I gave it.

Prosecution
Evidence

No. 8
Proceedings

13th May 1982

The Court states that it wishes to see the statement.

Mr. Mottley states that the Court is not entitled to see the statement because there is nothing that arises in the evidence to show that there is any variance between the statement recorded by the police and the evidence given in Court. There is no suggestion in cross-examination by the Learned Counsel for the No. 1 and No. 4 Accused that there is any such variance. (Query by Court - then how is he to know that there is a variance").

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Mr. Mottley. The Court will be entitled to look at the statement if there is an application by the police to treat its own witness as hostile. Again, the Court would be entitled to see the statement in those cases of R v Turnbull where the prosecution is at variance between what is given in Court.

20

Mr. MacCaulay refers to section 16 of Evidence Act of Dominica Chapter 64. It is identical with the Criminal Procedure Act, 1865 Section 5. There is a proviso to section 16 of Chapter 64. It is always competent for the Judge at any time during the trial to require the production of the writing for his inspection, and he may thereupon make use of it, for the purpose of the trial as he shall think fit.

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R. v. Zenaris

He wishes to adopt the second part of paragraph 4438(a) of 39th edition. Apart from statutory authority, apart from judicial authority, the Court is within its rights to require the production of the statement to ascertain the date.

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The Court rules that the statement given by the witness Algernon Maffie should be produced for the Court so that the Court could ensure a fair trial and also for the

witness himself to refresh his memory as to the date on which he signed the statement his not being able to remember the date. The witness is shown the statement. He identifies his statement and signature. He says that the date on which he signed the statement is 12/10/81.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 8
Proceedings

By the Court

I signed the statement on 12/10/81.

10 Statement returned to the Prosecution.

(continued)

Adjournment taken at 5.14 p.m.

Jury warned.

Court resumed at 9.30 a.m.

Jury checked, all present.

14th May, 1983

No. 9

ALGERNON MAFFIE CROSS-EXAMINATION
BY MR. MacCAULEY(Contd.)

No. 9
Algernon
Maffie
Cross-
Examination
by Mr.
MacCauley
continued

Algernon Maffie duly sworn states further.

20 xxd by Mr. MacCauley for No. 1 and No. 4
Accused.

30 I attended two meetings. I did not attend any further meetings when I came from Antigua. I did agree at the second meeting to meet again but I did not turn up. This is the man I know as David Kentish (identified). I know Mr. Peter Maxine Thomas (identified). A "Dread" is one that carries hair, dread locks and has certain habits which is different to society. I used to be part of the cult of "Dread". I used to be part of the cult in 1974 and up to 1980. I have known Peter Maxine Thomas since 1974. I was charged with an offence in 1974 and

In the
High Court
(Criminal)

Prosecution
Evidence

No. 9
Algernon
Maffie Cross-
Examination

(continued)

convicted. One of the offences was not store-breaking. I was convicted for Receiving Arms and Ammunition. Peter Maxine Thomas gave evidence at my trial. It is not true to put to me that I was also convicted of store-breaking. It is possible that I have ten (10) convictions and not nine (9). I don't know how many. I am a seaman. I have been to many ports - about 34 countries. I went to Canada but not by working on a boat. I was never convicted in Canada. I have not returned to Canada since I came to Dominica in 1974 because a deportation order was served against me. I was convicted in Dominica for shooting at the police. In 1975 I was convicted for shooting at the Police. I was convicted in Assizes in January 1976 for receiving arms and ammunitions. I went to the home of David Kentish on two different occasions. I do not know how many rooms there are in Kentish's house. I have been in the drawing room of Kentish's house. It is not true to suggest that I have never been in the house of Kentish's house. I do not know Ashworth Edwards by name.

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(Ashworth Edwards called - no answer).

I was in Barbados. I did not visit anybody's home whilst I was in Barbados. I did not go by Round Clock, Silversands. I don't know the place. When in Barbados I did not go the home of Ashworth Edwards. I travelled to Barbados by air. In Barbados I did not try to get a visa. I can't remember telling anyone that.

30

It was the Council that was responsible for the financing of the operation of the invasion of Dominica. Before I arrived in Antigua I had not met Michael Purdue. I saw him only in Antigua. I went to Mr. John's house on 3/2/81 between the hours of 11 (eleven) and 12 (twelve) a.m. It was a Tuesday. I know Peter Thomas, an ex-policeman. I don't know where he lives. I did not know where Peter Thomas was living when I went to Patrick John's house on 3/2/81.

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When I came back from Guyana, I looked for a job. I did not get one. I am still

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looking. I have land at La Plaine. I have not been working on the land. It is not true to suggest that at no time did Mr. Patrick John attend any meeting at which I was present. It is not true to suggest that at no time did I go to Mr. John's house. It is not true to suggest that at no time did Mr. John tell me that he did not have the money to buy a new Suzuki jeep. It is not true to suggest that at no time did I and Mr. John meet in this island.

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High Court
(Criminal)

Prosecution
Evidence

No. 9
Algernon
Maffie
Cross-
Examination

In 1974 and 1975 when I was convicted Mr. John was Premier of this island. I was not surprised that Mr. Purdue was having a conversation of his plans in my presence when he had not met me before. It is not true to suggest that at no time did I attend in Antigua a meeting between Mr. Purdue and Mr. Reid. It is not true to suggest that at no time did Mr. John hand an envelope to me. It is not true to suggest that at no time did I see Michael Purdue open an envelope. The story that I was at meetings with Mr. John is not a fabrication. I know that when Mr. John was Premier in 1974-1975 there was a crackdown on Dreads by the Police.

(continued)

I was captured at a place called Bells in 1974. I was captured by a group of Police and Defence Officers.

I did not see Malcolm Reid (No. 4) among that group of Defence Officers. When I was in Antigua, I did not see Mr. Patrick John there. I did not see Patrick, Julian nor Dennis Joseph there.

xxd by Dr. Williams for No. 2 accused.

Cross-Examination
by Dr. Williams

I said on more than one occasion that I am a violent person. It would not be true to say that in addition to being a violent person that I am a dishonest person. I do not know that I have been convicted of an offence involving dishonesty. I was convicted of receiving stolen thing knowing them to have been stolen. That was my most recent conviction in 1976 and I was sentenced to 3 years hard labour for that offence. I do not agree that one should not place much relevance on my words. The evidence I have given in

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Algernon
Maffie
Cross-
Examination

this Court implicating Julian David is
not a tissue of lies.

One Sunday in January I went to Mr. Reid's
home and whilst there Mr. John and Julian
David came there. I can't recall which
Sunday in January, 1981. I can't remember
if it was the first Sunday in January 1981
- 4th. I can't remember any dates at all
pertaining to that Sunday. It is not in the
beginning or the end. I can't remember
if it was 11th or 18th. I disagree whether
it might not have been a Sunday at all.

10

(continued)

It is not true to suggest that Julian
David was not present on any Sunday in
January 1981 at which I was present. I
remember that it was between the hours of
5 and 5.30 p.m. At that meeting in
January 1981, Mr. John, Reid, David and
myself came together to discuss. At that
meeting we all discussed one after the
other. At the Sunday at Malcolm Reid's
home it is not true to suggest that Julian
David did not say "We have that kind of
bread". I disagree with the suggestion
that Julian was never there.

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On 26/1/81 Julian David phoned me and
told me to go to Maho and call Reid. It
is not true to suggest that Julian did not
do so. On 22/1/81 I went to Julian David's
office and in my presence he telephoned
to speak to foreign exchange. It is not
true to suggest that he did not do so. It
is not true to suggest that I did not
see Julian David in his office on 28/1/81 and
on 29/1/81. It is not true to suggest
that I did not give Julian David an
Income Tax clearance on 29/1/81.

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It is not true to suggest that Julian
David did not telephone me in the
morning of 30/1/81 and promise to pick me
up. It is not true to suggest that he
did not pick me up in Piper's jeep. It
is not true to suggest that Julian and I
did not leave to go and look for Reid.
It is not true to suggest that I did not
meet a jeep driven by Mr. Jonathan Williams
and we stopped. It is not true to suggest
that Reid jumped from that jeep to the one
with me and Piper.

40

It is not true that Jonathan Williams did not meet me with Piper's jeep at Maho. Julian did ask Williams to do him a favour and drop me and Reid at the Airport. I know Jonathan Williams well. Julian David never travelled to the airport with me and Reid. Reid and I travelled in a Suzuki jeep driven by Williams to the airport - sure we did.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 9
Algernon
Maffie
Cross-
Examination

10 When I was discussing with Purdue on 31/1/81 in Antigua I knew to whom "Black Revolutionary Council" referred. I know because it was discussed at previous meetings.

(continued)

20 Those meetings were attended by Mr. John, David, Joseph, Reid and myself. It is not true to suggest that Julian David never attended any meeting with John, Joseph, Reid and myself at which the Black Revolutionary Council was discussed. I recall having given evidence before the Magistrate at the Preliminary Inquiry. I recall that the Magistrate wrote down what I said. At the conclusion of my testimony he read it over to me and asked me whether it was true and correct and I said it was and I signed it. I recall having told the Magistrate - "I know these names to comprise of the Council through previous meetings. Meetings with Reid and myself". That was true and it is still true. I met Reid alone and then I got an idea as to who the members of the Council were. I went to Antigua. On the following morning I saw Reid and Purdue. I went for a walk with Purdue down town. I do not remember the time it was. I do not remember what time I get up that morning. I do not remember how long my walk took before I came back from the hotel. About the walk I can remember where I went - to the docks. It was after breakfast. I do not remember what time breakfast was served at the hotel on that morning. To be exact I do not remember what time my plane for Dominica left that day. It was an afternoon flight. I was out of the hotel and walked on the docks for the most of the morning in Antigua. I came back from the walk either before 12 o'clock or after 12 o'clock but it was close to 12 o'clock.

In the
High Court
(Criminal)

Prosecution
Evidence

No. 9
Algernon
Maffie
Cross-
Examination

(continued)

It was then when I returned close to midday that I went to the bar. Then Reid telephoned about our flight. It was during breakfast time that Purdue was called to the telephone. It was during breakfast time that Purdue came back and said to Reid that Julian would like to speak to him. I can't remember if it was about 10 o'clock. It was before midday. I attended a meeting on 3/2/81 at John's home and I met Mr. John and Julian David. It is not true to suggest that Julian David was not there. It is not true to suggest that Julian David did not discuss with me my trip to Antigua. It is not true to suggest that David did not participate with me or anyone at meetings at David Kentish's house and that there was no discussion as to any role he would play in the Council. It is not true that my evidence in this Court is a fabrication which I concocted between July and October 1981. It is not true to suggest that I did this to save myself from a charge of a capital offence.

10

20

xxd by Mrs. MacCauley for No. 3 accused
Dennis Joseph

It is not true that I attended only two Council meetings. I attended more than two. I came to know the names of the members of the Council because Reid told me the names, at meetings with Reid. When I got to know the names, Reid was alone with me. I went before the Magistrate for the charge of Murder. The Magistrate remanded me in custody. I did not go back before the Magistrate in relation to that charge and he did not tell me that I was discharged. I do know Mr. Dennis Joseph. It is not true to suggest that I do not know him as a person. It is not true to suggest that I have never in my life spoken with him nor has he spoken with me. It is not true to suggest that I have never been in the same room with Dennis Joseph apart from when I have given evidence in this matter. The 3rd February 1981 was the Tuesday before Carnival 1981 - a good days before Carnival. Carnival fell in early March, it was approximately a month before. On 4th February 1981 I took care of my own domestic affairs.

30

40

50

I can't remember what time I woke up on 4/2/81. I live around the docks area. I can't say if I came into Town. It is a long time. I can't remember. I think I was supposed to collect some materials. I could have gone to Town or Canefield to collect building materials. I won't be able to remember what day of the week the 17th of February 1981 was. I departed for Guyana on 12th February 1981 - I think it was a Thursday. I missed my flight and took a late flight to Barbados. It was the last flight going South - LIAT. I arrived in Guyana about 11 p.m. on the same day (Guyana time). I referred to a meeting at David Kentish's home after 3/2/81 - that meeting was night time after 8 p.m. It could not be 10 p.m. It was between 8 and 8.30 p.m.

In the
High Court
(Criminal)

No. 9
Algernon
Maffie
Cross-
Examination

(continued)

20 That meeting ended a little before 10 p.m. or a little after 10 p.m. I know Mr. Joseph used to be Radio Broadcaster or something like that. That is all I know. I do not know that he was a Song-writer or Record Producer. I know that Mr. Joseph is a married man. I don't know if he has any children. I am not familiar with what he drinks. He had a relationship with a musical band. I could remember the name of the band "Gaylords". It is not true to suggest that I was never at a meeting where Mr. Joseph was present. I do know that Mr. Joseph was a member of a political party in 1980 - 1. I can't prove that he was not a member of a party from February 1980. I can't prove membership. It is not true to suggest that Mr. Joseph never attend a meeting with me at Mr. Kentish's home. I disagree that Mr. Joseph has never been in Mr. Kentish's home. My story is not a fabrication. It is not true that in every instance where I mentioned Dennis Joseph (Accused) that it is a fabrication. It is not true that I have fabricated the story about Dennis Joseph to save myself from criminal prosecution.

xxd by Dr. Barnett for Prosecution

50 I know that Mr. Joseph used to be Insurance Salesman for British American Life Insurance Co.Ltd. I had said that the Council was

In the
High Court
(Criminal)
Prosecution
Evidence

No. 9
Algernon
Maffie
Re-Examination

responsible for the financing of the operations of the invasion of Dominica. By that I meant the Council took the burden of shouldering the financing of the operation but the finance had been negotiated. This was discussed at the Council meeting - the one before going to Antigua. Mr. John, Malcolm Reid, Julian David, Dennis Joseph and myself were present. This was negotiated between Mr. John and Michael Purdue - it was discussed at a meeting of the Council. I was in prison and left for Guyana.

10

(continued)

I left for Guyana. Hurricane David damaged the prison and everyone was freed.

By the Jury declined.

No.10
Jeremiah
Joseph

No. 10

JEREMIAH JOSEPH

14th May
1982

Jeremiah Joseph duly sworn states.

I am Asst. Supt. of Police of the Royal Police Force of Antigua and Barbuda. I am the Senior Immigration Officer for the State of Antigua and Barbuda. My duties include the Supervision of records of persons entering and leaving Antigua. These records are kept in my custody. I had occasion to search the records in relation to Michael Purdue, Algernon Maffie and Malcolm Reid.

20

Court refers Counsel to Myers v D.P.P.
(1965) A.C. 1001 (1964) ALL E.R. 877

30

Adjournment taken at 12.30 p.m.

Jury warned.

Court resumed at 1.30 p.m. Jury checked, all present.

At this stage Mr. Elliot Mottley asks leave of Court to recall the witness Algernon Maffie instead.

ALGERNON MAFFIE RE-CALLED

In the
High Court
(Criminal)

No. 11

Algernon Maffie duly sworn states:

Prosecution
Evidence

recalled by the Prosecution.

Algernon
Maffie
Re-called

10 On the plane to Antigua I complete an
Immigration Card and Reid did. I could
see him fill in the card and I saw him
sign it. This is the card which I
filled in tendered, admitted and marked
Exhibit "K".

20 Mr. MacCauley objects to the admissibility
of the evidence on the grounds that the
witness has given evidence that on his
arrival in Antigua he signed an
Immigration Card. He gave evidence that
he arrived in Antigua. That is oral
evidence. The signature aspect of that
evidence would be corroborated by the
production of that evidence. He refers
to Archibald 39th Edition para 522 (b)
and also Cross on Evidence 4th Edition page
207. Section 2 Heading C of Chapter 10.

Statement quoted from Jones v South Eastern
and Chatham Rail Co.

Cross on evidence.

30 Dr. Barnett states that Mr. MacCauley has
referred to two papers which have nothing
to do with the present circumstances. The
prosecution is not seeking to rely on the
document as corroborative as something
presently said. What is being introduced
is the document as a physical piece of
evidence.

Court rules that the evidence is admissible.

The document is admitted as Exhibit "K".

40 This is an Immigration Card made up by
Malcolm Reid. He was sitting next to me.
I saw him write. I identify this card
as his. This is the card, tendered,
admitted and marked Exhibit "L".

xxd by Mr. MacCauley for No. 1 and No. 4
Accused

Cross-
Examination

I looked at Ex. "K" my own card.

In the
High Court
(Criminal)

No.11

Prosecution
Evidence

Algernon
Maffie

Re-called

Cross-
Examination

14th May
1982

(continued)

It is stamped officially "Entry by air on".

The particulars on it are in my handwriting.
The particulars relate to the date of
birth - 27/4/49, I wrote my nationality
Dominican. I give my occupation as
farmer. I gave Fond Colle' as my address.

xxd by Dr. Williams for No. 2 Accused:
declined.

xxd by Mrs. MacCauley for No. 3 Accused:
declined.

By the Jury: declined.

10

No. 12

Jeremiah
Joseph
Re-called

No. 12

JEREMIAH JOSEPH RE-CALLED

14th May 1982 Jeremiah Joseph duly sworn states further:

When visitors arrive in the State of
Antigua by air or sea they fill an
embarkation - the International E.O. card.
That card is carbonated. When processed by
the Immigration officer the original is
retained by the Immigration Officer on
first entry and the carbon copy is given
to the person. The passenger on leaving
the State should deliver the carbon copy
to the airline attendant, who in turn will
channel it back to the Immigration Officer.

20

The duplicate card is then matched to the
original card and entry and in so doing
will cause the Immigration Department to
know if they have persons overstaying in
the State. When the card is handed to the
Immigration Officer present the card is
stamped with the date of arrival and the
information as to the length of stay
having ascertained his place on the card.

30

It is signed by the Immigration Officer. There is a departmental stamp which is used to stamp the cards consisting of date of arrival. The Immigration Officer signed on the departmental stamp. When the card is received from the airline on the person's leaving the State, the Immigration Officer stamps the date of departure.

In the
High Court
(Criminal)

No.12

Prosecution
Evidence

Jeremiah
Joseph
Re-called

10 I searched my records in respect to Algernon Maffie and Malcolm Reid. I found two cards of Maffie Ex. "K" identified. This is the card of Reid Exhibit "L" identified. I produced them both.

(continued)

xxd by Mr. MacCauley for No. 1 and No. 4
Accused: declined.

xxd by Dr. Williams for No. 2 Accused:
declined.

20 xxd by Mrs. MacCauley for No. 3 Accused:
declined

By the Jury: Declined.

No. 13

WINSTON NATHANIEL EXAMINATION

No. 13
Winston
Nathaniel
Examination

14th May 1982

Winston Nathaniel duly sworn states:

30 I am a Member of the Royal Police Force of Antigua. I am Sgt. and attached to the Immigration Department, Coolridge International Airport, Antigua. I am attached to Immigration for 11 years.

I deal with passengers arriving and departing. On 30/1/81 I was on duty. On that day there was a B.W.I.A. flight No. 409 into Antigua. Passengers disembarked. Among the passengers disembarking I recognised Michael Eugene Purdue being a regular visitor to Antigua.

In the
High Court
(Criminal)

No.13

Prosecution
Evidence

Winston
Nathaniel
Examination

(continued)

I saw him on several occasions before in Antigua. He came into the Immigration Office and I handed him an Immigration card which he filled out in my presence.

He returned that said Immigration Card.

I stamped both the original and duplicate of that card with our Immigration department stamp. I dated it 30/1/81 on the date of arrival in the State of Antigua. This is the card I signed, the card, tendered, admitted and marked Exhibit "N".

10

I returned the duplicate to Michael Purdue. On his departure on 2/2/81 I received the duplicate from B.W.I.A. and I married it to the original. This is the duplicate, tendered, admitted and marked Exhibit "M2".

Cross-
Examination
by Mr.
MacCauley

xxd by Mr. MacCauley for No. 1 and No. 4 accused.

20

I worked from 5.30 a.m. to 2 p.m. on 30/1/81. There is flight from Melville Hall, Dominica to Coolridge not every day. I can't say if there was a flight from Melville Hall, Dominica to Antigua on 30/1/81. I do not recall that I was on duty on 31/1/81.

xxd by Dr. Williams for No. 2 Accused:
Declined.

Cross-
Examination
by Mrs.
MacCauley

xxd by Mrs. MacCauley for No. 3 Accused:

30

I can't recall having seen any of these Accused at my airport in Antigua during the month of January.

By the Jury: Declined.

No. 14

STEPHEN LANDER EXAMINATION

In the
High Court
(Criminal)

No.14

Stephen Lander duly sworn states:

Prosecution
Evidence
Stephen Lander
Examination

14th May 1982

10

I am Corporal of Police No. 156 stationed at Roseau Police Station. On 5/3/81 I was stationed at the Roseau Police Station. On that day I worked from 8 a.m. to 4 p.m. as duty N.C.O. in the charge office. About 10.30 a.m. a private of the Defence Force came into the charge office. I know him as Private Walters. He had a piece of paper in his hand and four inch golden coloured pen. He spoke to me. As a result I took the paper from him, examined it and saw that it was blank. I called Constable Darroux B, who was working as guard at the time.

20

I gave him the paper with certain instructions. Constable Darroux went towards the cells. The private of the Defence Force remained close to the desk. I continued my work - making out the Constable's duties.

xxd by Mr. MacCauley for No. 1 and No. 4 Accused.

Cross-
Examination by
Mr. MacCauley

I told Constable Darroux to take the paper and pen to Capt. Malcolm Reid who was at the time in the police cells.

xxd by Dr. Williams for No. 2 Accused:
Declined.

30

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

By the Jury: Declined.

BRIAN DARROUX EXAMINATION

No.15

Prosecution
Evidence

Brian Darroux duly sworn states:

Brian
Darroux
Examination

I am P.C. No. 241 stationed to the Grand Bay Police Station. On 5/3/81 I was attached to Roseau Police Station.

14th May 1982

On that day between 10 a.m. and 2 p.m. I was working on the guard desk. Cpl. Lander was the duty N.C.O. About 10.15 a.m. Cpl. Lander gave me certain instructions along with a small golden pen and small sheet of white blank ruled paper. I took the pen and the paper to Mr. Reid (No. 4) who was then in the cell. I told Mr. Reid that this was to write the message for Major Newton. Mr. Reid took the paper and the pen. I went back to the guard desk in the charge office.

10

Cross-
Examination
by Mr.
MacCauley

xxd by Mr. MacCauley for No. 1 and No. 4 Accused.

20

I did not see Major Newton on that day or on the day before. I can't remember if I saw him between 1/1/81 and 27/2/81. Between 27/2/81 and the 6/3/81 I can't remember having seen Major Newton. I did not see Major Newton in the cells at that time. I saw him in the cells long after the 31/3/81. I can't remember which date. Mr. Newton never gave me any message for Mr. Reid. I had discussion with Mr. Reid when he was in the cells. At no time did Mr. Reid give me messages for Major Newton.

30

xxd by Dr. Williams for No. 2 Accused:
Declined.

xxd by Mrs MacCauley for No. 3 Accused:
Declined.

By the Jury: Declined.

No. 16

BERNARD PACQUETTE EXAMINATION

In the
High Court
(Criminal)

No.16

Bernard Pacquette duly sworn states:

Prosecution
Evidence

Bernard
Pacquette
Examination

14th May 1982

10

I am P.C. No. 83 attached to Police Headquarters. On 5/3/81 I was attached to the Traffic Department. About 3.30 p.m. on that day I was at Police Headquarters. I was in the area of the cells at the Police Headquarters. Someone said something to me. I was handed something by one Ronnie Roberts. He was a prisoner in the police cell. A sealed envelope was handed to me. I brought that sealed envelope to the C.I.D. Department. I spoke with Woman Sargeant Seraphine. I gave her the envelope and she opened the envelope in my presence. It contained a letter. I read the letter. If I saw the document again I would recognise it. This is the letter I received from Ronnie Roberts. Identified as Ex. "N".

20

xxd by Mr. MacCauley for No. 1 and No. 4
Accused: Declined

xxd by Dr. Williams for No. 2 Accused:
Declined.

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

By the Jury: declined.

30

No. 17

ROLLINS LAURENT EXAMINATION

No. 17
Rollins
Laurent
Examination

14th May 1982

Rollins Laurent duly sworn states:

I live at 5A Potters Street, Pottersville. I am a carpenter. Between 8/5/78 and 25.4.81 I worked at the Anchorage Hotel doing Security Work. I know all the Accused. On 16/12/80 I worked on that night at the Anchorage Hotel. I worked

In the
High Court
(Criminal)

No.17

Prosecution
Evidence

Rollins
Laurent
Examination

(continued)

from 10.30 a.m. to 7 a.m. next morning.
In the early hours of the morning
around 5 a.m. someone left the hotel.
It was Mike Purdue. He left by taxi.
I had seen him before at the Anchorage
Hotel. On the night before he left I
saw him at the Hotel on the balcony of
his room. He was there talking to someone -
Malcolm Reid (No. 4).

Cross-
examination
by Mr.
MacCauley

xxd by Mr. MacCauley for No. 1 and No. 4
Accused.

10

did not see Mike Purdue at the hotel in
1981. I did not see him anywhere on
this Island in 1981. There are balconies in
the front rooms of the Anchorage Hotel.

xxd by Dr. Williams for No. 2 Accused:
Declined.

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

By the Jury: Declined.

20

15th May 1981 (sic)

Court resumed at 9 a.m.

Jury checked, all present.

No. 18
Michael
Sylvester
Examination

No. 18

MICHAEL SYLVESTER EXAMINATION

15th May
1982

Michael Sylvester duly sworn states:

I am Sgt. of Police No. 143 attached to the
Immigration Section at Melville Hall Airport.
My duties there include dealing with

incoming and outgoing passengers. I know Michael Purdue. On 18/2/81 I was on duty at Melville Hall Airport and I dealt with Michael Purdue as an incoming passenger. On 20/9/80 I was again on duty at Melville Hall Airport when I dealt with Michael Purdue as an outgoing passenger. On 13/12/80 I was on duty at Melville Hall Airport and I dealt with Michael Purdue as an incoming passenger. On 17/12/80 I was again on duty at Melville Hall Airport and I dealt with Michael Purdue as an outgoing passenger.

10

By in-coming passenger I mean coming into the State of Dominica.

By outgoing passenger I mean going out of the State.

xxd by Mr. MacCaulay for No. 1 and No. 4 Accused: Declined.

20

xxd by Dr. Williams for No. 2 Accused: Declined.

xxd by Mrs MacCauley for No. 3 Accused: Declined.

By the Jury: Declined.

In the High Court
(Criminal)

No.18

Prosecution Evidence

Michael
Sylvester
Examination

(continued)

No. 19

PROCEEDINGS

No. 19
Proceedings

At this stage Mr. Mottley states that he wishes to lead additional evidence to lay the foundation for the reading of the deposition of Stephen A. Warrington and Hemple Bertrand.

