THE POLICE CONSTABLE IN THE CARIBBEAN: INDEPENDENT OFFICER OR SERVANT OF THE STATE?

by David Gafoor*

"The history of the police is the history of the office of constable."[1] The status of a constable in the Caribbean is unique and, in some ways, anomolous. Is he a servant or an agent? If so, of whom, his chief constable, the police authority, the local authority or the State? The answer to this question is important because if he is a servant of some authority, that authority is and should be made liable for the constable's wrongful acts committed in the performance of his duty; but if he is not a servant he alone may be liable for his actions. In addition, if he is injured by a third party the authority can sue that person for loss of the constable's service only if he is the authority's servant; not otherwise.[2] In examining these issues, it must also be borne in mind that, the preservation of law and order and the prevention and detection of crime are matters of great importance to the maintenance of organised government.[3] In fulfilling these duties, the modern police officer in the Caribbean enjoys certain common law powers although the professional police forces as we know today date only from the 19th century.[4]

Background:

It has been said that, "to the criminal law, society delegates the task of protecting its values, or at least the values that one held by those who have the power to legislate. To the police, society

delegates the irreconcilable tasks of enforcing the law by means which, if they are to be effective, must necessarily infringe the principles that the law protects".[5] What then are these powers which a policeman enjoys as previously alluded to? It has been suggested that a police constable in uniform has special powers of arrest, but in general he is in the same legal position as any member of the public whose duty it is to assist in keeping the peace and to apprehend criminals.[6] The British Royal Commission on Police Powers and Procedure of 1929 said that a policeman in the view of the common law is only "a person paid to perform, as a matter of duty, acts which if he were so minded he might have done voluntarily. Indeed (they added) a policeman possesses few powers not enjoyed by the ordinary citizen."

It is submitted that the above statement is dangerously misleading and totally ignores some of the vital powers and functions of the Police. According to Critchley[7] "the mystical fusion between the Policeman and the ordinary citizen was built up out of the confluence of the vast number of complex local currents which contributed to the political and social histories of towns and rural areas of England and Wales during the nineteenth century." While a constable's main power is that of arrest and search, special powers of arrest and search without warrant are also conferred upon him.[8] De Smith places the police in the context of "specialists" and points out that they have special common-law duties in connection with the maintenance of law and order such as protecting persons and their property against reasonably apprehended violence.[9]

A constable also exercises certain statutory powers and duties and it is a statutory offence for anyone

wilfully to obstruct a constable in the execution of his duties. A useful synopsis of the present day functions of the Police was given by the British Royal Commission on the Police of 1962 which outlined five major powers and functions:-

(i) The duty to maintain law and order, and to protect persons and property.
(ii) The duty to prevent crime.
(iii) Responsibility for the detection of criminals.
(iv) Responsibility of deciding whether to prosecute suspected criminals.
(v) The duty of controlling road traffic, and advising local authorities on traffic questions.

Having briefly outlined the powers of the Police, it is now appropriate to consider the main topic of this essay: the status of the police officer in the Caribbean. Wade and Phillips, though speaking of the United Kingdom, could just as well have been referring to the Caribbean in stating that the courts have not always found it easy to define the precise status of a police officer.[10] Furthermore they claim, in relation to vicarious liability, at common law a constable was certainly not in the employment of the Crown since he was neither appointed nor paid by the Crown, and this position was not affected by the Crown Proceedings Act 1947.[11] By this Act, the Crown sought to deny liability for the actions of police officers committed within the course of their employment.[12]

De Smith contends that constables are public officers and that it is arguable that they are Crown servants. On the other hand, he concedes that for certain purposes a police officer is undoubtedly an officer of the Crown since the maintenance of law and order is pre-eminently a

function of executive government.[13] Garner adds that a police officer is not a servant of the local authority in whose force he serves, and consequently the authority is not responsible at common law for the acts of a police officer committed in the course of his duties of detecting or preventing crime.[14] Wade emphasizes that the truth is that a police officer holds a public position, that of peace officer, in which he owes obedience to no executive power outside the police force.[15]

Common Law:

To what extent are these propositions, made in relation to the United Kingdom, supported by case law? In Coombes v. Berks Justices,[16] the question was whether a block of buildings including a police station was liable to be taxed. The Court answered in the negative. In the course of his judgment, Lord Blockburn stated that, "I do not think it can be disputed that the administration of justice, both criminal and civil, and the preservation of order and the prevention of crime by means of what is now called police, are among the most important functions of Government, nor that by the constitution of this country, these functions do, of common right, belong to the Crown."[17] This dictum was restated with approval in Metropolitan Meat Industry Board v. Sheedy[18] where it was held that a debt due to a public board vested with discretionary powers (to which the Police were likened) was not a debt due to the Crown.