30

Prosecution
Evidence

[Michael Sylvestre duly sworn states:

Michael
Sylvester
Examination

On 24/10/81 I was on duty at Melville
Hall Airport. I know Stephen Alridge
Warrington. He was a policeman. On
that day I saw him at the airport. I
dealt with him as an outgoing passenger.
I saw him board a LIAT flight No. 333
and the flight left for Antigua. Since
then I have not seen him return. I have
not dealt with him. I made a check of
my records. He has not returned.

15th May 1982

10

The witness was saying that he checked
the records and found that the witness
had not returned. The Court rules
that that evidence is inadmissible as to
proof of his having not returned.
(cf. Myers) I am still at the Melville
Hall Airport since 24/10/81 and I have not
seen Warrington since then.

20

xxd by Mr. MacCauley for No. 1 and No. 4
Accused: Declined.

xxd by Dr. Williams for No. 2 Accused:
Declined.

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

By the Jury: Declined.]

No. 21
CORPORAL ALIE EXAMINATION

In the
High Court
(Criminal)

No.21

Prosecution
Evidence

Corporal Alie
Examination

15th May 1982

[Corporal Alie duly sworn states:

10 I am a Cpl. of Police No. 9 attached to the Immigration Department stationed at Police Headquarters. I work at the Roseau Port and Roseau Immigration Office as Immigration Officer. I know Stephen A. Warrington. I keep Immigration records of Roseau Port. I made a check of those records. There is no record of Stephen Warrington entering the State (Mr. MacCauley objects to the admissibility of this evidence. Objection upheld).

I know Stephen Alridge as a Police Officer. I last saw him quite a while now.

xxd by Mr. MacCauley for No. 1 and No. 4 Accused:

Cross-
Examination
by Mr.
MacCauley

20 I was stationed at Canefield Airport. I left Canefield Airport in March of this year - 1982.

xxd by Dr. Williams for No. 2 Accused:
Declined.

xxd by Mrs. MacCauley: Declined.

By the Jury: Declined.]

No. 22
AUGUSTUS JOSEPH EXAMINATION

No. 22
Augustus
Joseph
Examination

15th May 1982

[Augustus Joseph duly sworn states:

30 I am attached to the Immigration Section of the Canefield Airport for about 3 months now. Prior to that I was attached to the Immigration, Roseau, in the office checking on passengers going in and out of the Roseau port. I know Stephen Alridge Warrington.

In the
High Court
(Criminal)
No.22
Prosecution
Evidence

I keep records of persons entering and leaving. I carried out a search on the records (Mr. MacCauley objects to the admissibility of the evidence about the record. Objection upheld). I last saw Stephen Warrington quite a long while ago in Dominica.

Augustus
Joseph
Examination

xxd by Mr. MacCauley for No. 1 and No. 4
Accused: Declined.

xxd by Dr. Williams for No. 2 Accused: Declined. 10

(continued)

xxd by Mrs. MacCauley for No. 3 Accused: Declined

By the jury: Declined.]

No. 23
Curtis
Victor
Examination

No. 23

CURTIS VICTOR EXAMINATION

15th May
1982

Curtis Victor duly sworn states:

I live at Charlotte Valley, Newtown. I am employed in the Magistrates Court, District E. On 15/10/81, I was then a Clerk of the Court. I was present in Court on that day in the hearing of the Preliminary Inquiry into this matter. On that day Aldridge Warrington gave evidence. The four Accused persons were all present in Court at the time. The accused persons were afforded an opportunity to cross-examine Mr. Warrington. When Warrington finished his evidence it was read back to him by the Magistrate in the presence of the Accuseds. The witness Warrington signed the deposition as being true and correct and the Magistrate also signed his name. 20 30

That evidence is taken on oath?

This is the signature of Constable Aldridge Warrington (identified) and the Magistrate of District "E".

Mr. Charles J. Williams (Identified).
xxd by Mr. MacCauley for No. 1 and No. 4
defendants: Declined.
xxd by Dr. Williams for No. 2:
Declined.
xxd for Mrs. MacCauley for No. 3
defendant: Declined.
By the Jury: Declined.

In the
High Court
(Criminal)
No.23
Prosecution
Evidence
Curtis Victor
Examination

(continued)

10

No. 24
PROCEEDINGS

No. 24
Proceedings
15th May 1982

Mr Elliot asks that the deposition of
witness Aldridge Warrington be read.

His authority is the Section 31 of
Evidence Act Chapter 64.

The evidence established that the witness
has left the jurisdiction and has not
returned - based upon that I ask that the
deposition be read.

20 Mr. MacCauley for No. 1 and No. 4
states:

That the deposition taken here is of not
one taken by the virtue of the provisions
of the Evidence Act, it was taken by
virtue of the provisions of the Magistrates
Code of Procedure Act Cap. 26 particularly
Section 55.

Under Chapter 64 as quoted by Mr. Elliott
the deposition referred to there are taken
by virtue of Sections 26 to 29 of Cap. 64.

30 That section makes it clear that it is
Section 31.

In the
High Court
(Criminal)

No.24

Prosecution
Evidence

Proceedings

(Continued)

15th May 1982

The power to admit under Cap. 26 is to be found in Section 187.

It is for the prosecution to prove among other things the condition precedent of absence from the State.

I resist the application.

Even if I am wrong I would not give my consent.

(Court observes that the consent does not arise in a criminal trial.)

10

Dr. Williams for No. 2 Accused.

Dr. Williams objects to the admission of the deposition of Constable Warrington.

I adopt the arguments of Mr. MacCauley, in particular there is not sufficient evidence that Warrington is absent from the Island or is beyond the Jurisdiction of the Court or is dead etc.

Mrs. MacCauley for No. 3 Accused states:

that she supports the objection of her learned friends and merely adds that the evidence adduced by the State does not meet the requirements of the provisions.

20

Mr. Mottley in reply states:

that the application should be under 187 of Cap. 26 instead of Cap. 64.

The discretion is narrower under that.

On the functional whether the evidence disclosed that he has left.

The admission of the deposition is refused by the Court.

30

OLIVER M. PHILLIP EXAMINATION

In the
High Court
(Criminal)

No.25

Prosecution
Evidence

Oliver M.
Phillip
Examination

15th May 1982

Oliver M. Phillip duly affirmed states:

I am the Commissioner of Police, Dominica.

I am member of the Police Force for 35 years.

I am Commissioner for the past ten (10) years.

10 Police Headquarters is located at the angle of King George the Fifth street and Bath Road in the Town of Roseau. It is west of Bath Road and north of King George the Fifth Street.

20 There are two (2) entrances to the police station - one on King George Fifth Street and the other on Bath Road. The Bath Road gate is on the eastern side of the police station and on the southern side of Police Headquarters. The gate on the King George the Fifth side is usually kept closed during the day and night.

The Bath Road gate is the gate which is used all the time.

There is a sentry posted at the Bath Road gate during the day and night.

The King George the Fifth Street gate is guarded by night by a sentry.

30 So in the night there are two sentries, one posted in the King George the Fifth gate and one at the Bath Road gate. Within the Police Headquarters itself there is an office known as the charge office that opens into Bath Road.

The charge office is manned during 24 hours by officers referred to as the duty N.C.O. and a guard or guards.

The guard is usually a police constable.

This is so during the 24 hours period.

The duty officer works a 8 hours shift

In the
High Court
(Criminal)

No.25

Prosecution
Evidence

Oliver M.
Phillip
Examination

(continued)

while the guard works a 24 hour shift.

At all times there are at least two police officers in the charge room.

There is a Criminal Investigation Department.

That department is located on the first floor of Block A within the Police Headquarters compound.

The establishment of the C.I.D. is something like 24 and through the day there are men present in that office and at night there is a man on call who is physically present throughout the hours of darkness.

10

There is a Communication Section on the top floor of the same building known as Block A. There is the Control Room. This Control Room houses telephone and radio equipment and is manned 24 hours per day.

20

I am familiar with an area called the Dominica Mining Co. It is located along the West Coast about two (2) miles West of Roseau. It is actually on the shore at a place popularly known as Rockaway Beach.

What I have said about manning the police station would have been so throughout 1980 and 1981.

On 5/3/81 a document was brought to me identified.

30

This document identified was handed to me on the afternoon of 5/3/81 identified as Ex. "N".

In addition to my office as Commissioner of Police I hold the office of Chief Immigration Officer.

Applications for passports are made to my office.

The application form delivered to my office - they are processed by the Immigration.

40

After the passport is issued the form is filed in the Immigration office under my control.

In the High Court (Criminal)

I look at this document - a passport application form dated 29/6/79

No.25

Prosecution Evidence

Oliver M. Phillip Examination

(continued)

No. 26

No. 26

PROCEEDINGS

Proceedings

15th May 1982

10 Mr. MacCauley objects to the admissibility of the form on the grounds that the witness is in over all charge of the application forms.

It is processed by an Immigration Officer and all he speaks of now could not possibly be of his own knowledge.

If it were a blank form it could be a blank form of the forms processed for application.

The proper Officer would be the person who processed the application.

20 I am invoking the principle of Myers v. D.P.P.

The witness has not told us who the person is.

The second ground of the objection is irrelevance.

Mr. Elliot Mottley submits that the document is admissible.

It does not link the Accused.

Mr. Mottley in answer to the Court states

In the
High Court
(Criminal)

No.26

Prosecution
Evidence

Proceedings

15th May
1982

(continued)

that the witness did not make the document or did not see it made.

The document is inadmissible as coming from this witness who know nothing about it and the circumstances of its making.

It is not proved to satisfaction of Court to be the writing of Patrick John.

Mr. Mottley refers to 39th edition of Archbold at para 1262 under the caption of method of proving handwriting.

10

Mr. Mottley refers to Sec. 19 of the Evidence Act Cap. 64.

Court observes.

"No disputed writing before Court"

I am familiar with the handwriting of Patrick John.

Mr. John has been a minister of Government.

He has been Premier and Prime Minister of the Government.

20

During the period he was Premier and Prime Minister, he was also Minister responsible for National Security.

As Minister of National Security I was responsible to him for National Security.

I therefore had during that period occasion to see Mr. John's handwriting, to witness him write and sign his name.

That is how I became familiar with his signature.

20

From time to time I received minute papers from his office.

(Mr. Mottley asks that passport document be shown to witness so that the handwriting on this document could be identified by him for comparison.

The document is relevant because of the handwriting for comparison only.

Application to put in the document is refused. It is not proved to have been signed or written by Defendant.

In the
High Court
(Criminal)

The application is refused by the Court the document is not now relevant to the other issues in this case and is not proved to have signed or written by Patrick John to satisfaction of Court.

No.26
Prosecution
Evidence

Proceedings

I look at this document identified.

15th May 1982

10 This document was handed to me by a police officer Asst. Supt. Blanchard.

(continued)

I did not personally get this document from John or see it written.

(The Court asks about the relevance of the document to proving the known handwriting of the First Accused - Patrick John.)

20 Mr. Mottley states that the statements of the document are not relevant to this case but the handwriting is and this is submitted for comparison only. Proof not satisfactory to the Court. Application refused - document not being admissible in evidence (See Cross) (R.v. Angeli) 1978 3 ALL E.R. 950.

No.27

Prosecution
Evidence

I know Algernon Maffie.

Oliver M.
Phillip
Examination

There was a hurricane David that hit
Dominica in August 1979.

15th May
1982

The prison buildings were destroyed by
the hurricane, officers quarters cell
block and so forth.

The prisoners left the compound - about
12 of those reported to prison headquarters
where they were held in police cells.

10

The others went about their business to
their homes or elsewhere.

At the time of the hurricane Maffie was a
prisoner on remand for Murder - on a
Murder charge.

A number of prisoners were retaken.

Maffie was not one of those prisoners.

He was not retaken in the first instance,
one could not locate and then no serious
effort was made to recapture the prisoners
on account of the fact that there was no
prison in which to house them.

20

Maffie was held by the police in July 1980.
The continued investigation did not
disclose evidence supporting the charge
on which he was remanded.

By the Court.

I charged Maffie on suspicion and
remanded him to prison.

30

By Mr. Mottley.

The Director of Public Prosecution then
ordered the release of Algernon Maffie
and two others who were charged on
14th December, 1981.

There was a Defence Force in Dominica.
It was disbanded on 20th April, 1981.

The Commanding Officer of the Defence Force was Major Frederick Newton.

The Second in Command was Capt Malcolm Reid - one of the Accused.

In the
High Court
(Criminal)
No.27

Prosecution
Evidence

Oliver M.
Phillip
Examination

(continued)

xxd by Mr. MacCauley for No. 1 and No. 4 Accused.

Cross-
Examination by
Mr. MacCauley

I did not go to inspect the prison buildings after the hurricane.

10 I know that the Security Block was not destroyed.

I know that persons charged with capital offences are kept in the Security Block.

That is where I would have expected Maffie to be.

I gave evidence at the Preliminary Inquiry.

I know Algernon Maffie.

On 15/4/81 I had information that he was in Guyana.

20 Up to 14/12/81 the charge of Murder was still pending against him.

The police did not take Maffie in custody in July 1981. Maffie arrived at Melville Hall Airport and the police picked him up.

He was not taken into custody.

It was not felt necessary at the time though the charge was still pending.

Before his disappearance he was remanded by the Court into custody.

I did not take him before the Magistrate.

In the
High Court
(Criminal)

It is part of the police duty to assist
the prison officers in the movement of
remand prisoners.

No.27
Prosecution
Evidence

No report was made by the police to the
Magistrate.

Oliver M.
Phillip Cross-
Examination

No report was made by the police to the
Supt. of Prisons.

I have been a police officer for many
years and during that time I have taken
many statements.

10

(continued)

Sometimes the statements are taken by
question and answer and sometimes
by narrative.

When that is done the statement is read
over to the giver of the statement.

If he says that it is correct the officer
requires him to sign it there and then.

I attended the Magistrate's Court when
the taking of evidence in the Preliminary
Inquiry into this matter began.

20

That was 12/10/81.

I do not know that a statement was taken
from Algernon Maffie on 12/10/81.

It is not easy to answer by "Yes" or "No"
your question as to whether the police
treated all other prisoners who escaped
like Algernon Maffie.

I can say "Yes" that other prisoners were
treated like Maffie.

Some were pardoned, some were commuted.

30

There were two(2) others charged with
Maffie who have not been found.

I do not know of any other prisoner who
was found like Maffie and not taken to the
Magistrate's Court.

I am the Officer Head of Security in
Dominica.

I am responsible to the Head of Government
and the Security Committee.

It is part of my duty to advise the Government through the Security Committee as to the state of security, when I am of the opinion that it is likely to deteriorate.

In the
High Court
(Criminal)

No.27

Prosecution
Evidence

Between 1974 - 5 the Premier Patrick John was head of Government of Dominica.

Oliver M.
Phillip
Cross-
Examination

There is no legal definition of a "Dread".

10 There was some legislation making certain provision for dealing with "Dreads" but that has been repealed.

There was a police "crackdown" on "Dreads" even before the law became operative.

(continued)

I was given instructions by the Premier Patrick John to carry out the law and I carried out my instructions.

I cannot say if A. Maffie was a "Dread" at the time.

20 I don't know if he was captured by the police.

In February 1980 between November 1980 and 13th February 1981 I advised the Government of this Country on Security matters.

The Hon. Eugenia Charles was then Head of Government.

After the State of Emergency was declared certain persons were detained.

30 Patrick John (No. 1), Julian David (No. 2) and Malcolm Reid (No. 4) among many others were detained.

Following their detention there was established a Retention Review Tribunal.

I was given the grounds of their detention to be served on them.

I recalled that the grounds were they conspired with persons inside and outside to overthrow the lawfully constituted government of the State.

40 I gave evidence on oath when the case of Mr. Patrick John was being reviewed.

In the
High Court
(Criminal)

No.27

Prosecution
Evidence

Oliver M.
Phillip
Cross-
Examination

(continued)

17th May
1982

I said that the Security Forces had information that Patrick John, Julian David, Dennis Joseph and Malcolm Reid had a meeting with Mike Purdue in Antigua, met there and hatched a plot to overthrow the Government.

That evidence was given on 14/4/81.

I was in the room of the Detention Review Tribunal all the time.

At no time was any suggestion made that those 4 men - Patrick John, Julian David, Dennis Joseph and Malcolm Reid met in Dominica to hatch the plot.

10

At no time was that suggestion made by the members of the Security Forces including myself who gave evidence on oath. The passports of Patrick John, Julian David and Dennis Joseph were produced to the Tribunal in my presence and shown to Mr. Blanchard an Asst. Supt. of Police.

(Mr. Mottley objects that the witness could not say that the passports did not produce.)

20

Mr. MacCauley withdraws that question.

Mr. Blanchard was sent by me to Guyana sometime in 1981. He was also sent by me to Barbados during the first part of the year.

Mr. Blanchard assisted in the investigations into the conspiracy to overthrow the Government both here and abroad.

That is why he why he went to Guyana and Barbados. He did not visit Antigua.

30

Adjournment taken at 12.05 p.m.

Jury warned.

Court resumed at 9.55 a.m. on request of Defence - new notices for

Additional evidence having been served on them after 9.15 a.m. this morning.

Jury checked, all present.

Oliver Phillip duly sworn states further:

xxd by Mr. MacCauley for No. 1 and No. 4 Defendants.

In the
High Court
(Criminal)

In 1980 Algernon Maffie (witness) was wanted by the police for suspected crimes including murder.

No.27

Prosecution
Evidence

The Police did not offer a reward for his capture.

Oliver M.
Phillip
Cross-
Examination

10 I can't recall that there were announcements on the radio or in the newspaper for information about his whereabouts. The main leading newspaper in this country is the New Chronicle. As Head of Security I read newspapers including the New Chronicle.

(continued)

I read them in 1981.

I recall that in 1981 the Prime Minister addressed the nation on the State of Emergency.

20 I recall that she informed the nation of the events leading to the State of Emergency.

I look at an issue of the New Chronicle dated March 14th, 1981.

I look at page 10 of the issue of 14/3/81 and there is a reprint of the radio broadcast of the Prime Minister and it continued on page 16.

30 In that broadcast she told the nation that Patrick John, Julian David, Dennis Joseph, Malcolm Reid had met together in a neighbouring island together with some other person whom the public would be shocked to know about.

I did not understand that other person whom the public would be shocked to hear about was Algernon Maffie.

Algernon Maffie has the reputation in the community as a "notorious character".

40 This is the reproduction of the Prime Minister's speech to the nation at pages 10 and 16 of the New Chronicle dated 14/3/81 tendered, admitted and marked Ex "P".

In the
High Court
(Criminal)

These 4 Accused persons were detained
between 27/2/81 and 6/3/81 inclusive
under the Emergency Regulations.

No.27

I gave a description of Police Headquarters.

Prosecution
Evidence

There are barracks in Police Headquarters.

Oliver M.
Phillip
Cross-
Examination

We call them dormitories.

The dormitories are located on the first
and second floor of Block B and also on
the first floor of Block D.

(continued)

The entrance to Block B is in the bathroom
entrance.

10

The entrance to Block D is on the same
bathroom entrance on the eastern side of
the building.

All these dormitories have the same
entrance and they are on the eastern side.

It was notorious that the "Dreads" used
to loot the farms of small farmers.

I was also notorious that they used to
attack girls in the villages.

20

In the 1974-5 period I can't say that a
number of people were killed by "Dreads".

The looting of the farms and the abducting
of girls were some of the reasons why
the Premier Mr. John instructed me to
"crackdown" on the "Dreads".

I received my police training initially
in Antigua and follow up training in
Barbados, Trinidad, United Kingdom and the
United States of America.

30

As a result of my training, I would say
that it is proper police practice to supply
statements from an Accused either to the
Accused or the Accused Counsel. I do not
intend to deviate from that practice.

xxd by Dr. Randolph Williams for No. 2
Accused: Declined.

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

Rxx'd by State: Declined.

40

By the Jury declined.

MARIO CHRIS TOULON EXAMINATION

In the
High Court
(Criminal)

No.28

Prosecution
Evidence

Mario Chris Toulon duly sworn states

I live at 80 King George V Street.

I am employed at the Royal Bank of Canada,
Roseau.

I am presently employed as Branch
Administration Officer.

Mario Chris
Toulon
Examination

17th May 1982

10 In 1981 I was employed with the bank as
Officer in charge foreign business.

I know Mr. Julian David (No. 2).

He was a customer of the bank at that time.

At the end July 1981, I had dealings with
Mr. David. I received cable
instructions from a bank in the United States.

As a result of those instructions the
cable was dealt with. We paid Mr. Julian
David the proceeds of the cable - U.S. 400.

20 Mr. David is a customer of the bank. I am
familiar with his signature.

This is the receipt of the paying out of
the \$400.00 to him tendered, admitted and
marked Ex "Q".

I did not see him sign Ex "Q".

This signature is Julian David's signature.

That is not the first time I have seen
that signature.

30 I became familiar with that signature
during the course of normal banking
arrangement.

(Confirming receipt).

The bank stamp on the receipt Ex "Q" is
dated 30/1/81.

In the month of March, 1981, I had another
transaction in respect of Julian David.

In the
High Court
(Criminal)

No.28

Prosecution
Evidence

Mario Chris
Toulon
Examination

I again received cable instructions from a bank in the U.S.A.

Pursuant to these instructions, it was handled in the normal banking procedure.

A copy of the payment instructions was sent to the Commissioner of Police.

Subsequently, I received a letter from Mr. David.

The bank's letter was sent to Julian David in care of the Commissioner of Police.

10

(continued)

This is the bank's letter to Mr. Julian David, in care of the Commissioner of Police tendered, admitted and marked Ex. "R" signed by me.

(Does not go to the truth of the contents in the letter)

A bank draft in favour of Julian David was enclosed in that letter Ex "R" for the sum of \$4,836.66 E.C.

I am one of the signatures in that draft.

20

That would have been equivalent to \$1800.00 U.S. less \$2.00 E.C. charge.

This is the bank draft tendered, admitted and marked Ex "S".

(not as to contents of cable).

The bank draft was cashed on the instructions I received from Julian David.

The instructions from Mr. David to the bank are written on the reverse side of the draft.

30

I recognise Mr. Julian David's signature at the bottom of those instructions on the reverse side of Ex "S".

No. 29
PROCEEDINGS

In the
High Court
(Criminal)

No.29

Prosecution
Evidence

Proceedings

17th May 1982

For Julian David (No. 2), Dr. R. Williams objects to the contents of the face of the document being admitted on the grounds that it refers to another document not made by the bank.

10 (2) Secondly, since it would amount to hearsay evidence and its prejudicial effect would far exceed its probative value I would request that the Court exercise its overriding discretion to exclude the contents on the face of the document.

Mr. Mottley Q.C. states that the document on the face was made by the witness - the bank and endorsed by Julian David on which he sets out certain circumstances.

20 What is stated at the back shows that he adopts and endorse the cheque to that extent it is admissible.

The Court rules that the document Ex "S" is admissible both as to the face and the reverse side as being adopted by the Defendant Julian David (No. 2).

(Face of document Ex "S" read).

It was signed by me.

Reverse side read, signed by Julian David and Clovid David his brother.

In the
High Court
(Criminal)

No. 30

MARIO CHRIS TOULON CROSS-EXAMINATION

No.30

Prosecution
Evidence

xxd by Mrs. MacCauley for Mr. B. MacCauley
for No. 1 and No. 4 defendants.

Mario Chris
Toulon
Cross-
Examination

xxd by Dr. R. Williams for No. 2 Julian David.

I know Julian David as a businessman.
I know that in the course of his dealings
with the bank he has received monies from
time to time.

17th May
1982

I know that those monies he received came
from various parts of the world.

10

I know that at the time Ex "S" was dated,
Mr. Julian David was in detention for
some time.

I don't recall the exact date of his
detention.

I know that he was detained in March, but
the exact date in March I can't say.

xxd by Mrs. MacCauley for No. 3 Accused:
Declined.

20

by the Jury declined.

No. 31

John Osburg
Examination

No. 31

JOHN OSBURG EXAMINATION

17th May
1982

John Osburg duly sworn states:

I live in New Orleans, Louisiana in the U.S.A.

I am a special agent with the Bureau of
Alcohol, tobacco and firearms an agency
of the U.S.A. government.

I recall 23/2/81. Then I received a
call from Michael Howell an individual whom
I had known previously. He gave me
certain information.

30

I know Michael Howell owned a 52 foot

vessel - ocean going vessel, steel hull,
diesel powered, called the Manyana.

In the
High Court
(Criminal)

On 27/2/81 I went on board the "Manyana".

No.31

While there Michael Howell received a
telephone call and spoke with someone.

Prosecution
Evidence

During the conversation, I tape recorded
the telephone conversation.

John Osburg
Examination

On 5/3/81 I went aboard the 52 foot vessel
Manyana and met with Michael Howell.

(continued)

10 Later Michael Purdue arrived aboard the
boat.

A conversation between Michael Howell,
Michael Purdue and I ensued.

Michael Purdue said that he wanted to
charter the 52 foot vessel Manyana from
New Orleans to the Island of Dominica.

20 He wished to transport arms, ammunition,
men, military equipment for the purpose
of a military coup on the island of
Dominica.

The "Manyana" was in the New Orleans
municipal yacht harbour in the U.S.A.

Michael Purdue produced maps of Dominica -
a small map of the Island, a street map
of the city of Roseau and a hand drawn
diagram of the police station and government
facilities which he said were to be attacked.

30 He said that he had a contract with the
Ex-Prime Minister and had the support of
the military.

He further stated that he was working
with the Head of the military Major Reid
and a Captain Robertson.

Michael Howell and Michael Purdue and I
then discussed the cost of the charter.

40 We agreed upon a price of \$18,000.00 US -
\$5,000.00 payment at this meeting,
\$10,000.00 payment prior to leaving the
United States and \$3,000.00 payment upon
return to the United States.

In the
High Court
(Criminal)

No.31

Prosecution
Evidence

John Osburg
Examination

(continued)

Pursuant to those arrangements Mike Purdue paid \$5,000.00 U.S. currency to me.

Apart from the documents he had in his brief case, I observed Colt 45 automatic pistol blue steel.

On 9/3/81 I received certain information.

On 13/3/81 I contacted Michael Purdue residence in Hewiston, Texas.

On 26/3/81 I spoke with Michael Purdue by telephone. I was speaking from the Manyana in New Orleans. In the course of that conversation Michael Purdue said that the mission was still on and that he was getting his plans together.

10

On 10/4/81 I spoke with Michael Purdue by telephone. He said that he wanted Michael Howell and I to purchase food for the trip and that he was sending us \$600.00 to pay for his food.

On 16/4/81 I received a call from Michael Howell. On that day I received an unopened envelope from Michael Howell.

20

I opened the envelope and inspected the contents. I found a letter from Michael Purdue and \$600.00 in money orders.

On 20/4/81 I received a message.

I spoke to Michael Purdue by phone.

He returned the call.

He spoke with me.

He requested whether or not we received the money orders. I informed Michael Purdue that I had received the money orders.

30

On 23/4/81 I contacted Mike Purdue at his residence by telephone.

I spoke with him.

Purdue said that he would like to meet with me and Mr. Howell on April 25th.

On 25/4/81 I went on board the vessel "Manyana".

In the
High Court
(Criminal)

No.31

Prosecution
Evidence

John Osburg
Examination

I received a telephone call from Michael Purdue. He said that some of his equipment was late in arriving and he would have to postpone the meeting to the 26/4/81. On 26/4/81 I went to the vessel "Manyana".

10

On that day I received a telephone call from Michael Purdue saying that he would be arriving at approximately 7 p.m. that evening aboard the "Manyana".

(continued)

At 7 p.m. that evening I was aboard the "Manyana". Special agent Lloyd Grafton was with me and also Michael Howell.

Special agent Lloyd Grafton is a officer of my department. Whilst there, Michael Eugene Purdue and Wolfgang Drogee arrived.

20

I had not met Wolfgang Drogee before that day.

Michael Purdue introduced Drogee by his name and that he was to be his second in command in the coup attempt in Dominica.

Purdue then paid me \$9,800.00 U.S. Currency. He told me that he was \$200.00 short but would leave the title to his 1977 Chevrolet car "Espalada" and upon his return to the U.S.A. I would be paid \$3,200.00.

I have the registration title with me.

30

He left the title with me at the time.

During that conversation Michael Purdue showed me a small map of Dominica, the street plans of the city of Roseau and the hand drawn diagram of the police barracks and government facilities.

He also gave me several maps of the island of Dominica.

40

He stated that their main objective once upon the island was to attack the jail and police facility to free Patrick John, the Ex Prime Minister and his men.

In the
High Court
(Criminal)

No.31

Prosecution
Evidence
John Osburg
Examination

That he had a contract with Patrick John to supply arms, ammunition, men and military equipment in their attempt to overthrow the government of Dominica.

From the "Manyana" Wolfgang Drogee, Michael Purdue, Grafton and I drove in Purdue's car to an intended departure site. That was in an area of New Orleans called the "Rigolets". I inspected the area.

From there we returned to the "Manyana".

10

(continued)

On the "Manyana" there were further discussions.

I told Michael Purdue to meet me in the boat on April 27th, 1981 at 10 p.m. at the departure site.

In the meetings and conversation with Michael Purdue which I have described I was acting in the capacity of a United States agent in an undercover capacity.

In that respect in relation to the boat Manyana I took up the position of a deck hand and also associate of Mike Howell.

20

On 27/4/81 I went to the departure site at the "Rigolets". Special agent Lloyd Grafton was with me and Special Agent Robert Rowe.

Other members of my department were in the vicinity concealed in the surrounding area.

At about 10 p.m. that evening Michael Purdue and nine(9) other men arrived at the location - Wolfgang Drogee, Larry Jacklin, Robert Pritchard, Christopher Anderson, Stephen Black, Joe Hawkins, William Woldrop, Michael Harris, George Maldeney - all total ten individuals. They unloaded guns, ammunition, military gear, clothing and other items from their vehicles and placed them in two United States Govt. unmarked vehicles.

30

40

One vehicle was a van. The other was a bobtail truck. Michael Purdue sat in the front of the truck with me while I drove.

Eight of the men were in the back of the

truck and Robert Pritchard who was acting as a look-out was picked up by agent Grafton in the van.

In the
High Court
(Criminal)

10 After the loading of the equipment Purdue stated that he had dynamite and blasting caps to use on the island to intimidate the people or should they incur resistance. After the loading of the vehicle we proceeded to the Harbour View Marina.

No.31
Prosecution
Evidence
John Osburg
Examination

The van also proceeded there where Mr. Purdue and his men were to board the "Manyana".

(continued)

The "Manyana" was not there.

I and my other officers then arrested Mike Purdue and the nine(9) other men.

The various items of equipment in the van and truck were brought to my office.

20 I kept them in my custody until the following day.

The explosives were taken from the truck that night by Curtis Williams, an agent with my party.

They were removed because of the danger of having explosives in an unsecured location.

I have training in relation to explosives.

Over the past 10 years I have attended approximately 15 schools related to "bomb" scene investigations.

30 I saw 26 sticks of one pound (1 lb) dynamite. It is very destructive.

In relation to the other things they were retained in the custody of my department.

40 On the following day a search warrant was obtained. I carried out an examination of these things. They were rifles, shot-guns, pistols, ammunition, rubber raft, bolt cutters, a Nazi flag, a confederate flag, military uniforms, personal clothing, brief case belonging to Mike Purdue.

In the
High Court
(Criminal)

No.31

Prosecution
Evidence

John Osburg
Examination

I examined the brief case.

I found a Colt 45 pistol, a passport issued to Mike Purdue, a letter of agreement dated September 20th, 1980 the words written "Patrick John" in handwriting. A contract typewritten carbon copy with corrections and another arrangements typewritten contract.

This is the letter of agreement which I found in the brief case of Purdue tendered, admitted and marked Ex "T".

10

(continued)

This is the carbon copy found in Purdue brief case tendered, admitted and marked Ex U1 - 5".

This is the typewritten contract found in Purdue Apostrophe brief case tendered, admitted and marked Ex "V".

There was a letter pouch, a small note handwritten tendered, admitted and marked Ex. "W".

20

In the Louisiana Court I produced the documents which I have just produced.

Mr. Theodore Duroncellet is the Clerk of that Court.

These documents were amongst other placed in his custody in these proceedings.

Cross-
Examined
by Mr.
MacCauley

xxd by Mr. MacCauley for No. 1 and No. 4.

I know Patrick John from pervious Court proceedings before the Magistrate in Roseau.

30

I don't know his signature.

I did give evidence before the Magistrate in the Preliminary Inquiry into this case in October, 1981.

The Magistrate wrote down what I said.

Then he asked me to listen to what he had written down. He then read it over to me. I listened to what he was saying. He asked me if there was anything wrong or incorrect to add, to let him know. I told him that it was correct.

40

I was invited to sign my deposition and I did so. I look at my deposition. I signed every page of my deposition - all except the first page. I look at page 5. I see recorded there, "He Purdue said he first objected to free Patrick John from gaol".

In the
High Court
(Criminal)

No.31

Prosecution
Evidence

I did not say, "He, Purdue said he first objected to free Patrick John from gaol".

John Osburg
Cross-
Examination
by Mr.
MacCauley

10 I said, "He Purdue said his first object is to free Patrick John from gaol".

I gave evidence in the U.S. District Court Criminal action U.S. v.

(continued)

Michael S. Morris, Joe D. Hawkins,
Stephen D. Black on 17/6/81.

Speaking about my conversation with Purdue on 26/4/81 I and Purdue said at page 1049 of the record and then at page 801.

20 I look to see that the document come from the Court.

I did say in that case, "They had intentions of getting as much as they could from the island, opening up as many avenues, trying to entice many businesses from the United States and any other country into the Island they possibly could developing it to its fullest extent and leaving with as much money as they could for themselves and their men.

30 Adjournment taken at 12.50 p.m.

Jury warned.

Court resumed at 1.35 p.m. after waiting for Counsel.

Jury checked, all present.

In the
High Court
(Criminal)

No. 32

PROCEEDINGS

No.32

Prosecution
Evidence

Proceedings

17th May
1982

Mr. MacCauley states that checking the notes of his junior Dr. Williams of the Preliminary Inquiry he found that the witness John Osburg did say at the Preliminary Inquiry "that their first objective would be an assault on the police facility to free Patrick John and his men."

10

When the Magistrate was reading the deposition Mrs. MacCauley, junior made a note that she read that, "He Purdue said he first objected to free Patrick John from gaol".

Mr. MacCauley states that the position of the defence is that having seen the notes on our side we want to withdraw any suggestion of contradiction in relation to the words:-

20

"He Purdue said that the first objective was to free Patrick John from goal".

In relation to this the tendering of the deposition would not be necessary.

No. 33
John Osburg
Cross-
Examination
(continued)

No. 33

JOHN OSBURG CROSS-EXAMINATION

John Osburg duly sworn states further:-

xxd by Mr. MacCauley for No. 1 and No. 4
Accused.

Mr. Purdue at this time is incarcerated in the Federal Penitentiary in Tyler, Texas. I do not know of any arrangements being made for him to attend the trial. I told of what he Purdue told me of Patrick John. I had not met Patrick John. The first time I heard of Patrick John was

30

from Mike Purdue.
All the information I have of Patrick
John was from Mike Purdue.

In the
High Court
(Criminal)

xxd by Dr. Randolph Williams for No. 2
Accused: Declined

No.33

Prosecution
Evidence

xxd by Mrs. MacCauley for No. 3
Accused: Declined.

John Osburg
Cross-
Examination

(continued)

Rxxd by Dr. Barnett.

Re-
Examination
by Dr. Barnett

10

I was asked by Mr. MacCauley to look
at page 101 of the record of the
proceedings in Louisiana.
He asked me whether I had said that
Michael Purdue told me that they had
intentions of getting as much as they can
from the islands and so on.

That statement was not in respect of all
of the conversation in respect of which I
gave evidence in those proceedings.

20

Through the Court by Mr. MacCauley for
No. 1 and No. 4 Accused.

I was present but not during the entire
testimony when Lloyd Grafton gave his
testimony in Louisiana.

Rxxd by Dr. Barnett Declined.

By Jury declined.

THEOPHILE DURONCELET EXAMINATION

No.34

Prosecution
Evidence

Theophile
Duroncelet
Examination

17th May
1982

Theophile Duroncelet duly sworn states:

I live in New Orleans, U.S.A.

I am the Deputy Clerk assigned to the
U.S. District court for the Eastern
District, Louisiana.

I was clerk to the Court in a trial on an
indictment charging a number of persons
including Michael Purdue Drogee and
others.

10

A number of documents were received in
those proceedings.

I kept those exhibits in my custody.

In the Preliminary Inquiry in the
Magistrate's Court in this country I
tendered certain documents, a letter and
two contract documents which I was
allowed to retain in my custody.

I produced photocopies of those documents
in the Magistrate's Court.

20

These are the original documents identified
as Ex "T" (letter) Ex "U1-5", Ex "V"
and Ex "W" which I produced at the
Magistrate's Court.

I also have the copies which were marked
and left in that Court tendered, admitted
and marked Ex "T", "U", "V", "W" I
respectively.

xxd by Mr. MacCauley for No. 1 and No. 4
declined.

30

xxd by Dr. Williams for No. 2 Accused
declined.

xxd by Mrs. MacCauley for No. 3 Accused
declined.

By the Jury declined.

Lloyd Grafton duly sworn states:

I live at New Orleans.

I am employed by the Bureau of Alcohol,
ammunition and firearms of the U.S.A.
Treasury.

10 In April 1981 I became involved in certain
investigations as a special agent in an
investigation into what we believed were
arms illegally leaving the U.S.A. to be
used in a military coup in the country of
Dominica.

I work with John Osburg.

On 26/4/81 John Osburg and I met with
Michael Purdue on the Lake Front in New
Orleans, Louisiana.

Michael Purdue introduced me to Wolfgang
Drogee on that day.

20 He told me that Drogee was one of the
people making the trip to the island of
Dominica with him.

This meeting was on a boat belonging to
Mike Howell - the "Manyana".

During that meeting Michael Purdue spoke
to John Osburg and myself.

He advised us that he had spent one year
approximately making the plans for this
military coup.

30 He advised us that he had the men, the
weapons, and the supplies.

John Osburg, myself, Mike Howell were
going to transport him on the boat that
belonged to Howell.

Purdue gave Osburg \$9,800.00 in U.S.
currency.

He gave him what we call a title belonging
to an automobile that he could hold
until he could pay him.

40 It was a new gun - a 45 automatic Colt
that Purdue showed to us.

He described his plans.

He said that he was coming come ashore
in the small boats that he had, north of
the capital city Roseau, the capital city
of Dominica.

He advised us that he had people on the
island that were going to assist him when
he arrived on the Island and when he

In the High Court (Criminal) No.35 Prosecution Evidence Lloyd Grafton Examination (continued)

freed them from goal.
He said that he would be taking approximately a dozen men to Dominica. I don't remember the number.
He said that he was taking rifles, shot-guns.
He said that he had some explosives.
He said that he had all the military supplies that he would need.
He said that once he was on the Island he would free a man by the name of Patrick John and that he Purdue would be given a position within the Government of Dominica.
He said that it would be some type of military position.
Purdue advised that there was a Canadian woman on the Island and was assisting him at that time.
He gave special agent Osburg some maps so that we would chart a course to the island of Dominica.
He mentioned Patrick John.
He described to us how he would take the police station and how many men were at the police station.
On 27/4/81 about 10 p.m. we were waiting for the mercenaries to arrive at Fort Pike. At about 10.15 p.m. I saw Michael Purdue. He arrived with a group of men. They came in two vehicles.
We all loaded the arms and equipment into a van or truck.
We loaded guns, ammunition, military supplies, personal belongings of the men that were present - shaving gear, clothing. There were 32 guns in all - 9 pistols, 10 shotguns, 13 long guns or rifles. There were bushmaster 223 rifles. There were other rifles besides the bushmasters.
The ammunition were for the guns approximately - 5000 rounds in all. Purdue and the other men were arrested on that night.
I personally took charge of all equipment in the van except the explosives.
The firearms were transported back to the office of the Bureau of alcohol and firearms.
I produced these items in Court in Louisiana.
I gave evidence before the Magistrate's Court in respect this matter.
The ammunition, rifles, shot guns, hand guns I have with me.

10
20
30
40
50

There was also a large weather raft and also medical equipment, bayonet knives, large wire cutters.

In the
High Court
(Criminal)

No.35

Prosecution
Evidence

Lloyd Grafton
Examination

(continued)

xxd by Mr. MacCauley for No. 1 and No. 4.

Cross-
Examination
by Mr.
MacCauley

I gave evidence in the U.S.A. - the case of the State vs. Morris.

Hawkins and Black.

Mike Purdue was not a defendant on this case.

10 I don't recall Purdue saying that he was in the U.S. Marines - he may have.

I do recall his saying that he was in Vietnam.

I do not recall if any check was made about these matters.

Purdue did say that he would handle narcotic from the Island and that we would transport it back to the U.S.A. for him.

20 He said that his undertaking was a financial one and not a political one.

I am a member of the ATF - the Alcohol, Tobacco and Firearms agency.

In the course of my duty I am interested in people who propose narcotic traffic in the U.S.A.

Purdue never showed me a contract personally.

I did not see a contract.

30 John Osburg was present with me during conversations with Purdue on 26/4/81.

On 28/4/81 I can't recall having met Mike Purdue.

I met Purdue on my undercover operations on 26/4/81 and 27/4/81 twice.

I do not recall his telling me in the presence of Osburg that he had received a letter for Patrick John.

In the
High Court
(Criminal)

No.35

Prosecution
Evidence

Lloyd Grafton
Cross-
Examination
by Mr.
MacCauley

(continued)

Re-
Examination
by Mr.
Mottley

When I met Purdue on 26/4/81 Osburg was present.

I heard what Purdue said to Osburg a great deal of that time.

I did not at anytime hear Purdue speak of a letter for a Mr. Patrick John. Before April 1981 I had not met Mr. Mike Purdue.

Before I give evidence in the Magistrate's Court in Roseau, Dominica, I had seen the man described as Patrick John.

Purdue said things to me using the name Patrick John and other men. There were efforts made to verify the contract but not by me personally.

xxd by Dr. Williams for No. 2 declined.

xxd by Mrs. MacCauley for No. 3 declined.

Rxxd by Mr. Mottley.

The contract or agreement was between Patrick John and Michael Purdue. I know about the contract for Michael Purdue.

By the Jury declined.

At this stage Mr. Mottley said that he would wish to go through the additional evidence with respect Hemple Bertrand.

10

20

No. 36

Michael
Sylvester
Examination

No. 36

MICHAEL SYLVESTER EXAMINATION

17th May
1982

[Michael Sylvester duly sworn states:

I am Sgt. of Police attached to the Investigation Section of the Melville Hall Airport - for 27 months. On 15/1/81 I was on duty at Melville Hall Airport attending passengers leaving on LIAT.

I know one Hemple Bertrand. I saw him on that day. I dealt with him as an outgoing passenger.

30

40

I saw him board LIAT flight No. 333 and I saw the aircraft leave for Antigua. He was on the aircraft. Since then I have not seen him. I gave evidence in the Magistrate's Court on 15/10/81 before Magistrate Williams, Magistrate of District E. I was present on that day when Hemple Bertrand gave evidence. Bertrand that gave evidence at the Magistrate's Court and the Bertrand that left were one and the same person.

10

xxd by Mr. MacCauley for No. 1 and No. 4 Accused: declined.

xxd by Dr. Williams declined for No. 2 Accused.

xxd by Mrs. MacCauley for No. 3 Accused: Declined.

By the Jury declined.]

In the High Court (Criminal)

No.36
Prosecution Evidence

Michael Sylvester Examination

(continued)

20

No. 37

No. 37

LLOYD BERTRAND EXAMINATION

Lloyd Bertrand Examination

[Lloyd Bertrand duly sworn states:

17th May 1982

I live at Marigot.
I know Hemple Bertrand.
He is my son.
He is not in Dominica at the moment.
Before he left Dominica he lived at my home.
He lived at my home from a boy until after David Hurricane.
He and another fellow had a business at Stop and Go, Concorde.
On 15/1/81 my son left for Tortola.
I saw when he left.
Up to this time he has not returned to the State.
I received letters from him.

30

xxd by Mr. MacCauley for No. 1 and No. 4.

Cross-examined by Mr. MacCauley

40

Last week my daughter received a letter from him.

In the
High Court
(Criminal)

No.37

Prosecution
Evidence

Lloyd
Bertrand
Cross-
Examination
by Mr.
MacCauley

In April I received one.
The letter came by post.
As soon as I finished with the letter
I tore it.
I saw my son leave at Melville Hall Airport.
I went there.
I have not seen him in Dominica since then.
I have not seen him in Dominica since I
saw him leave.
After Hurricane David he no longer
lived with me.
He lived at the Stop and Go, Concorde.

10

By the Court

He left Dominica from my home on 15/1/81
and went away.
He had not returned to my home.

(continued)

He live at my home in December 1981 and a
part of January, 1982.

By Mr. MacCauley declined.

Cross-
Examination
by
Dr. Williams

xxd by Dr. Williams for No. 2 Accused.

20

My son Hemple is 22 years.
He did not have a family of his own.
He had children - one.
The baby mother is a lady from Maho.
The child is about 3 years.
Hemple used to visit Maho often.
He used to live with the lady sometimes.
I can't estimate how far Maho is from
Marigot.
It would take about one hour and 15 minutes
from Marigot to Maho.

30

xxd by Mrs. MacCauley for No. 3 declined.

By the Jury declined.]

No. 38

CARLOS VICTOR EXAMINATION

In the
High Court
(Criminal)

No.38

Carlos Victor duly sworn states:

Prosecution
Evidence

I live in Natram Chambelle.
I am Clerk of Magistrate of District E.
On 15/10/81 I was Clerk to the Magistrate.
On that day I was present when Hemple
Bertrand gave evidence into the
Preliminary Inquiry into this matter.
10 The Accuseds were all present in Court
on that day and represented by Counsel.
The Counsel had full opportunity to cross
examine Bertrand.
When Bertrand finished his evidence, the
deposition was read back to him.
The Magistrate had written down the
evidence in deposition.
The Accused were present when he read
back the evidence.
20 He was given an opportunity of correcting
any mistakes.
Bertrand then signed the deposition as
being true and correct in my presence.
The Magistrate also signed the
deposition.
This is the deposition identified.
Mr. Mottley asks leave to tender.

Carlos Victor
Examination

17th May 1982

No. 39

PROCEEDINGS

No. 39
Proceedings

17th May 1982

30 Mr. MacCauley states that he is objecting
to the tendering of the deposition on the
ground that State has not shown that the
deponent is still about from the island.

The evidence of the witness Bertrand
discloses 3 things:

- (1) After Preliminary Inquiry in 1979,
the deponent no longer lived with
his father.
- (2) The evidence discloses that he has
two (2) homes.

In the
High Court
(Criminal)

No.39

Prosecution
Evidence
Proceedings
17th May
1982
(continued)

(3) He went to Tortola and he has written to his father.

I state the objection formally.

Dr. Williams for No. 2 Accused adopts the argument of Mr. MacCauley and wishes to say that in the recent past Hemple Bertrand has had 3 places of abode - before 1979 at Marigot with his father sometime after 1979 at the Stop and Go at Concorde and evidence from his father that he used to live with a baby mother at Maho - used to live with her sometimes.

10

He has not returned to the Marigot place of abode. That there is no evidence that he had not returned to Maho and Concorde.

Mrs. MacCauley has nothing to add.

The Court rules that it is satisfied that the deponent is absent and there is compliance Sec. 187 Cap. 26]

Deposition is tendered.

20

This is the deposition of the witness Hemple Bertrand, tendered, admitted and marked Ex "X".

(Deposition read in compliance).

xxd by Mr. MacCauley for No. 1 and No. 4 declined.

xxd by Dr. Williams for No. 2 declined.

xxd by Mrs. MacCauley for No. 3 declined.

By the Jury declined.

Veronica Mitchell duly sworn states:

30

.....
.....

18th May, 1982

Court resumes at 8.35 a.m.

Jury checked, all present.

GENE PESTIANA EXAMINATION

In the
High Court
(Criminal)

No.40

Prosecution
Evidence

Gene Pestiana
Examination

18th May 1982

Gene Pestiana duly sworn states:

I am Inspector of Police No. 161 of the Commonwealth of Dominica Police Force.

Presently I am in charge of the Eastern District.

On 15/10/81 I was attached to the Special Branch.

10 I know the Accused Capt. Walter Reid or Malcolm Reid.

He was a member of the Defence Force.

Whilst a member of the Force I have visited Reid at Defence Force Headquarters on many occasions.

On many of those visits I have seen his writing.

I know his hand writing very well.

I have seen him write.

20 Capt. Reid and I were very good friends.

I look this diary.

Mrs. MacCauley for Mr. MacCauley objects (Mr. Mottley for State that it is his intention to put in this diary.)

I did not see Capt. Reid write this diary particularly.

No.41

Prosecution
Evidence

Proceedings

18th May
1982

Mrs. MacCauley for Mr. MacCauley and
Dr. Williams for No. 1, 2, 3, 4 Accused
states that he objects to the admissibility
of the diary on the ground that the
prosecution has not shown any relevance

(2) and it has not been produced from
proper custody.

(3) that the witness said that he had not
seen the accused write this particular
document.

10

In answer Mr. Mottley states that the diary
is admissible, for the purpose of the witness
using it to identify the handwriting of
Walter Reid so that it can be used for
comparison by someone else in relation to
one of the Exhibits - in relation to two
Exhibits hereby produced.

The only relevance the diary has is in
relation to comparison of handwriting in
Exhibits "W" and Ex "N".

20

He refers to Sec. 19 of Evidence Act.
Cap 64 Evidence Act "Comparison of a
disputed with any writing proved to the
satisfaction of the Judge etc."

That is exactly the same provision as
Sec. 8 of the Criminal Procedure Act
1865.

By writing "proved" at Para 1262 of
Archibold 39th edition.

30

Method of proving handwriting - 4 different
methods:

(1) a person having knowledge of it.

(2) Comparison

(3) Expert

(4) Presumption

Knowledge

1263

(Comparison of a disputed with "genuine is proved"

Phipson Manual 9th edition

When a person's handwriting is in question to the satisfaction of the Judge to be genuine.

At page 75 of Phipson.

The genuineness of a parties handwriting.

10 (Court notes - not in respect of a disputed writing where the writing has to be proved to the satisfaction of Court to be genuine).

Phipson on Evidence Eleventh edition para 316, under the caption "Handwriting".

The documents need not be admissible for any other purpose.

Para 317.

20 Genuineness may be proved not only by experts but by non-experts.

Para 1613.

Halsbury Vol. 17 4th edition para 91.

Comparison with disputed handwriting PROVED to the satisfaction.

Proof of genuineness must be given at the trial itself.

Birch v Ridgeway

1 F & F 1858

30 "When properly proved to be the defendant's handwriting."

"Properly proved"

Doe d Mudd v Suckermore

Vol 22 Empire Digest

para 1873

In the
High Court
(Criminal)

No.41

Prosecution
Evidence

Proceedings

18th May 1982

(continued)

In the
High Court
(Criminal)

R v Henseyn

para 1756

No.41

Roscoe's Criminal Evidence

Prosecution
Evidence

page 9

Proceedings

Simplest mode of proof.

18th May
1982

My submissions relating back to the
evidence is that there is nothing in the
nature of the document to cast doubt on
the identification of the document.

(continued)

The witness has said that he is familiar
with the handwriting of the Accused
Malcolm Reid.

10

He further states that he has seen him
write on other occasions.

He has said that he has visited him at his
work while he was a member of the
Defence Force and he has seen him writing
on many occasions.

I repeat the portion which I read from
Phipson that

"A statement that the witness is acquainted
with the party's handwriting is generally
sufficient in chief".

20

Mr. Mottley states that the evidence the
witness knows the handwriting of the
Reid Walter, that he has seen him write on
many occasions is sufficient in order
that the document be submitted.

The Court refers Counsel Mr. Mottley to

R v. Angeli

1978 3 All E.R. 950

30

(Which the Court states formed the basis
of his previous ruling in this matter).

Adjournment taken at 10.45 a.m.—

For all Counsel to read and consider.

R v Angeli

1978 3 All E.R. 950 as submitted to them by Court.

Jury warned.

Court resumed at 11.27 a.m.

Jury checked, all present.

Mr. Mottley states that he had an opportunity to read

In the
High Court
(Criminal)

No.41

Prosecution
Evidence

Proceedings

18th May 1982

(continued)

R v Angeli

10 Handwriting which had been given by the appellant.

8 pieces of paper found in his room or his person.

Answers given by defendant equivocal.

Judge ruled that writing is admissible.

Unless admissible under the Section.

Judge had to ask himself whether the disputed writing, whether they emanate from his hand.

20 Mr. Mottley refers again to para 1322 of Phipson not on the question of comparison but as proving handwriting - not to prove comparison.

What we are seeking to do is that he is accustomed to see him write.

The standard.