One may, however, question the usefulness and relevance of the aforementioned cases, particularly since great stress was placed upon them by McCardie, J. in his much quoted judgment in Fisher v. Oldham Corporation.[19] In this case, it was sought to make the corporation of the borough of Oldham liable in

damages for the actions of the Oldham police who had wrongfully arrested and detained Fisher, a Plaistow timber merchant. The learned judge concluded that the police appointed by the watch committee of a borough corporation, if they arrest and detain a person unlawfully, do not act as the servants or agents of the corporation, so as to render that body liable to an action for false imprisonment.

In the course of his judgment, Mc Cardie, J. also cited with approval another section of Blockburn, L.J.'s judgment in Coombes v. Berks Justices to the effect that, "the general Government administers law and justice, and keeps order; but it necessarily does it in different localities separately .... It is a purpose of the imperial Government, carried out in a particular locality, but not the less a purpose of the imperial Government."[20] Mc Cardie,J. follows this up in stating that, "Prima facie therefore, a police constable is not the servant of the borough. He is a servant of the State, a ministerial officer of the central power, though subject, in some respects, to local supervision and local regulation."[21]

The learned judge also cited Griffith, C.J. in Enever v The King[22] to the effect that, "at common law the office of constable or peace officer was regarded as a public office, and the holder of it as being, in some sense, a servant of the Crown," Griffith, C.J. also went on to point out that, "the powers of a constable, or a peace officer, whether conferred by common law or statute law, are exercised by him by virtue of his office, and cannot be exercised on the responsibility of any person but himself .... A Constable, therefore, when acting as a peace officer is not exercising a delegated authority, but an original authority, and the general law of agency has no application."

Based therefore upon the status of constables at common law and with a handful of earlier decisions in which police functions had figured directly or indirectly, Mc Cardie, J. held that, "the defendants are not responsible in law for the arrest or detention of the plaintiff. The police, in effecting that arrest and detention, were not acting as the servants or agents of the defendants. They were fulfilling their duties as public servants and officers of the Crown sworn to "preserve the peace by day and by night, to prevent robberies and other felonies and misdemeanours and to apprehend offenders against the peace."[23]

While it would be desirable to endorse fully Mc Cardie, J.'s conclusion in Fisher v Oldham Corporation, it should be pointed out that the premise on which it is based seems to be inherently weak. In Coombes v Berks Justices, upon which the the learned judge placed so much reliance, the time question according to Marshall,[24] was whether a block of buildings used for various local government purposes, but partly for police and judicial purposes, was exempt from taxation. Lord Bromwell in that case[25] stated his opinion in terms much wider than those implied by Mc Cardie, J. saying explicitly that the ratio decidendi of the case was that the purposes of the police were "public" purposes or purposes "required for the government of the country." Although Coombes v Berks Justices was approved in Metropolitan Meat Industry Board v Sheedy,[26] again the real question here was whether a board administering the meat industry in New South Wales could be held to share the financial immunity of the Crown. These cases therefore make no more than an indirect reference to the status of the Police and really amount to no more than claiming for the Police, in the exercise of certain of their powers, a privilege enjoyed by the Crown

itself as well as its servants. What they fail to do is to prove definitively that the Police, as Mc Cardie, J. concluded, are the agents or servants of the State.

Perhaps stronger authority to support the proposition that a police officer is a servant of the State may be derived from Lewis v Cattle,[27] where a journalist failed to give the Police information relating to a suspected offence under sec. 2. of the Official Secrets Act, 1911. The ratio of the case was that a police officer, whether he be a member of the Metropolitan Police Force or a member of the police force of a country, city, or borough, holds the office of constable and as such is a "person who holds office under His Majesty" within the Act.[28] But this still may not be sufficient to make him an officer of the Crown as evidenced by Lord Hewart, C. J.'s remarks in the same case: "There are may officers which are held under His Majesty. So also, there are many persons in the service of His Majesty who do not in any proper sense of the words hold office under his Majesty."[29]