Evidence should be allowed and document tendered.

30 Mr. MacCauley Q.C. says that Mrs. MacCauley was holding for him.

He said that Mr. Mottley has lost sight of a clause in Section 19 "prove to the satisfaction of the Judge"

In this respect I wish to refer to the case which the Court produced.

In the
High Court
(Criminal)

R v Angeli

at page 953 at letter "f"

No.41

"The 1865 Act has already stated" etc

Prosecution
Evidence

Before 1865 the standard of proof in
Courts dealing with Civil matters was
that the Judge must be satisfied on a
balance of probabilities etc.

Proceedings

18th May
1982

I refer to Cross on Evidence 4th Edition
pages 98 to 99.

(continued)

That standard of proof as at letter "f"
is not applicable to Dominica - Section (1).

10

The question that arises is that that
standard of proof does not apply to
Dominica.

There is a rule that a statute is not to be
construed as changing the common law by
necessary implication.

By Section 1 of the Act the Standard of
proof was changed.

Letter "c" of page 953 note letter "e".

20

No such application to Section 19 of the
Evidence Act, Cap. 64 of Dominica.

There is no such provision in the laws of
Dominica.

I have looked in vain in the laws of
Dominica - particularly the Evidence
Cap. 64.

The Common Law is not abrogated unless by
expressed words or by implication.

By Angeli the standard of proof does not
apply.

30

At the end of the day the prosecution would
have to satisfy the Court beyond reasonable
doubt as to the genuineness of the handwriting.

Assuming that I am wrong, and I submit that
I am not, whether the standard be beyond
reasonable doubt or a civil standard the
Judge has to be presented with evidence that
has that quality to enable him to say

"I am satisfied within the meaning of the Section".

In the
High Court
(Criminal)

Either applying criminal standards which I submit is the correct standard in Dominica, the case of R v. Angeli is very helpful to our objections.

No.41

Prosecution
Evidence

(1) Angeli himself supplied some of the handwriting.

Proceedings

18th May 1982

10

(2) Writings were found in his room which raised reasonable inference that they were his handwriting.

(continued)

(3) Writings were found on his person which raised a reasonable inference that they were his.

Over and above what he supplied there were writings which could be said to be his.

That was the quality of the evidence before Court.

20

What is the quality of the evidence presented to this Court.

(1) that the witness had seen the fourth defendant write on many occasions without telling us of the last occasion.

(2) He is a friend of the Accused.

(3) Thirdly, he has not seen the fourth Accused write the diary.

30

The quality of the evidence presented is such that it does not even meet the Civil standard of proof, a fortiori, the Criminal standard of proof.

(4) The evidence that he had seen him writing.

He has not seen what the Accused write.

Mr. Mottley said that he believed that Section 8 applies to all criminal courts in England.

Mr. Mottley states that this is all the evidence that the witness could give in relation to that document - the diary.

In the
High Court
(Criminal)

No.41

Prosecution
Evidence

Proceedings

18th May
1982

(continued)

The Court rules that it is not proved to the satisfaction of the Court that the writing in question the diary is proved to be the satisfaction of the Court to be that of Malcolm Reid in accordance with Section 19 Cap. 64.

Gene Pestaina duly sworn states further:

I look at this document identified, marked GP2 to 6.

Mr. Mottley states that these documents were being put in for the same.

10

I see Malcolm Reid's handwriting on those documents GP2 to 6.

I say that they are his handwriting because I know his handwriting very well.

Mr. Mottley asks that they be produced in evidence in this case.

Mr. MacCauley objects to the admissibility of his evidence that the evidence is insufficient.

20

xxd by Mr. MacCauley as to the admissibility of the document.

(Adjournment taken at 12.25 a.m.) (sic)

Jury warned.

Court resumed at 2.30 p.m.

Jury checked, all present.

Gene Pestaina duly sworn states further:

Mr. MacCauley Q.C. asks leave to put in the documents on the voire dire on this issue.

30

Mr. MacCauley Q.C. states that he does not wish the Jury to retire.

These are the five documents shown to me by Counsel, tendered, admitted and marked EX "A1-5".

I was not present when any of these documents was prepared.

Rxxd by Mr. Mottley declined.

10 Mr. MacCauley Q.C. states that he adopts the arguments made in reply to Mr. Mottley Q.C. when this issue as to admissibility was previously raised in respect of the diary that the quality of the evidence falls far short of what is required to prove to the satisfaction of the Judge that the writing is genuine in according with Section 19 of Cap. 64.

Mr. Mottley states that he adopts the submissions which he made earlier in reply.

They bear the stamp of Dominica Defence Force.

Court rules that the documents are not proved to the satisfaction of the Court to be genuine writing of Malcolm Reid and accordingly inadmissible.

In the
High Court
(Criminal)

No.41

Prosecution
Evidence

Proceedings

18th May 1982

(continued)

20

No. 42

No. 42

GENE PESTIANA EXAMINATION

Gene Pestiana
Examination
(continued)

Gene Pestaina states further:

18th May 1982

I look at the exhibit Ex "N 1" marked for identification.

I say that the handwriting in this document is Malcolm Reid's handwriting.

I know his handwriting very well.

30 I have seen him write several times before and it is not different from the handwriting I see before me now. I have not only seen him write but I have seen the content of document written by him.

In the
High Court
(Criminal)

No. 43

PROCEEDINGS

No.43

Prosecution
Evidence

(Mr. MacCauley states that P.C. Pacquette said that document was contained in an envelope given to him by Roberts).

Proceedings

The Commissioner Phillip gave evidence and he said that the document was handed to me in the afternoon of 5/3/81.

18th May
1982

At no time was it suggested that the document emanated from Reid.

10

This witness's evidence seems to say that this is Reid's handwriting and Counsel seeks to tender it as Reid's handwriting.

I submit that in the light of the evidence I have referred to that document could not affix criminal liability to Reid for this offence.

It has not been shown to be connected with the conspiracy in Count One, either to prove a general conspiracy or to connect Reid with the general conspiracy.

20

That goes to relevance. There is a missing link somewhere.

In reply Mr. Mottley states that in the circumstance the document is admissible because there is sufficient in the document to show relevance.

There is mention of a name in the document and it should be left to Jury to draw what inference they wish.

30

It is a question for the Jury.

The Court rules that the document is admissible as the writing of Malcolm Reid only. (The nexus is missing).

GENE PESTIANA EXAMINATION

In the
High Court
(Criminal)

No.44
Prosecution
Evidence

Pestiana continues:

This is a letter written by Malcolm Reid,
tendered admitted and marked Ex "N".

(Court points out that comparison with
disputed writing no longer arises and
Mr. Mottley say, "Yes").

Gene Pestiana
Examination
(continued)

18th May 1982

Document read.

10 xxd by Mr. MacCauley for No. 1 and No. 4
Accused.

Cross-
Examination

I know a man called Algernon Maffie.
He is a man of some notoriety in this
community.

I was in the Special Branch since 1974.
I was concerned chiefly with matters
affecting the Security of the State.
In 1974, 1975 there was a crackdown on
the "Dreads".

20 The "Dreads" were thought by the Security
Forces of killing people.

I think that it was in 1976 that the
"Dreads" were believed to have kidnapped
two girls.

They looted farms of small farmers.
At that time Mr. Patrick John was Premier
of this country.

Algernon Maffie was not captured by the
police. He was arrested by the police.

30 I know Peter Maxime Thomas.
He was in the police force during the time
1974 to 1976.

xxd by Dr. Williams for No. 2 Accused
declined.

xxd by Mrs. MacCauley for No. 3 Accused
declined.

Through the Court by Mr. Mottley for the
Prosecution.

40 I look at this document Ex "W" (admitted
through John Osburg). (Question of nexus?)

This document Ex "W" is Malcolm Reid's
handwriting identified.

In the
High Court
(Criminal)

I say so because I know his
handwriting very well.
I have seen him write before.

No.44
Prosecution
Evidence
Gene Pestiana
Cross-
Examination

xxd by Mr. MacCauley for No. 1 and No. 4
Accused.

It is not true to suggest that the document
Ex "W" is not in the handwriting of
Malcolm Reid.

I say it is.

I know that he has been there many times.
There are rooms at the police station.
There are two main entrances at the police
station.

10

(continued)

The main entrance is on Bath Road.
The second entrance is on Bath Road.
both are on Bath Road.
There are two (2) main entrances.
There is a third entrance - south on King
George, the Fifth Street.

There is no entrance to the north.

20

I look at Ex "W".

The document Ex "W" indicates two entrances
The document Ex "W" first sentence.

"North Barrack entrance".

The second sentence in Ex "W" reads,
"South Barrack entrance".

If this document Ex "W" was supposed to
represent the entrances to Police
Headquarters, it would be wrong.

30

xxd by Dr. Williams for No. 2 Accused
declined.

xxd by Mrs. MacCauley for No. 3 Accused

It would not be possible for you (Mrs.
MacCauley) as a civilian to go in Police
Headquarters and draw a plan of it -
not now.

It would have been possible in 1980 for you
to walk in the Police Station with your
note book, make plans and walk out.
That was possible.

40

Re-
Examination
by Mr.
Mottley

Rxxd by Mr. Mottley.

We don't refer to them as "Barracks".
There are separate rooms - dormitories
more or less.

There are two(2) buildings.
One building goes from North to South
- small buildings.

Adjoining the small building is a long building, that goes from East to West.

By the Jury.

The Police Headquarters have two main entrances.
The main gate facing east on Bath Road and the second main entrance, the charge office door on Bath Road facing east as well.

In the
High Court
(Criminal)

No.44

Prosecution
Evidence

Gene Pestiana
Re-Examination

(continued)

10

No. 45

MERVIN HOLDER EXAMINATION

No. 45
Mervin Holder
Examination

18th May 1982

Mervin Holder duly sworn states:

I am a Supt. of Police of the Royal Barbados Police Force.

I am a document examiner.

I received my training initially by means of correspondence from the Institute of Applied Sciences, U.S.A. after which I had extensive training in the United Kingdom at Glasgow Police Laboratory, Glasgow, Scotland and at the Home Office Forensic Laboratory at Llaninshim, Cardiff, Wales. I have specialised in the identification of handwriting and typewriting.

I have given evidence in this respect on diverse occasions in Barbados.

I have been involved in this field for over 20 years now and I returned from training 10 years ago.

I have given evidence in this field ever since.

I was requested to examine certain documents as to comparison.

xxd by Mr. MacCauley for No. 1 and No. 4 Accused.

Cross-
Examination

Handwriting experts must have known handwriting to compare with disputed handwriting.

In the
High Court
(Criminal)

They want to be sure that the known
handwriting is authentic.
It must be proved that it is authentic.

No.45

(note by Court - not merely familiar).

Prosecution
Evidence

It does not matter to me whether the
handwriting was freely given so long as
it belongs to that person.

Mervin

Holder Cross-
Examination

The first thing one does in a comparison
is to look for differences in the
handwriting.

10

This is so because any significant
difference could point away from common
authorship.

(continued)

Where we suspect that this handwriting
could have been traced we look for
evidence of tracing.

My work is made much easier if there are
letter groups.

You would reach a conclusion sooner.

20

It is true that over a period of time the
style of the writing could change for a
number of reasons including maturity, old
age, social status.

xxd by Dr. Williams for No. 2 Accused
declined.

Cross-
Examination

xxd by Mrs. MacCauley for No. 3 Accused.

I would not agree that the science of
identifying handwriting and typescript
is an imprecise one.

30

In my experience the opinion of a
handwriting expert has been rejected in
a Court room.

The opinion of other experts too.

I have not come across a case where the
handwriting of a 40 has been found to be
that of a woman of 26, I compare it for
the purpose of saying who wrote it.

By the Jury declined.

THOMAS DEWAN EXAMINATION

In the
High Court
(Criminal)

No.46

Prosecution
Evidence

Thomas Dewan
Examination

18th May 1982

Thomas Dewan duly sworn states.

I live in Mimas Virginia, U.S.A.
I am a special Agent of the Federal
Bureau of Investigation.
I am currently assigned to the F.B.I.
Laboratory in Washington D.C. as a
examiner of questioned documents.
10 In this capacity I conduct examinations
involving questioned handwriting,
handprinting, typewriting, photocopying
and other matters of a documentary nature.
I have had special courses in this field.
I have been employed by the F.B.I. for over
10½ years.
I was requested to examine certain
documents.

20. xxd by Mr. MacCauley for No. 1 and No. 4
Accused declined.

xxd by Dr. Williams for No. 2 Accused
declined.

xxd by Mrs. MacCauley for No. 3 Accused.

By the Jury declined.

Prosecution state:

Notice of additional evidence was called
in respect of Gerald B.
Richards we do not now propose to call
him.

EDMUND TOULON EXAMINATION

No.47

Prosecution
Evidence

Edmund Toulon duly sworn states:

Edmund
Toulon
Examination

I am Inspector of Police stationed at
Grand Bay.

On 16/10/81 I was attached to Grand Bay
Police Headquarters.

On 9/10/81 I signed a complaint against
the 4 Accused.

18th May
1982

On 12/10/81 I served each 4 accused with
a copy of the charge.

I informed them of their rights.

They made no reply.

10

xxd by Mr. MacCauley for No. 1 and No. 4
declined.

xxd by Dr. Williams for No. 2 Accused
declined.

xxd by Mrs. MacCauley for No. 3 Accused
declined.

By the Jury declined.

20

Mr. Mottley informs the Court that the
witness Marilyn Hypolite is back in the
State and he was putting him up for cross-
examination but all the Counsel for the
Accused have stated that they do not
wish to cross-examine him.

Counsel so inform the Court from the
Bar Table.

At this stage Mr. MacCauley for No. 1 and
No. 4 Accused requests the recall of
Algernon Maffie.

30

Request granted.

Algernon Maffie duly sworn states:

xxd by Mr. B. MacCauley for No. 1 and
No. 4 Accused.

Since I came back in July 1981 I have had
no employment and I am not working on
any farm.

I do know a man by the name of Paul
Joseph.

(Paul Joseph called - no answer)

I can't recall meeting Paul Joseph near
my estate sometime in 1981.

I don't remember that sometime last year
some people went looking for me.

It is untrue that sometime last year I
was accused of having blood on my hands
and a machete.

In 1979, that would be untrue.

I know Leroy Etienne.

This is the Paul Joseph (identified)
that I know.

I do not remember seeing him in August
1979.

My estate is in La Plaine.

I have seen him near La Plaine.

In 1979 when I saw him.

I can't remember that I spoke to him.

I spoke to him at La Plaine.

I did not come out with a machete and
think that it was the police.

I had a banana plantation in 1978-1979.

I do remember the police going there and
taking some leaves off the banana plant.

They took them as exhibits.

Subsequently, I was charged with that
Murder charge.

I had a house there. I live there with
my family comprising my wife and at the
time 2 children - boy and girl.

Since I am out of employment they lived in
Town.

They are now out of the State - in Canada.
They left for Canada sometime in October
1981.

I was deported from Canada sometime in
1974.

I was away for seven months before I
came back.

It was from February 12 to July 29, 1981.

In the
High Court
(Criminal)

The fares for my wife and children and
the nanny for my children were paid for
by the police.

No.48
Prosecution
Evidence

xxd by Dr. Williams for No. 2 Accused
declined.

Algernon
Maffie
(Recalled)
Cross-
Examination

xxd by Mrs. MacCauley for No. 3 Accused.

Mr. MacCauley asks leave to put the
question through the Court.

(continued)

It is not a fact that I led a group of
"Dreads".
I was not a member of a group of "Dreads"
in 1974 - 1975
I don't understand "Leadership".
I was not a leader of the "Dreads"
in 1974 - 5.

10

Re-
Examination

Rxxd by Dr. Barnett.

My wife and children left for Canada in
October 1981.

They left because I asked for security
for them.

I asked for security for them because the
Police wanted me to co-operate with the
case with the Accused.

I was living in fear of my children and
my wife.

Anybody could attack them because I was
a witness for the Crown.

I look at the document Ex "U".

I can see that there are some entries
made by pen.

I was present when those entries by pen
were made.

They were made on 31/1/81 by one Michael
Purdue in Antigua at the Castle Harbour
Hotel in room No. 30.

I look at Ex "U" and Ex "U1".

Ex "U1" is a photocopy of Ex "U".

By Mr. MacCauley through the Court

I look at the document identified as
Ex "Y".

I have not seen this document before.

By the Jury declined.

At this stage Mr. Mottley says that this
is the case for the State.

20

30

40

At this stage Mr. MacCauley for No. 1
Accused asks for an adjournment to
9.30 a.m. on 19/5/82.

Adjournment taken at 4.45 p.m.

Jury warned.

In the
High Court
(Criminal)

No.48

Prosecution
Evidence

Algernon
Maffie
(Recalled)
Re-
Examination

(continued)

No. 49

SUBMISSION OF NO CASE TO ANSWER
BY MR. MACCAULEY
19 MAY 1982

No. 49

Submission of
no case to
answer

19th May 1982

10 Court resumed at 9.53 a.m. after waiting
for Mr. MacCauley and team - excused.

Jury checked, all present.

Mr. MacCauley states that all Defence
Counsel will be making submissions of
"no case".

Mr. MacCauley asks leave that Jury be
permitted to withdraw.

20 Jury requested to withdraw at 10 a.m.
under charge of P.C. 35 Phillip Samuel and
W.P.C. 289 Julietta Austria after being
sworn.

Jury withdraw at 10 a.m.

Mr. MacCauley states that he would make
his submission for No. 1 Accused John and
No. 4 Accused Reid.

30 Mr. MacCauley states that Judicial
responsibility demands that a Judge should
take a decision when the prosecution's
case is weak, unreliable or so tenuous
that it is unsafe to leave it to the Jury.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

Falconer v Attorney.

Judges should not shift this responsibility to the Jury, either by leaving a weak case to the Jury and by giving a direction favourable to the Accused or informing the Jury that they have a right to stop the case.

My submission is that on an analysis of the evidence for the prosecution it would be your Lordship responsibility not to leave the case of Patrick John to the Jury.

10

My further submission that unless the State can on analysis of the evidence convince your Lordship that there is indeed a prima facie case against Reid your Lordship ought to leave the case of Reid to the Jury.

In short the distinction I make is this that in the case of Patrick John there is only a scintilla of evidence coming from an accomplice with an interest to serve and whose evidence is not corroborated at all.

20

In the case of Reid, there is more than a scintilla of evidence but the evidence came from a self confessed accomplice whose evidence is fraught with internal and external contradictions.

I begin with the case of Patrick John.

There is abundant evidence for the accomplice Maffie from the Commissioner of Police Phillip and from the speech of the Head of Government, presented in Ex "P", that until 12th October 1981 when the State brought the case against Patrick John, The State's case was that Patrick John, the State's position was that Patrick John had attended a meeting in Antigua at which the 2nd, 3rd and 4th Accused were present as well as one Michael Purdue.

30

40

This was the case put before the Detention Review Tribunal in April, 1981 when Patrick John's detention was being reviewed.

This was the State's position broadcast to the public even before Patrick John was reviewed.

When the State was putting its position before the Detention Tribunal there was no suggestion of any evidence given by other officers that any plot was hatched on this Island.

In the High Court (Criminal)

We also have the evidence before the Tribunal where it appeared that Mr. John had never left the Island before January 1981.

No. 49
Submission of no case to answer by Mr. MacCauley

10 In short, the State's position as it stood by 12/10/81 had been known.

19th May 1982

Now what do we have as the State's position at this trial.

(continued)

What we have is that the plot was hatched not within the Island but without.

20 This brings me naturally to the next position, from whom did we hear this new position from a man named Algernon Maffie, the sole witness as to facts for the prosecution.

I draw the Court's attention to the sole witness of fact.

I am not submitting that the legal consequences - if proved would be different if the conspiracy took place in Dominica or Antigua.

30 What I am submitting is that on the basis of the indictment and the particulars in the two counts there is no suggestion that there was conspiracy in Antigua.

What I am submitting is that there has been a change of front and that change of front has been supported by a character known as Maffie - a sole witness of fact.

Let me now examine Maffie's background.

He begins his evidence in a peculiar manner - evidence in chief.

He said, "I have nine (9) previous convictions.

40 I submit that the reason for opening his evidence in that way was to neutralise the attack which the prosecution expected the Defence to make.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

It is important because when those convictions are probed it is shown that this man Maffie has been in conflict with the Police from 1974 to 1976 - resisting the police, obstructing the police, shooting at the police, receiving arms and ammunition.

And in that same period we had from him a deportation order from Canada.

Even as late as 1979 the police had cause to go to his premises and had cause to take some banana leaves as exhibits in connection with a Murder charge which was pending against him.

10

This is the past of the sole witness for the prosecution who shifted the venue from Antigua to Dominica.

Which venue was "Non-est" at the time of the detention?

There was no question of Dominica
Police Behaviour.

20

How did it happen?

We have evidence that Maffie was taken before a Magistrate on a charge of Murder and the Magistrate remanded him in custody.

The Commissioner of Police in cross-examination said that after Hurricane David the Security Wing of the Prison was left intact and that is where he would expect Maffie to have been since he was on a capital charge.

30

I mention this because that piece of evidence destroys the suggestion that all the prison was destroyed and all the prisoners escaped.

Be that as it may Maffie "hot foots" it to Guyana.

During the period he returns in July 1981, but before that period an Inspector Desmond Blanchard we are told by the Commissioner had been sent to Guyana to make investigations about the conspiracy.

40

Maffie was still there.

This visit by Senior Supt. Blanchard was made after the Antigua position had been blown.

He went there for the purpose so it is said to investigate the conspiracy.

We have evidence from Maffie that from Guyana he went to Barbados.

10 Then we have evidence from the Commissioner that he sent Blanchard to Barbados.

But significantly, he did not send him to Antigua.

He sent him to Guyana and Barbados where Maffie went.

Maffie arrived - is picked up by the Police - is released after being picked up, the police knew that the charge was pending.

20 The police did not return him to the custody of the Supt. of Prisons.

The police did not report to the Magistrate who remanded him in custody not to the Supt. of Prisons.

Rather, the Police decide to leave him at large.

Then, tells your Lordship that having taken exhibits that they found out a year later that there was no evidence.

30 He was co-operating with the State - that is answer to Counsel for the prosecution.

The way of co-operation was, that they paid for fares for his wife and children to go to Canada.

What was the co-operation?

That was to provide the evidence to shift the evidence from Antigua to Dominica.

It was a "deal" between the police and Maffie.

In the High Court (Criminal)

No.49 Submission of no case to answer by Mr. MacCauley

19th May 1982

(continued)

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

I submit having made that analysis that:

- (1) Maffie is a self-confessed accomplice on oath.
- (2) He had an interest to serve.
- (3) That interest was police interest - hence the co-operation.
- (4) The police obviously on the evidence encouraged him to give evidence that would shift the venue.

(continued)

On all the circumstances his evidence can't be regarded as "reliable".

10

This brings we now to discrepancies which must be looked at against that background.

There are many discrepancies but it is not every discrepancy which makes the witness unreliable.

I mention that because I intend to rely on five (5) major discrepancies.

(1) Financing from outside

In his evidence-in-chief Maffie said that Reid told him that financing would come from outside from the U.S.A.

20

Still in the evidence in chief he said Mr. Patrick John told him when he Maffie requested a Suzuki jeep that he could not raise that amount of money.

The picture he presented was that they did not have money to finance the operation and they were expecting financing from outside.

30

When he was cross-examined by me as to whether it was Patrick John and the so-called council that would be responsible for financing he said that it is the Council.

When he was re-examined by Dr. Barnett.

He said that the Council was financing the project and that this financing was negotiated by Patrick John and Mike Purdue.

We have a major discrepancy there that if

40

Maffie was in the know on his evidence, on the one hand, the financing was being done from outside "outside help" and the other the financing was being done by that Council from inside.

In the
High Court
(Criminal)

(2) He told us that he spoke to Purdue by telephone and he was going to send \$300.00 U.S. for his ticket and expenses through Julian David.

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

10 The prosecution called Mr. Toulon who gave evidence that Julian David received \$400.00 Ex "Q".

19th May 1982

(continued)

But we have no evidence from whom it came or where it came from.

We have the evidence from the same witness that Julian always receives money in this country.

20 Yet on Maffie's own evidence when he was in Antigua his expenses were paid for by Purdue and if he had received \$300.00 Mr. Purdue would have asked him.

That discrepancy was never explained by Maffie.

(3) If he did in fact have this conversation about meeting Purdue at this hotel, it is strange that on arrival with Reid, there was only one room booked - only one reservation.

30 That reservation was not for Maffie but for Reid.

According to him it was Reid who asked the receptionist to provide another.

No money, no reservation. It is Reid they expected.

Therefore, did that conversation about Castle Harbour and so forth take place?

At the best, no such conversation took place. Reid took him along.

40 Let me say at this stage that Capt. Reid is not denying at all that he travelled to Antigua on that date.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

If the prosecution was saying that he took him along it would be sense.

He is saying that he went along because Purdue told him.

It was only one room booked and that was for Reid.

That conversation could not be true, on his evidence.

(4) He met according to him Purdue for the first time in Antigua yet he was invited to take part in a conversation involving a clandestine activity against this country.

10

According to him, even sealed documents which he had not seen in this country he was permitted to read.

(5) The only meeting which he had was sometime in January 1981 in Reid's home which he said Patrick John and Julian David went there.

Then on 30/1/81 he went to Patrick John's house.

20

When he was talking about previous meetings of the Council, in Antigua, the impression given to this Court that there were previous meetings of the Council.

There were no such meetings in his evidence.

That is inconsistent with the facts as he gave them to us.

There were no meetings of "council" before he left but speaking in Antigua he mentioned about Council.

30

That is a discrepancy.

There are other discrepancies.

These discrepancies in the light of his conduct, the police leave much to be desired in the credibility of the witness - most unsafe.

Patrick John

In the
High Court
(Criminal)

A certain letter purporting to bear the name Patrick John was found.

The letter Ex "T" which John Osburg said he found in the brief case of Purdue does not take the matter anywhere.

No. 49
Submission
of no case
to answer
by Mr.

10 The Court should find the evidence insufficient
tenuous manifestly unreliable in all the
circumstances and the Court should direct
the Jury to return a verdict of Not Guilty
on the counts in respect of Patrick John.

MacCauley
19th May 1982

(continued)

The Case against Reid (No. 4)

The Defence of Reid does not involve any denial that Reid travelled to Antigua on 31/1/81 and returned to Dominica on 1/2/81.

The evidence of Maffie in relation to Reid is in relation to a meeting with Reid at Reid's home with Mal in December, 1980.

20 The meeting with Reid alone on 26/1/81 at Maffie's home. He said that before he left there was a meeting with Reid Patrick John and others on the Sunday in January 1981.

The Court rises at Mr. MacCauley's request.

Court resumed at 11.50 a.m.

Mr. MacCauley states further in respect to Reid.

Ex "N" and Ex "W" put in by Pestiana.

30 Ex "N" is a letter which the Commissioner of Police said he received.

We do not know from where he received it.

The handwriting in that letter was said by Gene Pestiana to be that of Reid, though he did not see Reid write.

That letter came out of an envelope handed by Ron Roberts to P.C. Paquette.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

Whether Reid wrote it or not would not be
of any probative value that the letter was
written in furtherance of the conspiracy
alleged.

To leave "N1" for the Jury's consideration
would be an invitation for the Jury to
speculate as to its meaning.

(Mr. MacCauley admits to Court that he did
not raise the issue as to the probative
value of that letter at the time when it
was admitted.)

10

The same thing applies to Ex "W" (note) -
the diagram found in the brief case of
Purdue (Barracks).

The Court will recall that Osburg had
told the Court that Purdue had told him
that he Purdue had looked at the Police
Station.

(Not supported by evidence at p. 178).

Under cross-examination the Commissioner
said that there are no barracks at the
police station, only sleeping quarters.

20

Gene Pestiana agreed that they were no
barracks.

Both of them also agreed that the two main
entrances were on the East.

Gene Pestiana said that there was a third
entrance on the South.

One thing is clear, that there is
northern entrance.

30

And what Pestiana describes as the
entrance to the South is not used.

The evidence from Pestiana was that Reid
visited Police Headquarters many, many times.

In answer to Mrs. MacCauley he said that
before 1980 anyone could have walked into
police headquarters, looked around and
make notes.

Looking at Ex "W" it could not possibly
have been made by Reid who lived in

40

Dominica and visited Dominica many, many times.

In the
High Court
(Criminal)

The evidence of Maffie does not suggest that Reid handed to Purdue any other document than the contract.

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

This document in the circumstances be treated as of no value or of negligible value.

10 My comments in so far as the other evidence is concerned are applicable to the case of Reid.

19th May 1982

(continued)

I would not repeat them.

Finally, I come back to Patrick John's case.

20 We have in evidence from the Commissioner of Police, Maffie, Pestiana that when Patrick John was Premier in 1974 to 1976, there was a crackdown on the "Dreads", that he gave instructions to Commissioner of Police Phillip to do so.

Commissioner Philip remembers that there was a law and he acted under the law on directions of Mr. John.

I would say that with respect to Patrick John there is no corroboration of the evidence of Maffie - absolutely none.

30 Assuming what he said is correct - that is an original contract and it only corroborates his story that he saw that contract in Antigua.

He had given no evidence that the envelope given to him was opened in his presence.

The document which Maffie saw was the one which Reid gave him to study and not the one which Purdue had.

All he said before his recall was that Purdue took out papers and read them etc.

40 There is no such suggestion in his evidence-in-chief about identifying the amendments.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

My submission is that this identifying of
Ex "N" is an afterthought and is consistent
with his co-operation with the police.

Apart from this small area the conspiracy
was supposed to have taken place in
Dominica.

In any case the document itself is not the
conspiracy at best it is an act in
furtherance of the conspiracy, from which
an inference could be drawn of a prior
conspiracy.

10

But by itself it could not amount to
corroboration of the accomplice's evidence.

The accomplice evidence is as to the
conspiracy and that is what has to be
corroborated.

There is no evidence to corroborate
Maffie on the conspiracy itself.

Reid

There is evidence tending to corroborate
part of Maffie's story that Reid travelled
to Antigua.

20

But what has to be corroborated is what
Reid actually did in Antigua.

Corroboration does not mean corroboration
of any part of the testimony of the
witness - what has to be corroborated is
what materially implicates the Accused in
the commission of the offence.

R v. Uriah Lemer

30

1975 13 Jamaica L.R. page 132 at p. 136
letter "e". "sufficient".

The evidence required for Conspiracy

R.S. Wright "The law of Criminal Conspiracy
and Agreements p.71. Subject to proof
given affecting him with the participation
in it.

Whether there was an agreement?

Whether there was participation in it?

My submission is that if one applies the law as states, the State has definitely led evidence of a general conspiracy and that evidence was led very forcibly from the evidence of Osburg and Grafton.

In the High Court
(Criminal)

But the indictment says that there was a conspiracy not only in Dominica but elsewhere.

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

10 The fact that evidence of general conspiracy has been led, that that evidence contains declarations involving the names if any of the Accused could not make them guilty of conspiracy, there must be shown an unequivocal act connecting them with the general conspiracy and evidence of such act must be given by a witness a self-confessed accomplice.

19th May
1982

(continued)

20 Not only is he a sole witness but a witness whose character and credibility has been questioned.

R v. Irving

1975 13 Jamaica L. R. 139.

The sole witness of Murder.

Jury

Where the sole witness.

That is the end of my submission both factual and legal for Patrick John and Malcolm Reid.

30 The Court indicates that it would wish both the Counsel for the Prosecution and Defence to consider whether in the light of Section 8(4) and 8(14) of Dominica Constitution.

Is there such a Common Law Offence in Dominica with respect to Count 1 of the Indictment before the Court.

The Court refers to

(1) Shaw v. D.P.P.

1961 2 All E.R. 446 HL; 1962 A.C. 220

(2) D.P.P. v. Bhagwan

1970 3 All E.R. 97 HL

40 (3) Knüller (Publishing Printing & Promotions Ltd. and Others v. D.P.P.

1972 2 All E.R. 898; 1973 A.C. 435.

In the
High Court
(Criminal)

No.49

Submission
of no case
to answer
by Mr.
MacCauley

19th May
1982

(continued)

(4) Namara and Others v. D.P.P.
1973 2 All E.R. 1242.

(5) Scott v. Commissioner of Police
1974 3 All E.R. 1032.

(6) D.P.P. v. Withers
(1974) 3 All E.R. 984.

and invites legal arguments for record as to
whether this offence in Count 1 is known to
the Common Law of Dominica and the Common Law
of England and the Common Law of England as
adopted.

10

Jury return at 1.05 p.m.

Jury checked, all present.

Adjournment taken at 1.06 p.m.

Jury warned.

Continued in next book.

H.L. Mitchell
Puisne Judge
19/5/82

NOTES OF EVIDENCE

No. 27 of 1981

19th May, 1982

Book 2

The State

Vs

- (1) Patrick John
- (2) Julian David
- (3) Dennis Joseph
- (4) Malcolm Reid

First Count

Conspiracy to overthrow the lawfully constituted Government by force of arms.

Second Count (Alternative)

Conspiracy to assault Police Officers acting in execution of their duties.

Mr. E. Mottley Q.C., Dr. Lloyd Barnett, Miss S. Bertrand D.P.P. and Mr. Justin Simon for the State.

20 Mr. B. MacCauley Q.C., for Patrick John (No. 1) and Malcolm Reid (No. 4).

Mrs. Margaret MacCauley for Dennis Joseph (No. 3).

Dr. Randolph Williams for Julian David (No. 2).

Continued from previous book from page 284

P.M.

Court resumed at 2.35 p.m.

Jury checked. All present.

Jury requested to withdraw.

30 They withdraw under charge of P.C. Phillip Samuel No. 35, W.P.C. 289 Auchere after being sworn at 2.39 p.m.

Mr. MacCauley states that the task will be performed by him. Nothing in the laws

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Submission of no case to answer by Mr. MacCauley
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(continued)

of Dominica. He refers to D.P.P.
Vs Bhagman 1970 2 ALL E.R. 97 H.L.

54 C.A.R. at page 460.

at pages 472 and 474, 475.

Lord Diplock at page 472 C.A.R. at page 103
letter F ALL E.R.

"The disposition of the instant
appeal" Page 104, "to create new
offences"

10 Then at page 105 letter (b),

"My Lords....."

The test is set there.

I come to Shaw.

1961 2 ALL E.R. 446 H.L, 45 Cr. App. R. 113
at page 455 (ALL E.R.) letter g repeating
Lord Goddard - Lord Reid.

To overthrow a Government is not unlawful.

I come to Withers.

1974 3 ALL E.R. 984

20 Lord Kilbrandon page 1007 letter a.

"The next step etc" letter a - d.

When one looks at Wright itself, Wright has
a whole chapter at pages 28 to 30.

His examination of cases.

They present.

Wright in his treatise states at para. 7.

The House of Lords.

I would prefer Wright.

30 My submission is that we must go back to
the basis of what Lord Diplock said in the
Bhagman's case.

"I know of no authority neither
prohibited by Act of Parliament etc."

To overthrow the Government by force of
arms as alleged here is an offence.

Count 1, is thus properly drafted.

In the
High Court
(Criminal)

No. 49
Submission
of no case
to answer
by Mr.
MacCauley

19th May 1982

(continued)

SUBMISSION OF NO CASE TO ANSWER
AND REPLY

In the
High Court
(Criminal)

No. 50
Submission
of no case
to answer
and reply

19th May 1982

Mr. Williams on behalf of No. 2 Accused submits that the evidence against No. 2 Accused is so tenuous that it would be unsafe to leave the case to the Jury.

The Jury should be directed to return a verdict of Not Guilty in respect of David.

10 Mr. MacCauley has dealt with the law and evidence so extensively that I would like to adopt his legal argument and his analysis of the evidence as they relate to Julian David.

I would like briefly to refer to certain parts of the evidence on which the prosecution intends to rely in the case against Julian David.

20 This is contained in the evidence of two witnesses Algernon Maffie and Mario Toulon.

While the evidence of the F.B.I. experts indicates the existence of some general conspiracy, they do not in the evidence implicate Julian David as a participant in that conspiracy.

The evidence of Mr. Toulon, two sums of money, one of \$400.00 US and one of \$1800.00 US were paid to and on the instructions of Mr. David.

30 The first sum of \$400.00 was paid on 30 January 1981 and the second sum of \$1800.00 was paid by a draft dated 9th April, 1981.

In the case of the first amount for \$400.00 there is no evidence as to from where the \$400.00 came.

40 The second amount of \$1800.00 - there was evidence of a draft endorsed by Mr. David which referred to the name Mike Purdue Ex "S" - on the face side.

Mr. Toulon has told the Court in evidence that Mr. David in the course of his business received monies from time to time and these

In the
High Court
(Criminal)

No. 50
Submission
of no case
to answer
and reply

19th May
1982

(continued)

monies came from different parts of the world.

We have been told by the Commissioner, Mr. Philip that the four Accused men were detained between 27 February 1981 and 6 March 1981.

So the amount of \$1800.00 US dollars which was paid to David in April 1981 was paid to him 4 to 5 weeks after his detention.

On the evidence of Mario Toulon by itself no inference can be drawn that David did any act and or had any intention to participate in the furtherance of any agreement.

10

Algernon Maffie as to implicating Julian David (No. 2).

I must say again I adopt Mr. MacCauley's analysis of that witness's evidence including adopting the five major discrepancies pointed out by Mr. MacCauley.

20

There is other evidence, in particular, from Commissioner Philip, that Maffie has a reputation of a notorious character.

He has admitted nine(9) previous convictions including violence, shooting at the Police and receiving stolen goods, including arms and ammunition.

Maffie has admitted in Court that he was an accomplice.

30

There is evidence also that he was charged for a capital offence which was not continued.

The D.P.P. ordered the release of Algernon Maffie on 14 December 1981 after the Preliminary Inquire in this case.

He said that because he was co-operating with the Police in the case against the four Accused men, his wife and family were sent to Canada at the expense of the Police.

40

They paid their fares.

In the circumstances I would submit that the evidence of Maffie's so palpably unreliable that men and women of ordinary reason and fairness if properly directed as to the law having regard to that degree of proof required by the law would not convict.

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High Court
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of no case
to answer
and reply

Evidence of Maffie against Julian David:

10 (1) He claims that Julian David met him at a meeting at which Patrick John, Malcolm Reid and himself were present. At this meeting plans for an operation were discussed.

19th May
1982

(continued)

This meeting was held on a Sunday in January - which Sunday he could not recall.

At this meeting the evidence is Julian David said in talking about the purchase of a second-hand jeep or wagon, he said,

20 "I think we have that kind of 'bread', referring to money".

There is no evidence that the name of or the role of Michael Purdue in any operation was discussed at that meeting.

There is no evidence that at that meeting Julian David knew anything of the existence of plans of Michael Purdue.

There was evidence of visits by Maffie to Julian David's office.

He was told by David,

30 "Go to Maho and call Reid." - on 26th.

On 27th he had conversation with David.

David rang the bank and enquired about the money.

The money had not arrived.

On 29th another visit.

David rang the bank and he said that the money had arrived.

Evidence of his travelling in a jeep with

In the
High Court
(Criminal)

No. 50
Submission
of no case
to answer
and reply

19th May
1982

(continued)

Julian David.

We have evidence of two meetings with David -
one of 3 February 1981 and one the week
end following.

On 3 February 1981 there were five(5)
persons present, the 4 Accused and Maffie.

Besides David's presence at that meeting
all the evidence is that we discussed and
members of the Council took the same line.

At the next meeting John indicated that
David would be Council Treasurer.

10

That is the first time we see a role
assigned to Julian David.

There is no evidence that he accepted the
position or agreed to perform the role of
treasurer or did anything consistent with
that part.

The meetings between Julian David and
Maffie in David's office or the travelling
in a jeep with them do not provide
sufficient evidence that Julian David was
a party to an agreement or was furthering
the alleged conspiracy.

20

His presence at meetings without more
would not be evidence of an act or an
intention to commit any crime.

In the circumstances I submit that on the
uncorroborated evidence of Maffie - the
evidence is unreliable, manifestly
unreliable, that men of ordinary
reason and fairness would not convict.

30

I have adopted the legal arguments of
Mr. MacCauley and his analysis of the
evidence in so far as it relates to
Julian David.

Mrs. MacCaulay's submission

Reply by
Mr Mottley
Q.C.

Mr. Mottley Q.C., states that he could
reply at this time.

40

19th May
1982

Mr. Mottley states that he does not accept
the analysis of the evidence led on behalf
of the State, the analysis on behalf of my
learned friends on behalf of the Accused.

When during the case for the State evidence relating to certain known handwriting was offered that evidence was rejected by your Lordship for that basis of comparison.

In the
High Court
(Criminal)

No. 50
Reply by
Mr. Mottley Q.C.

19th May 1982

(continued)

This evidence was to be used for the purpose of comparison with other handwriting admitted in evidence.

At this stage I could be of no further assistance to the Court.

10

The Court states that it will consider the state of things and give a Ruling on the morning of 20th May, 1981. (sic)

Jury return at 4.33 p.m.

Jury checked. All present. Jury warned.

Adjournment taken at 4.35 p.m.

20th May 1982

Court resumed at 9.35 a.m.

Jury Checked. All present.

20

Mr. Williams states that Mr. MacCauley is ill and would not be able to attend until this afternoon.

Mrs. MacCauley is seeing after him.

In the
High Court
(Criminal)

No. 51

COURT FINDING VERDICT AND SENTENCE

No. 51
Court
Finding
Verdict and
Sentence

20th May
1982

The Court gives its Ruling upholding the submissions and directs that the Jury to return a verdict of Not Guilty in respect of both Counts of the indictment, in respect of each Accused.

First Count

No. 1 Accused - Not Guilty

No. 2 Accused - Not Guilty

No. 3 Accused - Not Guilty

No. 4 Accused - Not Guilty

10

Second Count

No. 1 Accused - Not Guilty

No. 2 Accused - Not Guilty

No. 3 Accused - Not Guilty

No. 4 Accused - Not Guilty

Court thanks Jurors, Lawyers, Registrar,
Registrar's Assistant, Police.

H.L. Mitchell

20

Puisne Judge

20th May 1982

No. 52

In the Court
of Appeal

NOTICE OF APPEAL

No. 52

Notice of
Appeal

IN THE COURT OF APPEAL

NOTICE OF APPEAL

20th May 1982

CRIMINAL APPEAL NO. : 5

NAME OF APPELLANT : DIRECTOR OF PUBLIC
PROSECUTIONS

10 NAME OF ACCUSED : PATRICK JOHN, JULIAN
DAVID, DENNIS JOSEPH,
MALCOLM REID

OFFENCE CHARGED : (1) CONSPIRACY to
overthrow the
lawfully constituted
Government by force
of arms.

20 (2) CONSPIRACY to
assault Police
Officers acting in
execution of their
duties.

VERDICT : NOT GUILTY on Direction
by Trial Judge

DATE OF VERDICT : 20th May, 1982.

30 I, the above named Appellant hereby
give you notice that I desire to Appeal
to the Court of Appeal by way of Special
Case against the direction of the Trial
Judge in the above matter under Section 37(2)
of the West Indies Associated States
Supreme Court Dominica Act No. 10 of 1969
as amended by Act No. 16 of 1981.

(sgd) S.J. Bertrand

DIRECTOR OF PUBLIC PROSECUTIONS

Dated the 20th day of May 1982.

SPECIAL CASE

No. 53
Special Case

The witness for the Prosecution, Oliver Phillip, having stated that he was familiar with and knew the handwriting of the accused Patrick John by his having received official minutes from him in the course of his duties as Commissioner of Police while the said Patrick John was a Minister of Government responsible for security, and there being no challenge to or contradictions of the said evidence, did the Learned Trial Judge err and misdirect himself in law in rejecting such evidence as proving the handwriting of the said accused and in holding that it was not proved to his satisfaction to be the genuine handwriting of the said accused, and in refusing to allow the said documents to be admitted in evidence for the purpose of comparison with the handwriting in relevant documents admitted in evidence. 10 20

The witness for the Prosecution, Gene Pestaina, having stated that he was familiar with and knew the handwriting of the accused Malcolm Reid by his having seen him write on numerous occasions, and there being no challenge to or contradictions of the said evidence, did the Learned Trial Judge err and misdirect himself in law in rejecting such evidence as proving the handwriting of the said accused and in holding that it was not proved to his satisfaction to be the genuine handwriting of the said accused, and in refusing to allow the said documents to be admitted in evidence for the purpose of comparison with the handwriting in relevant documents admitted in evidence. 30

The evidence for the Prosecution being consistent, credible and substantially unshaken, did the Learned Trial Judge err or misdirect himself in law in upholding the No-Case Submission of the four accused on the grounds that the evidence for the prosecution was manifestly unreliable and it was unsafe that the case should be left to the Jury. 40

The Appellant prays that the questions set out above be answered in the affirmative and that accordingly that a new trial of the four accused be ordered. 50

No. 54

In the Court
of Appeal

NOTICE OF PRELIMINARY OBJECTION

Notice of Preliminary Objection

IN THE WEST INDIES ASSOCIATED STATES
SUPREME COURT (DOMINICA)

IN THE COURT OF APPEAL

No. 54
Notice of
Preliminary
Objection

22 May 1982

BETWEEN

The State

10 represented by
the Director of Public Prosecutions -
APPELLANT

AND

1. Patrick John)
2. Julian David) - RESPONDENTS
3. Dennis Joseph)
4. Malcolm Reid)

20 WHEREAS the Director of Public Prosecution
has given notice to Appeal dated 20th May
1982 against the acquitted of the respondents,
TAKE NOTICE that the respondents will take
the following preliminary objection at the
hearing of the appeal.

- (1) That the purported special case
does not raise a question of the
interpretation or construction of
a point of substantive law nor
any point of adjectival law
relating to evidence.

Dated the 22nd Day of May 1982.

30 (Sgd) M.M. Macauley
Margarette May Macaulay
Attorney for the Respondents
c/o ARMOUR, ARMOUR & HARRIS
15 Hanover Street
Roseau
Commonwealth of Dominica.

30 Registrar High Court, Roseau
Director of Public Prosecution
Police Headquarters,
Roseau.

In the Court
of Appeal

No. 55

JUDGEMENT

No. 55
Judgment

7 December
1982

DOMINICA

IN THE COURT OF APPEAL

CRIMINAL APPEAL NO. 5 of 1982

BETWEEN:

DIRECTOR OF PUBLIC PROSECUTIONS - Appellant

and

PATRICK JOHN
MALCOLM REID
JULIAN DAVID
DENNIS JOSEPH

10

- Respondents

Before: The Hon. Sir Neville Peterkin -
Chief Justice
The Honourable Mr. Justice Berridge
The Honourable Mr. Justice Robotham

Appearances:

Elliott Mottley Q.C., Lloyd
Barnett and Sylvia Bertrand
for the Appellant.

20

Berthan MacCauley Q.C., Randolph
Williams and Margaret MacCauley
for the Respondents.

1982: September 27, 28:
December 7

JUDGMENT

ROBOTHAM, J.A., delivered the Judgment
of the Court:

This is an appeal by the Director of
Public Prosecutions for the State of
Dominica in the exercise of a right
conferred by Sections 36 and 37 of the
West Indies Associated States Supreme
Court (Dominica) Act No. 10 of 1969, as
amended by the West Indies Associated
States Supreme Court (Dominica)
(Amendment) Act No. 16 of 1981.

30

10 The four respondents were on May 12, 1981 jointly arraigned before Mitchell J. and a jury on two counts of an indictment. The first count charged that they on divers days between September 19, 1980 and April 29, 1981, in the Commonwealth of Dominica and elsewhere, conspired together with Michael Purdue and Wolfgang Droege and with other persons unknown to overthrow the lawfully constituted government of Dominica by force of arms. The second count which was framed as an alternative to count one charged them with conspiring together with Michael Purdue and Wolfgang Droege and other persons unknown, to assault police officers in the execution of their duties of guarding the Police Headquarters at Roseau, Dominica.

20 The trial continued until May 19, 1981 when, the State having closed its case, a submission of "No Case" was made in respect of each of the four accused. On May 20, 1981 Mitchell J. upheld the submissions and directed the jury to return a formal verdict of not guilty in respect of each of the accused. They were all duly discharged on both counts, and on that same day, the Director of Public Prosecutions lodged this appeal. The right of appeal is given in the amendment in these terms:

30 "37 - (2) Where during the trial of a person on indictment the trial judge decides on a point of law or evidence, the Director of Public Prosecutions, if dissatisfied with the trial Judge's decision may appeal by way of special case to the Court of Appeal for a determination of the point in issue: Provided that where a jury has deliberated and returns a verdict of Not Guilty there shall be no appeal against such a verdict."

50 The conduct of the case for the State would have necessitated the calling of two expert witnesses on handwriting, to prove that a document found in the possession of

In the Court of Appeal

No. 55
Judgment

7 December
1982

(continued)

In the Court
of Appeal

No. 55
Judgment

7 December
1982

(continued)

Michael Perdue when apprehended in the United States of America, was signed by the accused Patrick John, and that other documents were in the handwriting of the accused Malcolm Reid. Towards this end, it was sought to put in evidence passport application forms alleged to have been written up and signed by Patrick John, so as to form the basis of the comparison with the disputed writing found in the possession of Michael Perdue. The learned trial Judge however, refused to admit these documents in evidence on the ground that they had not been proven to his satisfaction, (in accordance with Section 19 of the Evidence Act Cap. 64) to be in the genuine writing of Patrick John. In respect of Malcolm Reid the State sought to put in a diary alleged to have been written by him, but this attempt met with a similar fate. It might here be mentioned that Section 19 of Cap. 64 is in identical terms with Section 8 of the Criminal Procedure Act 1865.

10

20

The effect of these rulings precluded the State from putting the evidence of the handwriting experts before the jury and, as counsel for the State puts it, whilst it did not demolish their case in the light of the evidence remaining, yet it substantially strengthened the no case submission. The questions therefore which the learned Director of Public Prosecutions is asking this Court to answer are:

30

(1) Did the learned trial Judge err and misdirect himself in law in refusing to admit the comparative documents in respect of (a) John and (b) Reid and

40

(2) Did he err and misdirect himself in law in upholding the No-Case submission on the ground that the evidence for the prosecution was manifestly unreliable and it was unsafe that the case should be left to the jury?

These questions are inter-related and will of necessity involve an examination of the evidence adduced on behalf of the

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State. The two preliminary objections raised on behalf of the respondents will also have to be dealt with in due course. For completeness we state them at this stage. They are:-

In the Court
of Appeal

No. 55
Judgment

10 (1) That the purported special case does not raise a question of interpretation or construction of a point of substantial law, nor any point of adjectival law relating to the evidence.

7 December
1982

(continued)

(2) The amendment giving the Director of Public Prosecutions the right of appeal is unconstitutional null and void.

The Facts of the State's Case:

20 On July 23, 1980 after the due holding of elections the Honourable Mary Eugenia Charles was sworn in as Prime Minister of Dominica. Prior to the elections, an interim government was functioning headed by the Honourable Oliver Seraphin, and immediately before Seraphin took office the accused Patrick John was the Prime Minister. Malcolm Reid was a Captain in the Dominica Defence Force, and second in command.

30 The first witness put forward by the State was Algernon Maffie, who gave his occupations as that of seaman and farmer. He was known to be a notorious character and on his own admission had nine previous convictions, six of which involved the use of violence. In August 1980, there was a charge of Murder pending against him, but he was not then in custody as he was one of those who took leave of the prison when it was destroyed by hurricane David in August 1979. He was never retaken into
40 custody, but the charge against him was not formally discontinued by the Director of Public Prosecutions until December 14, 1981. It will be seen therefore that between September 1980 and April 1981, the relevant dates in the indictment, the charge of Murder was still so to speak hanging over his head.

Maffie testified that he knew the accused Malcolm Reid for the past year and

In the Court
of Appeal

No. 55
Judgment

7 December
1982

(continued)

seven months, and ever since December 1980, had been to his home on more than one occasion. On the first visit in mid-December 1980 he went there with one Henry Esprit, who introduced him to Reid as the one who would represent "the Dreads" in the operation of the "coup plot". When asked, Reid told him that they would be getting help from friends outside of Dominica, (naming the United States of America, and that the help would take the form of finance, arms, ammunition and some mercenaries, the purpose being to take over the Dominica Police Force, and to overthrow the Dominica Government. Reid also told him he had plans drawn up, and that he wanted him to study those plans. Maffie said he told Reid he would have to study the plans before making any decision. He then left.

10

20

Subsequent to this, Reid paid several visits to the home of Maffie, most of all for the purpose of using the telephone to make collect overseas calls to Michael Purdue in Houston, Texas, United States of America.