A case which requires more detailed treatment is A.G. for New South Wales v Perpetual Trustee Company[30] in which both the High Court of Australia and the Privy Council held that the Crown could not recover compensation for the loss of a police officer's services because the relationship between the Crown and a police officer is not that of master and servant. The decision has been taken,[31] as lending further judicial support to Fisher v Oldham Corporation, though it may be argued that it has no direct bearing on the more general question of constitutional independence. According to Marshall, "it would be substantially true to say that the New South Wales case decided that the domestic relation of master and servant upon which the old common law

action had turned was not to be extended to modern public 'services'."[32]

Sower usefully compares and contrasts the views of the Australian High Court with the decision of the Privy Council in two illuminating articles.[33] Kitto and Fullagar, JJ., he points out, espouse the view in the High Court that, the relationship of master and servant in private law, which carries vicarious responsibility and a claim to damages for loss of services, requires that "the power of direction residing in a person must belong to him for the purpose of enabling him to conduct his own affairs"; this cannont be asserted of the situation of the Crown in relation to any of its "servants." Futhermore, Webb, J. with support from the two aforementioned judges, asserts that "a police constable has always been an arm of the law and never a servant employed to do a master's bidding on all occasions and in any circumstances. His authority is original, and not derived from a master or exercised on behalf of the public." The Judicial Committee, as Sower states,[34] came down on the side of the Australian "modernists" (Fullagar and Kitto, JJ.) in regarding the action per quod servitum amisit as a barbarous survival, not to be extended any further than imperative authority, narrowly construed, requires. Viscount Simonds claimed that "there is a fundamental difference between the domestic relation of servant and master and that of the holder of a public office and the State which he is said to serve. The constable falls within the latter category. His authority is original, not delegated, and is exercised at his own discretion by virtue of his office: he is a ministerial officer exercising statutory rights independently of contract."[35]

Relevance to Caribbean:

To what extent is the above case relevant to the

Caribbean. Since the Police in this region seem to fall under the highly centralized branch of executive powers, as will later be adverted to, similarly to Australia and unlike England, it is suggested that this decision is extremely relevant. Of the implications of the Privy Council decision, Sower seems to have reached the core of the matter by pointing out that,[36] "we are threatened with an extension of the pestiferous doctrine which insulates the public treasury from responsibility for may kinds of official wrong, because of an antiquarian concentration on what 'The Crown' can command, when a more contemporary approach would be to inquire merely whether the officer in question is carrying on the business of government." Dixon, J. (as he then was) also mentioned in the Australian High Court that, "No one has yet denied that the Crown is liable for the tort of an officer committed within the scope of his duty, except in situations where the duty which he is attempting to fulfil is one cast upon him by law to be executed as an independent responsibility, so that the Crown is not acting through him."[37]

Marshall reaches the conclusion, quite appropriate it would seem, that a police officer has been termed a 'servant of the State' and 'a ministerial officer of the central power' as well as being deemed to hold office under Her Majesty. However, at the same time, he is not quite, it would seem, a servant of Her Majesty or of the Crown. The learned author goes on to state that "all this adds up to a curious theory. The implications which have been drawn from it ascribe to police officers an independence and freedom from control unique amongst officials exercising executive functions."[38]

Marshall indeed also makes reference to the fact that the growth of what he terms a "thesis of police

independence" has also been assisted by the fear of partisan political interference with police duties by local authorities dominated by political or commercial interests.[39] Wade and Phillips note that in a stable society it is easier for the police to seek to play an impartial and a non-political role but even this role has latent political significance. In less stable conditions issues of law and order may acquire a more immediate political content.[40] Two relatively modern cases would seem to illustrate this proposition. In Francis v Chief of Police,[41] the question was whether a law prohibiting the use of a noisy instrument (in this case a loudspeaker) at a public meeting without the permission of the Police Chief was ultra vires the St. Christopher, Nevis and Anguilla Constitution sec.10 which guaranteed freedom of communication. In holding that the law did not contravene the Constitution, Lord Pearson though that, "whatever may be the exact construction of sec.10, it must be clear that (1) a wrongful refusal of permission to use a loud speaker at a public meeting (for instance of the refusal is inspired by political partiality) would be an unjustified and therefore unconstitutional interference with freedom of communication, because it would restrict the range of communication ...." And in R v Metropolitan Police Commissioner, ex parte Blackburn,[42] the question centred around the Commissioner's duty to enforce the law against gaming houses. Lord Denning stated that, "I have no hesitation in holding that, like every constable in the land, he should be, and is, independent of the executive."[43] He added that, "in all these things he is not the servant of anyone save of the law itself (and that) he is answerable to the law and to the law alone."[44]