On a Sunday in January 1981 Maffie went to Reid's home, and whilst there the accused, Patrick John and Julian David arrived. John went and spoke privately to Reid at first, and then he heard John say to Reid that he (John) would like to use more locals than foreigners, and that between sixty to eighty men "would be good enough for the operation". Reid then asked John "what about if we meet stiff resistance" and John's reply was "you will have no choice but to use two hundred (200) mercenaries". Reid then asked Maffie if he could mobilize at least twenty dreads, and Maffie said he could try. Maffie then suggested that they should get a Suzuki jeep for transportation and John's rejoinder was that he did not think they could raise that amount of money to buy a new jeep, but he could promise to get a good second hand land rover or Volkswagon with which to make his movements. The accused Julian David then said "I think we have that kind of bread (meaning money) in our possession". John and David left but before Maffie himself left Reid gave him a small slip of paper with a phone number and the name "Michael Purdue,

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Houston, Texas" written on it, and asked him to telephone Purdue, collect. He told him what to say to Purdue, and as soon as Maffie got home he placed the call to Texas, spoke with Purdue and delivered the message.

In the Court
of Appeal

No. 55
Judgment

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1982

(continued)

10 In the course of this conversation Purdue asked Maffie to meet him in Texas, as he could not say on the telephone what he would like to say. Texas was not agreeable to Maffie, neither was Toronto, so it was agreed between them that they should meet in Antigua. When Maffie asked Purdue about the fare, Purdue told him that he would send Three hundred dollars U.S. (\$300.00 U.S.) through the Royal Bank of Canada in Dominica in care of Julian David. The date agreed for the meeting in Antigua was January 30, 1981, and the place was the Castle Harbour Hotel Club and Casino. This information was relayed to Malcolm Reid on the following day when Reid came to Maffie's house.

30 On January 27, 1981 and again on January 28, Maffie went to the office of the accused Julian David to enquire if the money Purdue was supposed to be sending had arrived. It had not. He returned on the January 29, when David called the Bank and was told that the money had arrived. Mario Toulon, an officer of the Royal Bank of Canada gave evidence of the cable transfer of Four hundred dollars U.S. (\$400.00 U.S.) from the United States of America, the proceeds of which were paid to Julian David a customer of the Bank. The slip evidencing the transaction was put in evidence.

40 When David got word that the money had arrived, he made a telephone call and arranged for two airline tickets to be made out in the names of Algernon Maffie and Malcolm Reid, to enable them to travel to Antigua on January 30, 1981. Maffie got his ticket from Reid later that same day.

50 On January 30, 1981 Maffie met with David as arranged at 10.15 a.m., on the main road, and together they went to the home of Patrick John. Reid failed to turn up on time, so it was decided that Maffie should accompany David into town to look for

In the Court
of Appeal

No. 55
Judgment

7 December
1982

(continued)

Reid. As Maffie was about to leave John placed an envelope, sealed and stapled, in his hand and told him to give it to Reid for delivery by him to Purdue. Reid was located and Maffie said he handed over the envelope to Reid. Julian David arranged transportation to the airport, but when Reid and Maffie arrived there, the plane had left. They returned to the airport on January 31, 1981 and together boarded a flight for Antigua. Immigration cards were put in evidence to establish beyond the shadow of a doubt that Reid and Maffie left Melville Hall airport, Dominica on January 31, 1981, that they were landed in Antigua on the same day, and that they returned to Melville Hall airport on February 1, 1981. The immigration cards gave their intended address in Antigua as the Castle Harbour Hotel, and the hotel's room occupancy cards were put in evidence to show that Reid occupied room 30 at the hotel, and Maffie occupied room 29.

10

20

In the meantime on January 30, 1981, Michael Perdue arrived in Antigua on B.W.I.A. flight 409 from Miami, Florida, United States of America, and was processed by Sargeant Winston Nathaniel, an Immigration Officer, who testified that he recognised Perdue as a regular visitor to Antigua. The intended address given by Perdue on his immigration card, was Castle Harbour Hotel. Nathaniel processed Perdue for departure from Antigua on February 2, 1981.

30

After the arrival of Maffie and Reid in Antigua, they went to room 31 at the Castle Harbour Hotel which was occupied by Perdue, and there Reid handed over the envelope received from Patrick John. Perdue opened it and took documents therefrom, which were read. The talk between them eventually turned to the merits of the M16 rifle as against the Bushmaster with Perdue expressing a preference for the latter, and informing them that he could get his hands on a few. Perdue handed over to Reid during the course of their talk the sum of Fifteen hundred dollars U.S. (\$1500.00 U.S.) in one hundred dollars bills telling him that it was to help to meet expenses in Dominica. They went to lunch during which

40

50

they discussed the geography of the
Dominica Police Station and the various
points of entry. After lunch Reid gave
Maffie "a copy of the contract" to study, for
further discussion with Perdue. This
was one of the documents that came out of
the envelope from Patrick John. Later
that night "the contract" was discussed
and Perdue said that the deal which he
made was for Two hundred thousand dollars
U.S. (\$200,000.00 U.S.) and that he
wanted it as soon as possible. He agreed
to settle for One hundred and fifty
thousand dollars U.S. (\$150,000.00 U.S.)
in three weeks time, and the remainder at
a later stage. Reid said he would agree
with that but it would have to be settled
by the "Council". The name "Black
Revolutionary Council" appeared according
to Maffie in the copy contract which Reid
had given him to read. He further said
that "the Council" had been discussed at
previous meetings with John, Reid, David,
and Dennis Joseph, and that its purpose
was to replace the Government of Dominica.
On February 1, 1981, Maffie and Reid,
preparatory to their departure from Antigua
were at the hotel bar with Perdue, when a
telephone call was put through to Perdue.
Perdue spoke on the telephone and then
told Reid that Julian (David) would like
to talk to him. Reid spoke on the telephone
and shortly after they both left for Dominica.

On February 3, 1981, Reid took
Maffie to Patrick John's home. Julian
David and Dennis Joseph were also present.
They all five discussed the Contract and
the amendments apparently emanating from the
meeting with Perdue. When it came to a
discussion of the Two hundred thousand
dollars U.S. (\$200,000.00 U.S.) which
Perdue was demanding, John is alleged to
have said that Perdue was crazy as they
were not sure of raising that kind of money
immediately.

On the following weekend another meeting
was held at the home of David Kentish at
Canefield. All five were again present
as on February 3. At that meeting the
feasibility of the landing site for the
mercenaries as given by Malcolm Reid was
discussed. This was to have been the
Dominica Mining Co. at Rockaway beach. The
time of landing, 2.00 a.m., was also

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agreed. John gave instructions for information to be obtained as to who controlled the HAM radio sets, and for transportation for the mercenaries to be organized. Further John directed that the twenty dreads to be provided by Maffie along with Reid's men, were to be on the grounds at Roacaway beach to await the landing operation.

Also at this meeting offices were allocated within the Council. Patrick John - would hold the position as Chairman of the Council, Prime Minister, Minister of Foreign Affairs and Defence. Malcolm Reid - would be in charge of the Military with Maffie as his second in command. Julian David - would be the Council's treasurer, and Dennis Joseph - would be in charge of radio and communications.

10

Finally the decision was taken at the meeting that Perdue should go ahead as planned in respect of the operations, and should set a date for its execution in Dominica. Maffie concluded his evidence by saying that he never attended any other meetings of the Council.

20

Quite apart from the notoriety of Maffie, it will be clearly seen from the foregoing that Maffie would have had to be treated not only as an accomplice, but as a person who had an interest to serve, in the light of the Murder charge pending against him.

30

At this stage, it would be convenient to show what evidence was led by the State to show the presence of Michael Perdue in Dominica over the relevant period. Sargeant Michael Sylvester, an Immigration Officer, testified that on February 18, 1981 he processed Perdue into Dominica as an incoming passenger. Also on September 20, 1980 he processed him as an outgoing passenger, on December 13, 1980, he was processed as coming in, and as going out on December 17, 1980.

40

Rollins Laurent, a security guard at the Anchorage Hotel in Dominica testified that on the night of December 16, 1980 whilst he was on the 10.00 p.m. to 7.00 a.m. shift he saw Perdue on the balcony of his room

50

talking to Malcolm Reid. Perdue left on the early morning of December 17, as stated by Sargeant Sylvester.

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The scene now shifts to New Orleans, Louisiana in the United States of America.

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10 John Osburg told the Court that he was a special agent with the Bureau of alcohol, tobacco and firearms, which is an agency of the United States Government. On February 23, 1981, he received a call from Michael Howell who was personally known to him. Howell gave him certain information. He knew Howell to be the owner of a fifty-two foot ocean going vessel called the "Manyana". On February 27, he went on board the Manyana, and was there when Howell received a telephone call which he (Osbourg) recorded on tape.

20 On March 5, 1981 whilst Howell and himself were on board the boat Michael Perdue arrived. Perdue told them both that he wanted to charter the Manyana to sail from New Orleans to Dominica. The purpose of the voyage he said was to transport arms, ammunition, men and military equipment for the purpose of a military coup on the Island of Dominica. Perdue produced to him maps of the Island, a street map of the city of Roseau, and a
30 hand drawn diagram of the police station and government facilities which were to be attacked. He further said he had a contract with the ex-prime Minister and that he had the support of the military, in that he was working with the head of the military "Major" Reid, and Captain Robertson. The cost of the charter was agreed:-

40 \$ 5,000.00 - immediately
\$ 10,000.00 - prior to leaving the
United States of
America
\$ 3,000.00 - on return to the
United States of
America

\$ 18,000.00

50 The Five thousand dollars (\$5,000.00) was duly handed over by Perdue to Osburg. On March 13 and 26, Osburg spoke to Perdue at his home in Houston, Texas, and

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again on April 10. Food for the trip was purchased with Six hundred dollars U.S. (\$600.00 U.S.) which Perdue sent by money order in a letter to Howell.

Osburg as would be expected kept an accurate record of the dates on which he spoke to Perdue by telephone and on April 26, 1981 he boarded the vessel along with another special agent, Lloyd Grafton. At about 7.00 p.m. Perdue arrived accompanied by Wolfgang Droege, whom Perdue introduced as his second in command "in the coup attempt in Dominica". Perdue paid him Nine thousand eight hundred dollars (\$9,800.00) and pledged his chevrolet car for the short fall of Two hundred dollars (\$200.00).

10

Perdue gave Osburg maps of the Island and stated that the main objective once upon the Island was to attack the gaol and police facility, and to free Patrick John the ex-prime Minister and his men. It is a matter of record that at this time all four accused were detained under emergency powers then in force in the State of Dominica.

20

The departure date was fixed for 10.00 p.m. on April 27. Osburg had assumed the role of a deck hand for the voyage and an associate of the Owner Howell. Perdue, Droege and nine other men arrived at the departure site as planned and unloaded guns, ammunition, and military gear into an unmarked United States Government vehicle. The arms and the men were transported to the Marina where the men were all arrested. So ended the Dominica coup attempt. An examination of the arms and ammunition revealed twenty-six sticks of dynamite (one pound), a Nazi flag, a confederate flag, nine pistols, ten shot guns, thirteen long rifles, several Bushmaster rifles and five thousand rounds of ammunition.

30

40

Osburg took from Perdue a briefcase whihc on examination revealed a colt .45 pistol, a passport issued to Perdue, two typewritten contracts with corrections, a letter of agreement signed with the name "Patrick John" and a small sheet of note paper with writings. Osburg finally told

50

the Court that Perdue at the time he was giving the evidence, was incarcerated in the Federal Penetentiary in Tyler, Texas.

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10 Before parting with the summary of the evidence, there is one final bit of evidence to which I should refer and that is the evidence of Mario Tulon of the Royal Bank of Canada that on April 10, 1981 a draft for the sum of Four thousand eight hundred and thirty-six dollars and sixty-six cents E.C. (\$4,836.66 E.C.) was paid to Julian David by virtue of a cable transfer to him from Michael Perdue through the First City National Bank of Houston. David was then in detention and the money was collected by his brother on his producing to the bank a written authority from accused Julian David.

20 Such then was the factual evidence which the State tendered in support of the two counts of the indictment. It was proposed to bolster this body of evidence with the evidence of two handwriting experts, but as previously indicated, the State was not in a position to do this, once they were not permitted to put the comparative documents in evidence. It is therefore on the basis of this evidence
30 which has been summarized above, that the no case submission was made and upheld. The correctness or otherwise of that decision is one of the answers being sought by the Director of Public Prosecutions.

The Disputed Writings and Admissibility
of the Comparative Documents

40 This disputed writing in respect of the accused Patrick John was a typewritten agreement dated September 20, 1980 addressed to Michael Perdue and signed "Patrick John". This was one of the documents found in the briefcase of Perdue by the United States agent, Osburg, upon his apprehension. It was tendered in evidence as Exhibit T.

50 The disputed documents in respect of Malcolm Reid were (1) the small sheet of note paper with writings which was also found in the briefcase of Michael Perdue at the same time that Exhibit T (above) was found;

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(2) an undated note addressed to "FRED" which was handed over to Constable Pacquette at the Dominica Police Headquarters on March 5, 1981 by Ronnie Roberts, a prisoner then in custody at the lock up where Malcolm Reid was also confined, and purporting to have been written by the said Reid. Roberts was not called as a witness to say from what source the document came.

10

It was Oliver Phillip, the Commissioner of Police for Dominica who was called to give evidence relating to the passport application form of the accused, Patrick John, sought to be put in evidence for comparison with the signature Patrick John on Exhibit T.

The learned Judge ruled the document to be inadmissible, and the circumstances surrounding the ruling can best be recaptured by quoting from extracts of the Judge's notes. Oliver Phillip said in answer to Mr. Mottley for the State:-

20

".....In addition to my office as Commissioner of Police, I hold the office of Chief Immigration Officer. Applications for passports are made to my office.....after the passport is issued the form is filed in the Immigration Office under my control....."

30

He was then shown a passport application form dated June 29, 1979, by Mr. Mottley for the State and Mr. MacCauley objected to its admissibility stating that the proper officer to put in the document should be the person who processed the application, and further that it was irrelevant.

Mr. Mottley in answer to the Court said that the witness did not make the document nor did he see it made. The learned Judge ruled that the document was inadmissible as coming from the witness who knew nothing about it and the circumstances of its making, and that it had not been proven to his satisfaction to be the writing of Patrick John.

30

Mr. Mottley then referred the Court to paragraph 1262 of the 39th edition of Archbold which states that the methods of

50

proving the handwriting of a person may be:-

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- (1) By a person having knowledge of it.
- (2) By some person who has a knowledge of it from having seen him write even once only.
- (3) By someone having been in the habit of corresponding with him, or of acting upon his correspondence with others.

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10

He referred the Court to Section 19 of the Evidence Act Cap. 64 and launched a second attempt to have the document admitted. On further examination Oliver Phillip said:-

20

".....I am familiar with the handwriting of Patrick John. Mr. John has been a member of Government. He has been Premier and Prime Minister of the Government. During the period he was Premier and Prime Minister he was also Minister responsible for National Security. As Minister of National Security I was responsible to him for National Security. I therefore had during that period occasion to see Mr. John's handwriting, to witness him write and sign his name. That is how I became familiar with his signature. From time to time I received minute papers from his office".

30

Mr. Mottley again sought to tender the document, but the learned Judge remained unmoved. The application to admit the document was refused. The reason given being the same, that "it is not proved to have been signed or written by the defendant".

40

Undaunted, Mr. Mottley sought to put in some other documents allegedly received by Oliver Phillip from Assistant Superintendent of Police Blanchard. It is not clear what those documents were, but apparently they were directed also at proving the handwriting of Patrick John. His efforts proved equally

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fruitless, and the benefit of the evidence of the handwriting expert in so far as Patrick John went was lost to the State. Nothing more need be said at this stage other than that it appears to us that the witness Oliver Phillip, from his evidence satisfied all the tests of competence to speak of his knowledge of the handwriting of Patrick John. To what extent it had to be "proved to the satisfaction of the Judge to be genuine" in the terms of Section 19 Cap. 64 remains to be considered.

10

The efforts of Mr. Mottley to put in evidence a comparative document in the form of a diary purporting to have been written by the accused Malcolm Reid, proved equally unsuccessful. In this respect Gene Pestiana testified:-

"I am an Inspector of Police No. 161 of the Commonwealth of Dominica Police Force....presently in charge of the Eastern District. On 15 January 1981 I was attached to the special branch. I know the accused Captain Walter Reid. He was a member of the Defence Force. Whilst a member of the Police Force I have visited Reid at Defence Force Headquarters on many occasions. On many of those visits I have seen his writing. I know his handwriting very well. I have seen him write. Captain Reid and I are very good friends. I look at this diary..... I did not see Captain Reid write this diary particularly....."

20

30

Objection was taken by Mrs. MacCauley at this stage to the production of the diary on the grounds that:

- (1) The Prosecution has not shown the relevance of the diary.
- (2) It has not been produced from proper custody.
- (3) The witness said he had not seen the accused write the particular document.

40

The legal argument which ensued,

resulted in the ruling of the Court in these terms:-

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"The Court rules that it is not proved to the satisfaction of the Court that the writing in question, the diary, is proved to the satisfaction of the Court to be that of Malcolm Reid in accordance with Section 19 Cap. 64."

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10 Here again it would seem to us that this witness was hardly any less competent to speak of his knowledge of the handwriting of Malcolm Reid than was Commissioner Oliver Phillip to speak of that of Patrick John.

Section 19 of Cap. 64 states that:

20 "Comparison of the disputed writing with any writing proved to the satisfaction of the Judge to be genuine shall be permitted to be made by witnesses and such writings and evidence of the witnesses respecting the same may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute".

It is identical in terms to Section 8 of the Criminal Procedure Act 1865.

30 Both Phillip and Pestiana testified that they had respectively seen Patrick John and Malcolm Reid write. Phillip as Commissioner of Police would have worked in close conjunction with Patrick John as Prime Minister and Minister of National Security, and the same relationship would have existed between Pestiana as head of the special branch, and Reid the second in command of the Defence Force.

40 The methods of proof of the handwriting are not only set out in paragraph 1262 of the 39th edition of Archbold but similar provisions are to be found in all the standard works on evidence. A statement that a witness is acquainted with the party's handwriting has more often than not been held to be sufficient in chief, it being for the opponent to cross-examine as to the means and extent of the knowledge.

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Doe v Suckermore - 111 E.R. p. 1331 -
5 A & E 703, 730 - 731. There was no
cross-examination of either Phillip or
Pestiana on this aspect.

It must be remembered that in the
final result, it is the jury who are being
invited to make a comparison of the
handwriting on the two documents, and the
opinion of the expert is merely to assist
them. On a proper direction, the trial
Judge would still have to direct them
that they should be satisfied that the
comparative document being put forward
is in the handwriting of the accused,
before using it as a basis of comparison
with the questioned document. The
standard which the jury has to apply is
the standard applicable to all criminal
matters of which they are seized that is,
proof beyond a reasonable doubt. Can
it be said however that the Judge when
called upon to admit the document in
accordance with Section 19 of Cap. 64 has
got to apply the same standard of proof?

10

20

In R v Angeli (1978) 3 ALL E.R.
950 - 1979 Cr. App. Rep. 38, it was held
that the standard of proof to be applied
by a trial Judge in deciding whether
pursuant to Section 8 of the Criminal
Procedure Act 1865 writing is proved to
his (the Judge's) satisfaction to be
genuine, is the civil standard of proof
that is, the Judge need only be satisfied
that the writing is genuine: the matter
being covered by the statute, the criminal
standard of proof is inapplicable.

30

Counsel for the respondents had
submitted before this Court that the
criminal standard was applicable. It was
pointed out by Dr. Barnett for the State
that the provision is contained in the
Evidence Act which is applicable to both
civil and criminal proceedings so that the
criminal standard of proof could hardly be
acceptable. There is much merit in this
submission and this Court sees no difficulty
in agreeing with and accepting the standard
of proof laid down in Angeli's case.

40

On the question of relevance it is well
established that the documents being sought

50

to be tendered for comparative purposes,
need not be relevant to the case.

(Birch v Ridgeway (1858) 1F & F270).

The Court is firmly of the view that on
the basis of the evidence given by Oliver
Phillip and Gene Pestiana and the
authorities, the learned trial Judge ought
to have admitted in evidence the passport
application form purported to have been
written up and signed by Patrick John,
and the diary purported to have been written
up by Malcolm Reid. In this respect
therefore, there was a wrongful exclusion
of evidence.

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Despite this however, the Director of
Public Prosecutions cannot maintain an
appeal under the amended Act - 16/81 - if
either of the two preliminary objections
taken, namely, (1) that the appeal does not
raise a question of the interpretation or
construction of a point of substantive or
adjective law relating to the evidence, or
(2) that the purported amendment is
unconstitutional null and void, is
successful. Before dealing with the
submission of No-Case the preliminary
objections should now therefore be dealt
with.

The Preliminary Objections:

There are many statutes which give a
right of appeal by way of case stated on
the ground that the determination is
erroneous in law. It not infrequently
happens that Magistrates sometimes come
to a decision which no reasonable bench
could have come to. In such a case the
High Court on an appeal can interfere on a
point of law. (Bracegirdle v Oxley (1947)
1 ALL E.R. 126).

If wrong legal principles are applied
in making a decision, or in accepting or
rejecting evidence, both raise questions of
law. There can hardly be any room for
dispute when it is said that the wrongful
admission and/or the wrongful exclusion of
evidence raise questions of law which in a
Court of Appeal can lead to the quashing of
a conviction. I have already indicated the
Court's view that the learned trial Judge
wrongfully excluded the passport form and
the diary. This wrongful exclusion of

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evidence in our view raises a point of law and is sufficient to ground the right of appeal of the Director of Public Prosecutions, unless it can otherwise be shown that the amendment is unconstitutional, null and void. The first preliminary objection therefore fails.

Turning now to the second preliminary objection, Section 8(5) of Commonwealth of Dominica Constitution Order 1978 S.I. 1027 of 1978 reads:-

10

"A person who shows that he has been tried by a competent Court for a criminal offence and either convicted or acquitted shall not again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial save upon the order of a superior Court in the course of appeal or review proceedings relating to the conviction or acquittal".

20

This provision in the constitution has not in any way enlarged, or abridged the common law right of an accused to avail himself of the pleas of autrefois acquit or convict. The right of an accused person to avail himself of this plea, can be taken away by a Court of Appeal who can order his retrial. Counsel for the respondents submitted that this power to order a retrial, or the exercise of the power, is vested in the Court of Appeal, and not Parliament. Counsel then invited the Court to read Section 37(3) of the amending Act - 16/81 which states:-

30

"The Court of Appeal in such appeal by the Director of Public Prosecutions shall allow the appeal if it thinks the decision was wrong in law and order a retrial and in any other case shall dismiss the appeal".

40

He submitted that by the use of the words "shall allow the appeal.....and order a retrial". Parliament was there assuming the power and directing the Court of Appeal, thereby taking away from them the exercise of any discretion in the matter. If therefore it was the intention to divest

the Court of Appeal of their discretionary power to deprive the accused of his protection of the plea of autrefois acquit, then Section 8(5) of the Constitution should first have been amended in accordance with the special provisions laid down in Section 42(2) thereof. This was not done, therefore the next question which he submitted had to be decided was whether or not Section 37(3) was severable from Section 37(2) which gives the right of appeal. A look at both subsections he submitted shows that they are inextricably bound up with each other, and form a scheme which was intended by the legislature. Any attempt at severance would destroy this scheme and therefore the amendment as a whole should be declared unconstitutional, and as amounting to a usurpation of the judicial power of the Court of Appeal. He referred to the case of Don Liyanage v The Queen 1967 A.C. 259.

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In response Counsel for the State submitted that Section 8(5) of the Constitution does not contain any implied provision that an order for retrial by the Court of Appeal must have been made in the exercise of an unfettered discretion. On the contrary, the establishment and jurisdiction of the Court of Appeal as well as the powers of the Court are fixed by law, and not by the Constitution. Counsel referred the Court to Section 9(2) of the West Indies Associated States Supreme Court Order 1967 S.I. 223 of 1967 which reads:-

"The Court of Appeal shall have in relation to the State such jurisdiction to hear and determine appeals and to exercise such powers as may be conferred upon it by the Constitution or any other law of the State".

He submitted that the Don Liyanage case was quite inapplicable to the present circumstances. That involved a special court being set up to deal with special persons, under rather special circumstances, and novel rules of evidence.

In our view, these submissions of

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Counsel for the appellant are a complete answer to this second preliminary objection. The amended Act 16/81 creates a new right of appeal, and confers upon the Court of Appeal a power to deal with it. Whilst recognizing the necessity to closely scrutinize legislation of this nature, we do not consider the Act unconstitutional, and this point also fails.

10

There now remains to be considered the ruling on the No-Case submission, and whether or not that raises a question of law. For reasons which will become obvious shortly, we will refrain from commenting or expressing an opinion on the evidence, other than is necessary for the purpose of this decision.

The No-Case Submission:

In February 1962, Lord Parker C.J. issued the following practice note:-

20

"A submission that there is no case to go to a jury may properly be made and upheld:-

- (a) When there has been no evidence to prove an essential element in the alleged offence;
- (b) where the evidence adduced by the prosecution has been so discredited as a result of cross-examination or is so manifestly unreliable that no reasonable tribunal could safely convict on it."

30

Practice Note - (1962) 1 ALL E.R. p.448.

In 1977, Lord Widgery in the case of R v Barker, (1977) 65 Cr. App. Rep.287 at 288 said:

"It cannot be too clearly stated that a Judge's obligation to stop the case is an obligation which is concerned primarily with those cases where the necessary minimum evidence to establish the facts of the crime has not been called.

40

It is not the Judge's job to weigh the evidence, decide who is telling the truth and stop the case merely because he thinks the witness is lying. To do that is to usurp the functions of the jury....."

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10 Counsel for the State, Dr. Barnett, submitted to this Court that the nature of this case and the evidence adduced in support of the charges, were not such as to justify in law the decision of the learned Judge to uphold the submission. The principal witness he submitted was Algernon Maffie. His true character was not hidden, and indeed it was attacked: but whether or not he was telling the truth, was, counsel submitted, essentially a matter for the jury. He did not resile from the fact that Maffie was an accomplice and had an interest to serve, but
20 in these circumstances the Judge's duty to give an accurate and appropriate warning was clear.

30 He further submitted that the very nature of his character and his close association with the plot made him a natural ally, and his story may thus have appeared credible to the jury. Counsel pointed out that there were many factors emerging from the evidence which tended to give credence to Maffie's account. He specifically mentioned the evidence of Osburg as to the thwarting of the expedition, the declarations made by Perdue and others to Osburg, the remittance of funds from Perdue through the account of Julian David at the Royal Bank of Canada, the frequent visits of Perdue to Dominica, and the evidence of the meeting in Antigua.

40 Finally Dr. Barnett submitted that the upholding of the No-Case submission was wrong in law, and as such raised a point of law upon which the Court can pronounce. He relied on *Ross v Rivenoll* (1959) 2 ALL E.R. 376; *Tibbetts v Eldemire* (1975) 13 Jamaica L.R. 241.

50 In reply counsel for the respondents submitted that not every submission of No-Case can be treated as a point of law. At the highest, the decision here of the learned Judge raises only a question of mixed law and fact, and does not ground the

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appeal of the Director of Public Prosecutions. The Court is not in agreement with this. We are of the opinion that a submission of No-Case involves a point of law as was clearly shown in the case of *Ross v Rivenoll* (supra).

Counsel for the respondents referred us to the case of *R v Galbraith* (1981) 2 ALL E.R. 1060 which set out guidelines to be followed by a trial Judge on a submission of No-Case to answer. This case applied the principle laid down by Lord Widgery in *R v Barker* (supra). If it does nothing else, it appears that the case of *Galbraith* strengthens and reaffirms the directions given by Lord Parker in 1962. Lord Lane C.J. said:-

".....Where the Judge comes to the conclusion that the Crown's evidence, taken at its highest, is such that a jury properly directed could not properly convict on it, it is his duty, on a submission being made, to stop the case. Where however the Crown's evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury, and where on one possible view of the facts there is evidence on which a jury could properly come to the conclusion that the defendant is guilty, then the Judge should allow the matter to be tried by the jury....."

This statement is very relevant to the circumstances of this case. The reliability of the witness Maffie featured largely in the case. On the basis of the evidence adduced and the authorities, we are of the view the case should have been left to the jury, and that the learned trial Judge erred in that respect.

At the close of Dr. Barnett's submissions, and in answer to the Court, he guardedly admitted that the decision of Mitchell J. to uphold the No-Case submission in respect of the accused Dennis Joseph only, could be justifiable

in law. We are entirely in agreement with this. We find that there was no evidence to go to the jury in respect of Joseph. In so far as the other accused Patrick John, Malcolm Reid, and Julian David are concerned, we are of the view that there was evidence against them on which a jury properly directed could convict, and that the learned trial Judge was wrong in law in upholding the No-Case submission in respect of these three accused. This too in our opinion raises a point of law sufficient to ground the appeal of the Director of Public Prosecutions.

10

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of Appeal

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(continued)

It follows therefore that the three questions submitted by the Director of Public Prosecutions to this Court for determination must each be answered in the affirmative.

The Court's decision accordingly is as follows:-

20

(1) The appeal of the Director of Public Prosecutions in respect of the accused Dennis Joseph is dismissed, and the verdict of acquittal entered in his favour on both counts of the indictment is sustained.

30

(2) The appeal of the Director of Public Prosecutions in respect of the accused Patrick John, Malcolm Reid and Julian David is allowed, and the verdicts of acquittal entered against each of them on both counts of the indictments, are set aside.

40

(3) That there shall be a re-trial of the accused Patrick John, Malcolm Reid, and Julian David in accordance with Section 37(3) of the amending Act - No. 16 of 1981 upon a fresh indictment.

(4) That the accused Patrick John, Malcolm Reid, and Julian David should forthwith be retaken into custody, and that

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they should each thereupon be offered bail in the sum of \$10,000.00, with one or two sureties.

(Sgd) L.L. ROBOTHAM,
Justice of Appeal.

(Sgd) N.A. BERRIDGE,
Justice of Appeal

(Sgd) N.A. PETERKIN,
Chief Justice

10

No. 56

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of Appeal

ORDER FOR CONDITIONAL LEAVE TO
APPEAL

No. 56
Order for
Conditional
Leave to
Appeal

CERTIFICATE OF ORDER OF COURT OF APPEAL
ON APPLICATION FOR LEAVE TO APPEAL TO
JUDICIAL COMMITTEE OF PRIVY COUNCIL

11 May 1983

IN THE COURT OF APPEAL

COMMONWEALTH OF DOMINICA

CRIMINAL APPEAL NO. 5 OF 1982

10 BETWEEN

DIRECTOR OF PUBLIC PROSECUTION Appellant

AND

PATRICK JOHN
JULIAN DAVID Respondents/
MALCOLM REID Applicants

BEFORE THE HONOURABLE SIR NEVILLE
PETERKIN - CHIEF JUSTICE
THE HONOURABLE NEVILLE
BERRIDGE - JUDGE OF APPEAL
20 THE HONOURABLE LASCELLES L.
ROBOTHAM - JUDGE OF APPEAL

Upon this application coming on for hearing
on the 11th day of May 1983 and having
heard Dr. RANDOLPH WILLIAMS for the
Applicants and The Honourable RONAN DAVID,
Attorney General of the Commonwealth of
Dominica for the Appellant.

I HEREBY CERTIFY that an Order was made as
follows:

- 30 1. Leave to appeal to the Judicial
Committee of the Privy Council in
pursuance of Section 106(1) paragraph
(c) of the Constitution of the
Commonwealth of Dominica is granted
upon the following conditions:
- (1) the applicants within a period
not exceeding ninety (90) days from
the date of the hearing of the
application entering into a bond
40 in a sum the equivalent in East
Caribbean currency of five hundred

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pounds sterling for the due prosecution of the appeal and the payment of all such costs as may become payable in the event of the appeal being dismissed for non prosecution, or of the Judicial Committee ordering the appellant to pay the costs of the appeal.

The applicants within a period of ninety (90) days take the necessary steps for the purposes of procuring the preparation of the record and despatch thereof to England.

10

GIVEN under my hand and the Seal of the Court this 11th day of May 1983

(Sgd)

REGISTRAR

Filed by Randolph L. Williams, Barrister-at-Law and Solicitor c/o Armour, Armour and Harris, Chambers, Hanover Street, Roseau, for the Applicants herein.

20

No. 57

In the Court
of Appeal

ORDER GRANTING FINAL LEAVE TO
APPEAL

No. 57
Order granting
Final Leave
to Appeal .

IN THE COURT OF APPEAL

NOTICE TO AUTHORITIES OF RESULT OF
APPLICATION

8th December
1983

Commonwealth of Dominica

Criminal Appeal No. 5 of 1982

10 Patrick John
Julian David
Malcolm Reid Respondents/Applicants

and

Director of Public
Prosecutions Respondent

To the Registrar of the High Court

TO: THE REGISTRAR OF THE PRIVY COUNCIL

This is to give you notice that the
above-mentioned having applied for

20 final leave to appeal to the
Privy Council

the Court has on the 24th day of
October 1983 finally determined their
said application and has given judgment
to the effect following:-

Final leave to appeal to Privy
Council granted.

Dated the 8th day of December, 1983.

(Sgd) D. BENJAMIN

30 AG. DEPUTY REGISTRAR
COURT OF APPEAL

EXHIBIT "C"

Immigration
Card of
Maffie

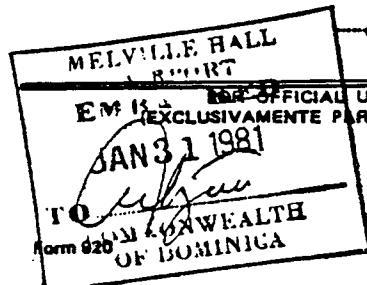
19 December
1979

liat

INTERNATIONAL E/D CARD
TARJETA INTERNACIONAL E/D

1. Mr. Sr. Fordie Algernon Maffie
Mrs. Srta.
Name in full (Please print) Maiden Name
Nombre y apellido (En letras de molde) Apellido de soltera
2. Date of birth 27 April 1949
Fecha de nacimiento (Day) (Month) (Year)
(Dia) (Mes) (Año)
3. Place of birth Roseau
Lugar de nacimiento
4. Nationality Dominican
Nacionalidad
5. Occupation Farmer
Ocupación
6. Home Address Ford Cole'
Dirección habitual
7. For arriving passengers - Port of embarkation
For passengers leaving - Port of disembarkation
Pasajeros que llegan - Puerto de embarque
Pasajeros que salen - Puerto de desembarque
8. For arriving passengers - Intended address
For passengers leaving - Last address
Pasajeros que llegan - Dirección prevista
Pasajeros que salen - Última dirección. Castle Harbour
Hotel
Antigua
9. Passport Number L-517
Número del pasaporte
10. Place and date of issue Roseau 19-12-79
Lugar y fecha de expedición

Roseau Maffie
(Signature of passenger)
(Firma del pasajero)



4th 1/2/81
21353

EXHIBIT "D"
 Immigration
 Card of Reid
 16 December
 1979

liat

INTERNATIONAL E/D CARD
 TARJETA INTERNACIONAL E/D

1. Mr. Sr. MALCOLM REID
 Mrs. Srs.
 Miss. Sras.
Name in full (Please print) Maiden Name
 Nombre y apellido (En letras de molde) Apellido de Soltera
2. Date of birth 25 8 51
Fecha de nacimiento (Day) (Month) (Year)
 (Día) (Mes) (Año)
3. Place of birth D/C
Lugar de nacimiento
4. Nationality DOMINICAN
Nacionalidad
5. Occupation MILITARY
Occupación
6. Home Address DOMINICA
Dirección habitual
7. For arriving passengers - Port of embarkation
 For passengers leaving - Port of disembarkation ANS
Pasajeros que llegan - Puerto de embarque
 Pasajeros que salen - Puerto de desembarque
8. For arriving passengers - Intended address
 For passengers leaving - Last address
Pasajeros que llegan - Dirección prevista
 Pasajeros que salen - Última dirección.
9. Passport Number 014149
Numero del pasaporte
10. Place and date of issue ROSARAO 16/12/79
Lugar y fecha de expedición

MELVILLE HALL AIRPORT EMBARKATION	M Reid <small>(Signature of passenger) (Firma del pasajero)</small>
FOR OFFICIAL USE ONLY (EXCLUSIVAMENTE PARA USO OFICIAL)	
JAN 1 1980 	Rtd 1/2/80 L1355

EXHIBIT "E"

Hotel
Registration
of Maffie

31 January
1981

Please print all information

NAME: Fordie Algemon Maffie

ADDRESS: Dominica

CITY: Roseau STATE: _____ ZIP: _____

SIGNATURE: Algemon Maffie

FOR OFFICE USE ONLY

ROOM NO.	ROOM RATE	NO. OF PERS.	ARR. DATE	DEP. DATE	
29			31/1/81		\$54.00 B.B.

M.A.P.

EXHIBIT "F"
Hotel
Registration
Card of Reid
31 January
1981

E NAME: MARION W REID EXH F
ADDRESS: JONICA
CITY: _____ STATE: _____ ZIP: _____

SIGNATURE:


Marion W Reid

FOR OFFICE USE ONLY

ROOM NO.	ROOM RATE	NO. OF PERS.	ARR. DATE	DEP. DATE	
30.			31/1/81		\$64.00 B. B

M.A.P.

EXHIBIT "H"
 Embarkation
 Card of
 Maffie
 1979



INTERNATIONAL E/D CARD
 TARJETA INTERNACIONAL E/D

1. Name in full (Please print) Nombre y apellido (En letras de molde) Er-die Al-gerton Maff-ey

Maiden name (Apellido de soltera) _____

2. Date of birth Fecha de nacimiento 27 4 49
 Day (Día) Month (Mes) Year (Año)

3. Place of birth Lugar de nacimiento Roseau

4. Nationality Nacionalidad Dominican

5. Occupation Ocupación Farmet

6. Home address Dirección habitual Fond Cole'

7. For arriving passengers - Port of embarkation
 For passengers leaving - Port of disembarkation } Antigua
 Pasajeros que llegan - Puerto de embarque
 Pasajeros que salen - Puerto de desembarque

8. For arriving passengers - Intended address
 For passengers leaving - Last address } Dominica
 Pasajeros que llegan - Dirección prevista
 Pasajeros que salen - Última dirección

9. Passport Number Número del pasaporte 14517

10. Place and date of issue Lugar y fecha de expedición Dominica 1979

Algeron Maffie
 Signature of passenger (Firma del pasajero)

FORM 9213 - 61085

31
 /
 1

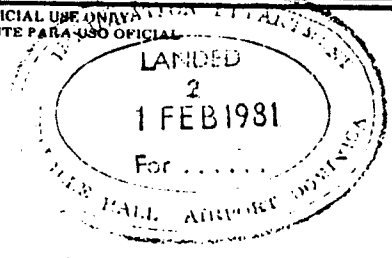


EXHIBIT "J"
 Embarkation
 Card of Reid
 10 December
 1979

ICP 30

INTERNATIONAL E/D CARD
 "TARJETA INTERNACIONAL E/D"

1. Mr. Sr. Sra. Scto. MALCOLM REID
 Name in full (Please print) Nombre y apellido (En letras de molde)

Maiden name (Apellido de soltera)

2. Date of birth 25 8 51
 Fecha de nacimiento Day (Día) Month (Mes) Year (Año)

3. Place of birth DOMINICA
 Lugar de nacimiento

4. Nationality DOMINICAN
 Nacionalidad

5. Occupation MILITARY
 Ocupación

6. Home address DOMINICA
 Dirección habitual

7. For arriving passengers - Port of embarkation
 For passengers leaving - Port of disembarkation
 Pasajeros que llegan - Puerto de embarque
 Pasajeros que salen - Puerto de desembarque ANTIGUA

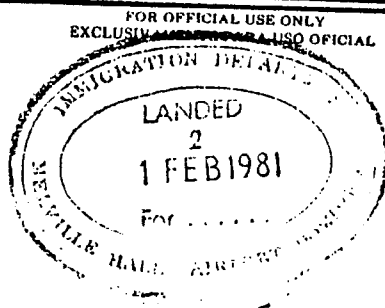
8. For arriving passengers - Intended address
 For passengers leaving - Last address
 Pasajeros que llegan - Dirección prevista
 Pasajeros que salen - Última dirección DOMINICA

9. Passport Number 614149
 Número del pasaporte

10. Place and date of issue DOMINICA 1979
 Lugar y fecha de expedición

M Reid
 Signature of passenger (Firma del pasajero)

FORM 9213 - 61085



31
1

EXHIBIT "K"

Immigration
Card of
Maffie

19 December
1979



INTERNATIONAL E/D CARD
TARJETA INTERNACIONAL E/D

1. Mr. Sr. } Fordie ALGERNON MAFFIE
Mrs. Sra. }
Miss. Srta. }
Name in full (Please print) Nombre y apellido (En letras de molde)

Maiden name (Apellido de soltera)

2. Date of birth 27 April 1949
Fecha de nacimiento Day (Día) Month (Mes) Year (Año)

3. Place of birth Roseau
Lugar de nacimiento

4. Nationality Dominican
Nacionalidad

5. Occupation Farmer
Ocupación

6. Home address Fond Cole' DON
Dirección habitual

7. For arriving passengers - Port of embarkation } Roseau
For passengers leaving - Port of disembarkation }
Pasajeros que llegan - Puerto de embarque }
Pasajeros que salen - Puerto de desembarque } CASTLE HUBER

8. For arriving passengers - Intended address }
For passengers leaving - Last address } CASTLE HUBER
Pasajeros que llegan - Dirección prevista }
Pasajeros que salen - Última dirección }

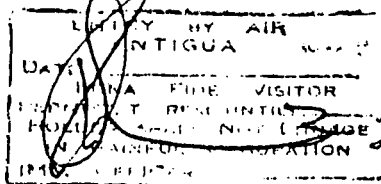
9. Passport Number 14517
Número del pasaporte

10. Place and date of issue Roseau 19.12.79
Lugar y fecha de expedición

Algermon Maffie
Signature of passenger (Firma del pasajero)

FORM 9213 - 61085

FOR OFFICIAL USE ONLY
EXCLUSIVAMENTE PARA USO OFICIAL



JAN 3 1980

EXHIBIT "L"
Immigration
Card of Reid
10 December
1979



INTERNATIONAL E/D CARD
TARJETA INTERNACIONAL E/D

1. Mr. } Sr. } MALCOLM REID
Mrs. } Sra. }
Miss. } Srta. }
Name in full (Please print) Nombre y apellido (En letras de molde)

Maiden name (Apellido de soltera)

2. Date of birth 25 AUG 81
Fecha de nacimiento Day (Día) Month (Mes) Year (Año)

3. Place of birth DOMINICA
Lugar de nacimiento

4. Nationality DOMINICAN
Nacionalidad

5. Occupation MILITARY
Ocupación

6. Home address MAHAUT, DOMINICA
Dirección habitual

7. For arriving passengers - Port of embarkation MELVILLE HALL
For passengers leaving - Port of disembarkation
Pasajeros que llegan - Puerto de embarque
Pasajeros que salen - Puerto de desembarque

8. For arriving passengers - Intended address CASTLE HARBOUR
For passengers leaving - Last address
Pasajeros que llegan - Dirección prevista
Pasajeros que salen - Última dirección

9. Passport Number 014149
Número del pasaporte

10. Place and date of issue ROSEAU, DOMINICA 10-27-79
Lugar y fecha de expedición
MALCOLM REID
Signature of passenger (Firma del pasajero)

FORM 9213 - 61085

FOR OFFICIAL USE ONLY
EXCLUSIVAMENTE PARA USO OFICIAL

DATE 10 31 1979
FIDE VISITOR
REMAIN UNTIL
SHALL BE
24 5 01

EXHIBIT "M"
 Immigration
 Card of
 Purdue
 4 October 1979

BW 409

INTERNATIONAL I/O CARD
 TARJETA INTERNACIONAL I/O

1. Mr. Sr.
 Mrs. Sra. MICHAEL EUGENE PERDUE
 Name in full (Please print) Maiden Name
 Nombre y apellido (En letras de molde) Apellido de Soltera

2. Date of birth 30 JAN 1981
 Fecha de nacimiento (Day) (Month) (Year)
 (Día) (Mes) (Año)

3. Place of birth U.S.A.
 Lugar de nacimiento

4. Nationality AMERICAN
 Nacionalidad

5. Occupation IMPORT - EXPORT
 Ocupación

6. Home address 1609 MARSHALL HOV. TEX.
 Dirección habitual

7. For arriving passengers—Port of embarkation
 For passengers leaving—Port of disembarkation
 Pasajeros que llegan—Puerto de embarque
 Pasajeros que salen—Puerto de desembarque MIAMI, USA

8. For arriving passengers—Intended address
 For passengers leaving—Last address
 Pasajeros que llegan—Dirección prevista
 Pasajeros que salen—Última dirección ANTIGUA
 CASELO HARBOUR

9. Passport Number K1348746
 Número del pasaporte

10. Place and date of issue HOV. TEX. Oct. 4, 79
 Lugar y fecha de expedición

Michael E. Purdue
 (Signature of passenger)
 (Firma del pasajero)

(FOR OFFICIAL USE ONLY)
 (EXCLUSIVAMENTE PARA USO OFICIAL)

ANTIGUA 18610 E.I.M.

BONA FIDE VISITOR
 PERMITT. TO REM. UNTIL
 HOLDER SHALL NOT ENGAGE
 IN GAINFUL OCCUPATION

FORM 921

EXHIBIT "N"

Letter to
Fred

FD.

Somebody will give you a number
call Mike Perdue in TEXAS. (collect)
call

Complete all construction arrangements
for any day next week IF POSSIBLE
not necessarily saturday

You will have to set up both trucks, the

van and probably your car. Piper's jeep and
his charley van. I have already settled payment
contact Pat and keep him informed

I will let piper put every body else
on stand-by and he will report to you

I believe ~~also~~

the main strike should be the P.S.
if all other moves will be made from there

You should come and see me.

Don't panic we must make it!!

be on the march, Beware of failure, success that is to come!

Finished section on Bay Front, from Royal Bank to former Customs Building.

PM ADDRESSES NATION ON ATTEMPTED COUP

FROM PAGE 6

Information came to hand that at the end of January the following Dominicans travelled to a neighbouring island to hold a conference with Mike Perdue and others from the United States. The Dominicans were: Patrick John, Malcolm Reid, Julien David, Denis Joseph and one other who has not yet been detained but the inclusion of whom in that group will shock you when the name is revealed. This conference was to finalise plans for the overthrow of the Government by force and the replacing of Patrick John as leader of the country. Men i.e. mercenaries and money and arms were available from the United States contacts for this plot to take place.

The trouble was to commence at Carnival time and the situation was to have been left in such chaos that it would have been easy to do the take over.

As a first step Reid and Roberts were detained. They were to have been the prime movers at the Carnival incident and who were the close links with the terrorists in the hills.

Those irresponsible citizens who thought that the Government was retaining the hours of Carnival to daylight hours must think again. We knew that trouble was brewing and that darkness was to be used as cover. We knew also the business man who paid the Band to keep on playing after dark to pro-

voked the trouble which resulted in the death of one man wounding of another and much damage to motor vehicles.

While the two men were detained, Reid wrote the letter which I will read and it was handed by Roberts for delivery to Major Newton who was at that time on the premises of Police Headquarters.

This is the letter (See Last Week's Chronicle):

We have found out that the "Somebody" is Julien David. He did not wait on Newton to make the telephone call he made it himself on Thursday night. Piper was the man to round up the other soldiers, therefore he

must be deprived of the opportunity of doing this. Since the Government of Dominica which you elected so overwhelmingly last July and to put himself at the head of the Government. Significantly the plot was originally fixed for March 14th close to the date of the Grenada Revolution.

It is unfortunate that the politician Patrick John sees himself in the role of a revolutionary. We cannot help but recall his plot to use Dominica as a training ground for mercenaries with the intention of invasion of Barbados and placing himself as head of the Commonwealth of Dominica and Barbados.

Now he has hatched another plot to bring

months in putting Government forward on road to development that has caused these disgruntled politicians to act in this manner.

To maintain this peace which we love so dearly it will be the duty of every man woman and child to make of themselves soldiers of the country. We must be vigilant, we must guard our interests, in particular we must man the shores and Bays to repel the entry of any vessel, ship or launch which comes to our shores illicitly. This is our Country and we must fight for it and ensure that it does not fall into the hands of selfish, greedy and overambitious politicians who have been rejected by the people of Dominica.

But Fellow Dominicans, we the people of Dominica must show to Patrick John and his band of malcontents some of whom are still at large, that we will not let the safety and security of our country be invaded. That we want and insist on having the peace and tranquility which is the only atmosphere which is conducive to development in this country. It is the success that we have had in the past seven

EXHIBIT "Q"

Receipt Voucher of
\$400,000 US
Currency

30 January 1981

Form 1050 (2-65)

PARTICULARS		AMOUNT
Reversing entry as at 20/1/81		US 400
Julien B. G. David		
X. David		
G/L ACCT.		\$ 1075.28

09655
 THE ROYAL BANK OF CANADA
 ROYAL BANK OF CANADA
 1981-01-30
 (Branch)

INITIALS
 [Signature]

Date 30/1/81

→ U.S. Debt - surp.
 A/c

EXHIBIT "R"

Letter from
Royal Bank
of Canada

10 April 1981



THE ROYAL BANK OF CANADA

INCORPORATED IN CANADA WITH LIMITED LIABILITY

P.O. Box 19

Roseau

Commonwealth of Dominica, W.I.

Telephone No. 2771.

April 10, 1981

Mr. Julien David
C/O Commissioner of Police
Police Headquarters
Roseau
Commonwealth of Dominica

Dear Sir:

We enclose herewith our draft #0244767
EC\$4836.66 being proceeds of cable transfer
from First City National Bank of Houston for
US\$1800.00, by order of Mike Perdue.

Please note that the exchange rate is 2,6882
and, in keeping with our regular charges we
have deducted a \$2.00 service charge.

Kindly acknowledge receipt by signing and
returning the duplicate copy of this letter.

Yours truly,

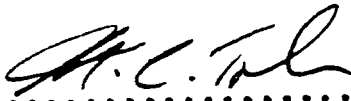

.....
M.C. Toulon (Mr)
Officer-in-Charge
Foreign Business Dept.

EXHIBIT "S"

Bank Draft for
\$4836.66

9 April 1981

THE ROYAL BANK OF CANADA 0244767
ROSEAU COMMONWEALTH OF DOMINICA APRIL 9 1981
BRANCH

PAY TO THE ORDER OF JULIAN DAVID. E.C. \$4836.66

SUM OF EC\$ 4836.66 TRANSFER FIRST CITY NATIONAL BANK OF HOUSTON. EAST CARIBBEAN DOLLARS

RE TO ROYAL BANK OF CANADA
ROSEAU COMMONWEALTH OF D/CA
BRANCH

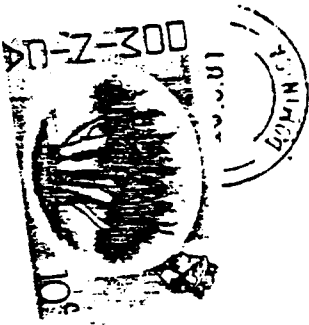
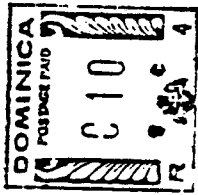
SIGNED: *A. Toulon* SIGNATURE STAMP
COUNTERSIGNED: *M. C. Toulon* M. C. TOULON SIGNATURE STAMP

09655
THE ROYAL BANK OF CANADA
ROSEAU COMMONWEALTH OF DOMINICA
04-13
6655

EXHIBIT "S" (A)

Back of Bank
Draft for
\$4836.66

9 Apl.
1981



Please pay to my Brother, Clevel David the amount of cash appearing on this cheque

David

Clevel David

JULIAN. DAVID X

54
7X5
171
55

20th September, 1980

Mr. Michael Perdue
1609 Marshall
Houston, Texas 770006

EXHIBIT "T"
Letter to Purdue
20 September
1980

I, Patrick John, do hereby agree in principle with the general provisions of the proposed agreement, subject to further discussions and amendments.

A. G.
W.
J.
D.

I further agree to meet with you and your colleagues in order to finalise figures and plans as discussed, at your earliest possible convenience.

Patrick John
.....
Patrick John

240X-201800-55
7X3
171

7/17/81
345

7/17/81
220
4/28/81
12/20/81
12/20/81

EXHIBIT "U"
Contract
between
Black
Revolutionary
Council and
Nortis
Enterprise

Must be changed for our future business
This contract is hereby entered into between
BLACK REVOLUTIONARY COUNCIL represented by Col. Patrick
acting as Chairman of the Council for which he is duly
authorized and empowered to act, hereinafter called the Council.

AND

NORTIS ENTERPRISES hereinafter represented by Michael Berescoe
acting on behalf of Nortis Enterprises for which he is duly
authorized and empowered to act, hereinafter called the company.

The Council undertakes to perform the following:-

1. The Council will within 30 days of reinstatement, increase the National Reference Force by an additional two hundred (200) persons for the purpose of National security and the maintenance of the Government.
2. The National Reference Force will assume full and all military functions for the internal and external security of the country of Jamaica.
3. The Council will make financial provisions for the purchase of equipment, other military items and supplies and proper accommodation for the National Reference Force in order to maintain complete national security and protection of citizens.

*TOP SECRET
Budget*



4. The Council shall employ Michael E. Perdue who shall be responsible for the supervision and training of the National Defence Force. The terms and conditions of his employment shall be negotiated by a separate contract.
5. Michael E. Perdue shall be allotted duties and responsibilities of the Chairman of the Council on behalf of the Council; and shall report directly to the Chairman.
6. The Chairman of the Council shall assign a Senior Officer of the National Defence Force to work with Michael E. Perdue on all aspects of the operation and installation.
7. This Senior Officer shall head the National Defence Force and shall work in collaboration with Michael E. Perdue in preparing programmes and training for persons in a proper planned programme for internal and external security.
8. The Company shall be paid an amount of \$50,000.00 U.S. for its participation in the installation of the Council.
9. The above-mentioned amount shall be paid to Michael E. Perdue for and on behalf of the Company within four (4) months of the installation.
10. All political and Police functions will be completely controlled by the Chairman of the Council.
11. The Council accepts and agrees that the Company should operate a business in the state of Dominica.

Walker Reid

must have to see 200,000 but can't see it

2

MEMORANDUM TO THE COUNCIL

.....

Page 2.
article 8.

I must have at least \$150,000
within two weeks to complete ~~issuance~~
immediate security.

The \$50,000 can come later.

This money will go completely
pay my people and National Defense

No personal payment.

But must be independent &
secure. counsel.

W. C. Parshel

2. The Council agrees to give the Company fiscal incentives as follows:-

50,000

(a) tax exemption for 20 years. This concession can be reviewed at the end of the twentieth year.

~~400~~

(b) During the tax exemption period, the Company shall not pay income tax and shall also be exempted from taxes, duties and levies on equipment and articles imported solely for the operation of the commercial and/or industrial enterprises of the company.

slightly
less

(c) Persons of Mortic enterprises are allowed to repatriate funds without restrictions.

but to

The Company undertakes to perform the following:

1. The company shall undertake to install the Council by February 28th, 1981.

2. The company shall supply the Council with all necessary equipment and supplies for the successful operation and ultimate installation of the Council

3. Payment shall be made to COMPANY ~~Michael E. Ercole~~ for all equipment and supplies supplied to the Council for the operation. ~~The funds to meet such payment shall come from the national budget.~~

\$150,000^{us.} within two weeks
TOP priority

4. The company shall secure a loan of 50 million dollars U.S. from a source of their own choosing for use for development projects of the country and to be administered by the Government.

EXHIBIT "U"
(continued)

4/

commercial and industrial undertakings.

7. The company shall invest part of its profits, which shall not be less than 30%, into the development of industries and
8. An amount of 2 1/2 % of the above amount shall be paid to the Company as a finder fee on receipt of the 50 million dollars U.S
9. The company shall employ and train Dominicans in its various development projects as negotiated and determined as per on terms and conditions to be satisfied by contract.
10. 10% of the Nortic Enterprises or any profits made by any
11. Extension of this commitment to projects other than the ones covered hereby must be agreed on in advance by both parties, expense here shall be allotted to the chairman and persons person connected with Nortic Enterprises or the national give full assurances to the company that no objection will be made to construction and operation of the company, provided designated by the national interest of
12. Nortic Enterprises shall register its company under the laws of Dominica; and having been duly registered, the Council shall
13. such construction and operation is in the national security and national development.

GENERAL

1. The language of reference, both for the contract and for performance hereof, shall be English.
2. This contract shall take effect on the date on which the Council shall be installed as the Government of the Commonwealth of Dominica.

SCHEDULE A

1. Agricultural Development ~~ment~~
2. Agro Industries
3. Construction of International Airport
4. Tourism
5. Other related development projects.

1. Bank charter
2. Lumber report under guidelines

SCHEDULE B

- The Leader.....3%
- Three principal officers.....2% each
- The Council1%

Signed in Antigua on.....day of19 ..

FOR THE COMPANY
NORTIS ENTERPRISES

FOR THE COUNCIL:
BLACK REVOLUTIONARY COUNCIL

.....

EXHIBIT "V"
Contract with
Alterations

C O N T R A C T

THIS CONTRACT IS MADE AND ENTERED BETWEEN COUNSEL FOR THE REPUBLIC OF DOMINICA HERINAFTER REPRESENTED BY COL. PATRICK JOHN ACTING CHAIRMAN OF THE COUNSEL FOR WHICH HE IS DULY AUTHORIZED AND EMPOWERED TO ACT, HERINAFTER CALLED THE COUNSEL,

AND

NORTIC ENTERPRISES HERINAFTER REPRESENTED BY MICHEAL E. PERDUE ACTING ON BEHALF OF NORTIC ENT. FOR WHICH HE IS DULY AUTHORIZED AND EMPOWERED TO ACT, HERINAFTER CALLED THE COMPANY.

THE COUNSEL UNDERTAKES TO PERFORM THE FOLLOWING:

THE COUNSEL WILL WITHIN 30 DAYS OF REINSTATEMENT, INCREASE THE NATIONAL DEFENSE BY AN ADDITIONAL TWO HUNDRED (200) PERSONS FOR THE PURPOSE OF NATIONAL SECURITY AND THE MAINTANCE OF THE GOVERNMENT.

THE NATIONAL DEFENSE FORCE WILL ASSUME FULL AND ALL MILITARY FUNCTIONS FOR THE INTERNAL AND EXTERNAL SECURITY OF THE REPUBLIC OF DOMINICA.

THE COUNSEL WILL MAKE FINICAL PROVISIONS FOR THE PURCHASE OF EQUIPT.

OTHER MILITARY ITEMS AND SUPPLIES AND PROPER ACCCOMODITIONS FOR THE DEFENSE FORCE IN ORDER TO MAINTAIN COMPLETE SECURITY AND PROTECTION

CITIZENS, THE MILITARY WILL BE GIVEN FIRST PRIORITY IN BUDGETING.

THE COUNSEL SHALL EMPLOY MICHEAL E. PERDUE WHO SHALL BE RESPONSIBLE FOR THE SUPERVISION AND TRAINING OF THE NATIONAL DEFENSE FORCE. HE WILL

BE ALLOWED 30 SPECIALIST FOR THE PURPOSE OF TRAINING AND MAINTAINING NATIONAL SECURITY.

MICHEAL E. PERDUE SHALL BE ALLOTED DUTIES AND RANK IN THE DEFENSE FORCE AND SHALL REPORT DIRECTLY TO THE CHAIRMAN OF THE COUNSEL.

THE CHAIRMAN SHALL ASSIGN A SENIOR OFFICER OF THE DEFENSE FORCE TO WORK WITH MICHEAL E. PERDUE ON ALL ASPECTS OF DEFENSE FOR DOMINICA.

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 - C. PERSONS OF NORTIC ENT. ARE ALLOWED TO REPARIATE FUNDS WITHOUT RESTRICTIONS.
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EXHIBIT "V"
(continued)

G E N E R A L

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AND INDUSTRIES MADE AVAILABLE TO NORTIC
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AND OTHER RELATED DEVELOPMENTS AND PROJECTS.

SIGNED ON THIS DAY BY

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THE COMPANY SHALL EMPELOY AND TRAIN DOMINICANS IN ITS VARIOUS UNDERTAKINGS
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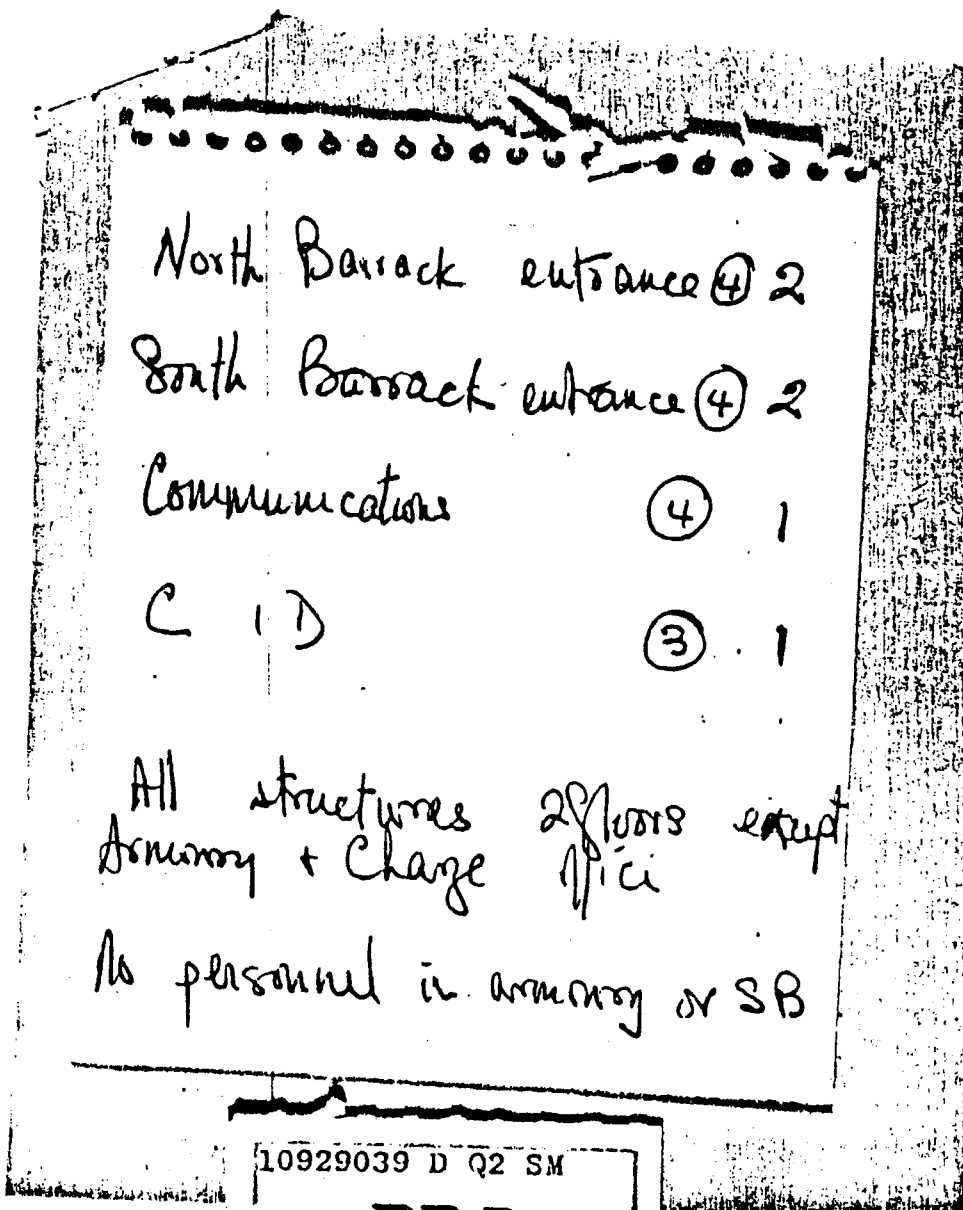
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EXHIBIT "W"

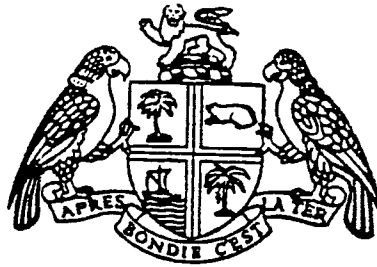
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Note



15 October 1981

FORM MAG. 15)

Disposition of Witness (Criminal)



Winward Islands,
State of Dominica.
District "F"

THE EXAMINATION OF

Hemple Bertrand

taken on oath this 15th day of October

of the year of Our Lord one thousand nine hundred and eighty-one

at *Roscau* in the District aforesaid before the Undersigned
Charles J. L. Williams District Magistrate

of the said District in the presence and hearing of *Patrick R. John & others (as before)*
who is charged this day before me for that they

did said
*Walter M. Reid, Ronnie Falouts, Walter Leo Phillip,
Patrick R. John, Dennis Joseph, John David, Howell
Piper, Edmund Newton, Robert Joe Charles - chief as stated
in Compt. P 221/81, P 222/81 & P 223/81*
his deponent, *Hemple Bertrand*

upon
oath saith:— My name is Hemple Bertrand. I live at Mass got-
I am a musician by profession. On 30th January 1981, I was
at the 'Stop and Go' restaurant. I know Malcolm Reid and
Alphonse Maffre. On that day I was both Reid and Maffre
at 'Stop and Go' was absent from 5.00pm to 5.30pm. Both men
came to me. Mr. Reid told me he was on his way out
to stay at the ship and go for the night Alphonse Maffre
stay at the ship and go for the night Alphonse Maffre

EXHIBIT "Y"

Witness, Hemple
Bertrand

15 October 1981

(continued)

(continued)

was present when he spoke to me. Real asked
for Haffre and himself to sleep until ^{9:30} then
leave the next day. Both slept that night
in the stop and go. They left the following Saturday
morning of 3rd January. The following
Sunday afternoon Real and Haffre stopped
to collect drinks.
~~xxx~~ Ni xxxam

Hemple Bertrand

Taken at Pissara the 15th day of October
1981

Before me

R. J. M. G.
Magistrate
Dist. F.

Agreement Between
Michael Purdue &
Patrick John

for Identification

AGREEMENT

Between Michael M. Purdue on behalf of NORTHIC ENTERPRISES of U.S.A.,
and Patrick John on behalf of LABOUR PARTY of DOMINICA.

Northic Enterprises hereby agree to finance and give assistance in the mobilisation of Labour supporters in an island-wide campaign to ensure the return of the Labour Party in the next General elections around 1965.

To this end, Northic Enterprises shall -

1. Finance the Labour Party for a period of 3 years.
2. Provide training overseas for Party supporters in mobilisation techniques and propaganda.
3. Supply of transport
4. Supply designed pamphlets, leaflets, booklets etc., for information and propaganda.

The Labour Party in Government in return to Northic Enterprises for the abovementioned services shall give necessary authority and rights to Northic Enterprises in the following -

1. Establishment of Banking facilities
2. Exploitation of the Timber resources (sole right)
3. Setting up of a Canning Factory for citrus and peas
4. Setting up of unexploited industries.
5. Exemption of personal income tax, corporation taxes, all other taxes and levies on the personal and businesses of Northic Enterprises.
6. The right to Northic Enterprises and personnel to expatriate funds without restrictions.

Northic Enterprises shall pay from its Net Yearly Profits 20% to the Labour Government Treasury and 2% to the Labour Party.

Signed this..... day of..... 1963.

On behalf of Northic Enterprises - Michael M. Purdue.....

On behalf of Labour Party - Patrick John

EXHIBIT T.1
Letter from
Patrick John
to Michael
Purdue
20 September 1980

State Court, District "D"
filed by Patrick John & others.

EXHIBIT
Patrick John
13-10-81

20th September, 1980

Mr. Michael Purdue
1609 Marshall
Houston, Texas 770006

I, Patrick John, do hereby agree in principle with the
general provisions of the proposed agreement, subject to
further discussions and amendments.

I further agree to meet with you and your colleagues in
order to finalise figures and plans as discussed, at your
earliest possible convenience.

Patrick John
.....
Patrick John

FD
7/17/81
345

220
7/17/81
12/28/81
12/21/81

must be changed for our future business
is contract is here and entered into and between:-
EVOLUTIONARY COUNCIL ER represented by Col. Erick

John acting as Chairman of the Council for which he is duly
authorized and empowered to act, hereinafter called the Council.

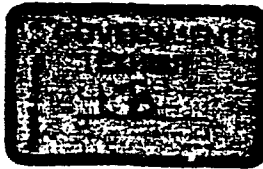
AND

THE NORTH STAR hereinafter represented by Michael D. Stone
acting on behalf of North Star Enterprises for which he is duly
authorized and empowered to act, hereinafter called the Company.

The Council undertakes to perform the following:-

1. The Council will within 30 days of reinstatement, increase
the National Reference Force by an additional two hundred (200)
persons for the purpose of National Security and the maintenance
of the Government.
2. The National Reference Force will assume full and all military
functions for the internal and external security of the
of Romania.
3. The Council will make financial provisions for the purchase
of equipment, other military items and supplies and proper
accommodation for the National Reference Force in order to
maintain complete National Security and protection of
citizens.

*TOP SECRET
Bud 50t*



.....

4. The Council shall employ Michael E. Perdue who shall be responsible for the supervision and training of the National Defence Force. The terms and conditions of his employment shall be negotiated by a separate contract.
5. Michael E. Perdue shall be allotted duties and responsibilities by the Chairman of the Council on behalf of the Council; and shall report directly to the Chairman.
6. The Chairman of the Council shall assign a Senior Officer of the National Defence Force to work with Michael E. Perdue on all aspects of the operation and installation.
7. This Senior Officer shall head the National Defence Force and shall work in collaboration with Michael E. Perdue in preparing programmes and training for persons in a proper planned programme for internal and external security.
8. The Company shall be paid an amount of \$50,000.00 U.S. for its participation in the installation of the Council.
9. The abovementioned amount shall be paid to Michael E. Perdue for and on behalf of the Company within four (4) months of the installation.
10. All political and Police functions will be completely controlled by the Chairman of the Council.
11. The Council accepts and agrees that the Company should operate a business in the State of Dominica.

Walker Reid

Must have 200,000 but our take is 40,000

in 2

Page 2.
article 8.

EXHIBIT "U.1"

(continued)

I must have at least \$150,000 ^{us} ~~us~~ within two weeks to complete ~~issuance of~~ immediate security.

The \$50,000 can come later.

This money will go completely ~~to~~ to pay my people and National Defense.

No personal payment.

But must be independent to secure counsel.

M. C. Perdue,

12. If the Council agrees to give the Company fiscal incentives as follows:-

(a) Tax exemption for 20 years. This concession can be reviewed at the end of the twentieth year.

(b) During the tax exemption period, the Company shall not pay income tax and shall also be exempted from taxes, duties and levies on equipment and articles imported solely for the operation of the commercial and/or industrial enterprises of the Company.

(c) Persons of Mortic Enterprises are allowed to repatriate funds without restrictions.

The Company undertakes to perform the following:

1. The Company shall undertake to install the Council by February 23th, 1981.

2. The Company shall supply the Council with all necessary equipment and supplies for the successful operation and ultimate installation of the Council

3. Payment shall be made to ^{COMPANY} Michael E. ~~Verde~~ for all equipment and supplies supplied to the Council for the operation. The funds to meet such payment shall come from the National Budget.

*\$50,000.00^{us.} within two weeks
TOP priority*

.....

- 4. The company shall secure a loan of 90 million dollars U.S. from a source of their own choosing for use for development projects of the country and to be administered by the Government.
- 5. An amount of 2 1/2 % of the above amount shall be paid to the Company as a Finder Fee on receipt of the 90 million dollars U.S.
- 6. The Company shall employ and train Dominicans in its various commercial and industrial undertakings.
- 7. The Company shall invest part of its profits, which shall not be less than 30%, into the development of industries and development projects as negotiated and determined as per SCHEDULE A.

Extension of this commitment to projects other than the ones covered hereby must be agreed on in advance by both parties, on terms and conditions to be satisfied by contract.

10% of the Nortic Enterprises or any profits made by any person connected with Nortic Enterprises or the National Reference force shall be allotted to the Chairman and persons designated by him, as indicated in SCHEDULE B

Nortic Enterprises shall register its Company under the Laws of Dominica; and having been duly registered, the Council shall give full assurance to the Company that no objection will be made to construction and operation of the Company, provided that such construction and operation is in the interest of National security and National Development.

SEE A AND B FOR THE COUNCIL

.....

(continued)

5/

GENERAL

1. The language of reference, both for the contract and for performance hereof, shall be English.
2. This contract shall take effect on the date on which the Council shall be installed as the Government of the Commonwealth of Dominica.

SCHEDULE A

1. Agricultural Development ^{ment}
2. Agro Industries
3. Construction of International Airport
4. Tourism
5. Other related development projects.

1. Bank charter
2. Lease report under guidelines

SCHEDULE B

- The Leader.....3
- Three principal officers.....2 each
- The Council15

Signed in Antigua on.....day of19

FOR THE COMPANY
MORTIMER L. B. WILKINS

FOR THE COUNCIL:
MORTIMER L. B. WILKINS / COUNCIL

.....

C O N T R A C T

THIS CONTRACT IS MADE AND ENTERED BETWEEN COUNSEL FOR THE REPUBLIC OF DOMINICA HERINAFTER REPRESENTED BY COL.PATRICK JOHN ACTING CHAIRMAN OF THE COUNSEL FOR WHICH HE IS DULY AUTHORIZED AND EMPOWERED TO ACT, HERINAFTER CALLED THE COUNSEL.

AND

NORTIC ENTERPRISES HEREINAFTER REPRESENTED BY MICHEAL E. PERDUE ACTING ON BEHALF OF NORTIC ENT.FOR WHICH HE IS DULY AUTHORIZED AND EMPOWERED TO ACT,HEREINAFTER CALLED THE COMPANY.

COUNSEL UNDERTAKES TO PERFORM THE FOLLOWING:

THE COUNSEL WILL WITHIN 30 DAYS OF REINSTATEMENT ,INCREASE THE NATIONAL DEFENSE BY AN ADDITIONAL TWO HUNDRED(200) PERSONS FOR THE PURPOSE OF NATIONAL SECURITY AND THE MAINTANCE OF THE GOVERNMENT.

THE NATIONAL DEFENSE FORCE WILL ASSUME FULL AND ALL MILITARY FUNCTIONS FOR THE INTERNAL AND EXTERNAL SECURITY OF THE REPUBLIC OF DOMINICA.

THE COUNSEL WILL MAKE FINICAL PROVISIONS FOR THE PURCHASE OF EQUIPT. OTHER MILITARY ITEMS AND SUPPLIES AND PROPER ACCOMODITIONS FOR THE DEFENSE FORCE IN ORBER TO MAINT&IN COMPLETE SECURITY AND PROTECTION OF CITIZENS,THE MILITARY WILL BE GIVEN FIRST PRIORITY IN BUDGETING.

THE COUNSEL SHALL EMPLOY MICHEAL E. PERDUE WHO SHALL BE RESPONSIBLE FOR THE SUPERVISION AND TRAINING OF THE NATIONAL DEFENSE FORCE. HE WILL BE ALLOWED 30 SPECIALIST FOR THE PURPOSE OF TRAINING AND MAINTAINING NATIONAL SECURITY.

MICHEAL E. PERDUE SHALL BE ALLOTTED DUTIES AND RANK IN THE DEFENSE FORCE AND SHALL REPORT DIRECTLY TO THE CHAIRMAN OF THE COUNSEL.

THE CHAIRMAN SHALL ASSIGN A SENIOR OFFICER OF THE DEFENSE FORCE TO WORK WITH MICHEAL E. PERDUE ON ALL ASSPECTS OF DEFENSE FOR DOMINICA.



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(continued)

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PERMISSION TO CUT AND EXPORT LUMBER ON GOVERNMENT LAND UNDER GUIDELINES

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SIGNED ON THIS DAY BY

[Faint, illegible text, possibly a signature or stamp]

EXHIBIT "V.1"
(continued)

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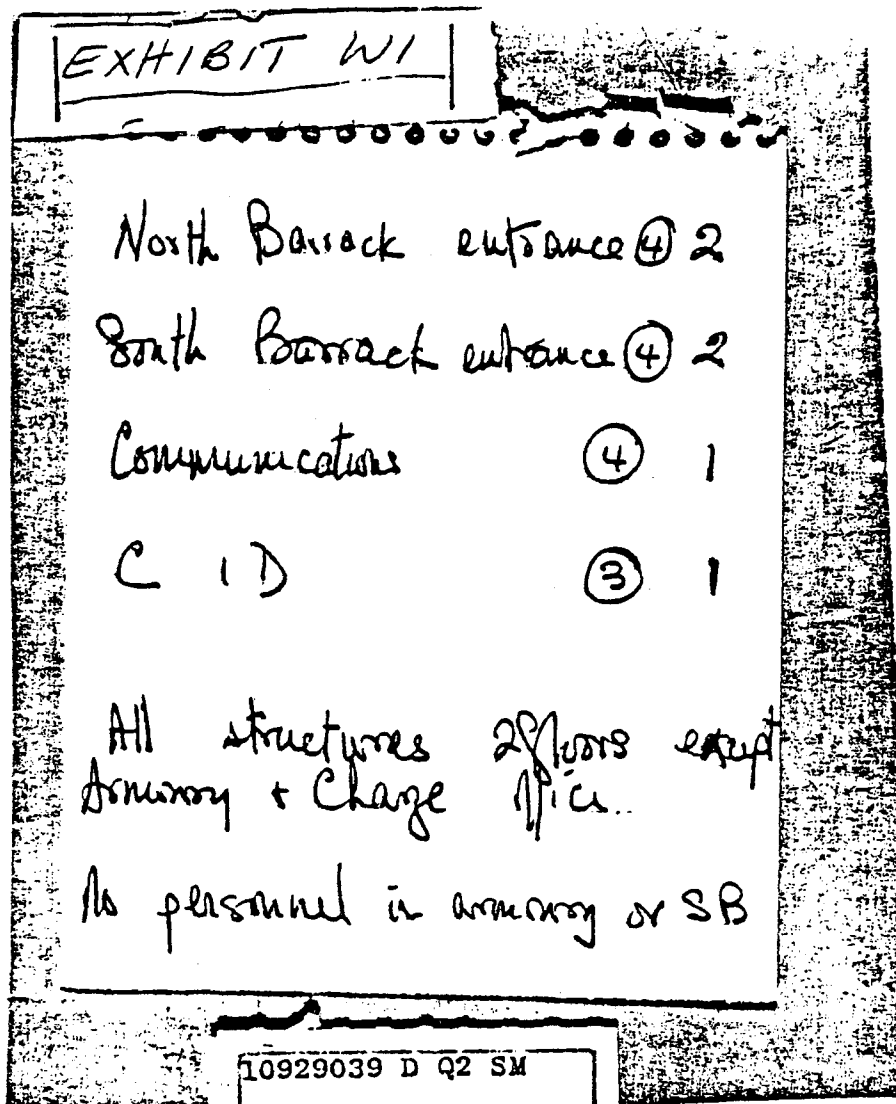
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O N A P P E A L

FROM THE WEST INDIES ASSOCIATED STATES
SUPREME COURT (COURT OF APPEAL)

B E T W E E N:

PATRICK JOHN
JULIAN DAVID
DENNIS JOSEPH
MALCOLM REID

Appellants

- and -

THE STATE

Respondent

RECORD OF PROCEEDINGS

BOWMAN ZIADIE & CO
516 BRIXTON ROAD
LONDON SW9 8EN

Solicitors for the
Appellants

CHARLES RUSSELL & CO
HALE COURT
LINCOLN'S INN
LONDON WC2A 3UL

Solicitors for the
Respondent