Police Officers and Vicarious Liability:

Valiant attempts to resolve the question of the

status of police officers have been made by seeking to peg this issue to liability for their wrongful actions. In other words, when does Peter pay for Paul?; and by identifying Peter, it is said that we thereby ascertain the status of Paul. This method, however, requires careful scrutiny. Wade suggests that, "since police officers are nobody's servants in the exercise of their peace-keeping functions, it follows that no-one is liable at common law for their misdeeds in the capacity of their employer. But if there were no way of charging to police funds the liability for wrongs committed by individual police officers, serious injury might be done and there might be no defendant worth suing."[45] Reference has already been made to Dixon, J.'s statement in the Australian case alluded to.[46] As Ducille points out,[47] it is worthwhile noting that a police officer is personally liable if, acting in excess of his powers, he commits a tort.[48] In Christie v Leachinsky, the House of Lords held two police officers to be liable for false imprisonment because in arresting and detaining the plaintiff they (the police) had failed to inform him of the nature of the charge which it was their duty so to do. It follows, therefore, that a constable is not an agent, but is personally laible for any misuse of his pow s or any act in excess of his authority and he cannot plead that he is obeying the orders of his superior officer ...."[49] In spite of this, some writers maintain that in practice, if a policeman was made liable in damages for false imprisonment, the local authority normally "stood behind him" and paid the damages.[50] Wade and Phillips, in the context of the United Kingdom, claim that such a decision on the part of police authorities to pay any damages and costs awarded against police officers remained a matter for their discretion until Parliament changed the law via the Police Act 1964.[51] The effect of this piece

of legislation (which does not exist in the Caribbean with the possible exception of the Associated States owing to reception)[52] is to place liability for torts of police officers squarely upon the shoulders of the Chief Constable if such officers are acting under his direction and control, (sec. 48).

It seems that the Crown in the United Kingdom has expressly refused to admit itself to be vicariously liable for the rots of the police officers committed in the course of their employment. This may be gleaned from sec. 2(b) of the Crown Proceedings Act, 1947 which denies liability for any acts of its officers not appointed directly or indirectly by the Crown and not paid wholly out of the Consolidated Fund nor any other Parliamentary grant.[53] Although such legislation is enacted in a number of Caribbean territories, the position is, it would seem, quite different. As Lewis, J. pointed out in the Antiguan case of Gordon v A.G.[54], "In England, although a policeman is referred to as a servant of the Crown, he is nevertheless no a servant for the purposes of the Crown Proceedings Act, 1947 (U.K.), and that is because of the language of S.2(6) of the Act .... Section 2(6) of the (U.K.) Act corresponds to S. 4(6) of the (local) Ordinance, but it cannot be contended that the immunity from liability for the tortious acts of policemen which the Crown enjoys in England by virtue of S.2(6) of the Crown Proceedings Act, 1947 (U.K.) is for a similar reason enjoyed by the Crown in this Colony under S.4(6) of the Ordinance, for the salaries of policemen in this Colony are .... a charge on the revenues of the Colony."

Indeed, in Gordon v A.G., a landmark decision in public law from the Caribbean region, Lewis, J. took pains to emphasize that "the position of a policeman in England is substantially different from

that of a policeman in this Colony."[55] Although the preservation of the peace is a royal prerogotive and are of the primary functions of any State, the administration of the Police in England has always been on a local basis.[56] The reasons for this have varied from fear of central political control to the more substantive element of historical development.[57] Furthermore, as this article has already suggested, "a police officer in Great Britain is an independent holder of a public office and exercises his powers as a constable by virtue of that office; he is an agent of the law of the land, not of the police authority nor of the Central Government.."[58]

As Alexis suggests,[59] one may question whether it is safe to airlift certain principles enunciated in relation to the English Police and apply them wholesale to the Caribbean. In this region, the central Government is charged with financing the national police service out of funds specifically allocated for that purpose.[60] Certain powers also vest in the Heads of State of Caribbean territories to determine the salaries of police officers, amend, vary or add to their classification as well as issue to them arms and ammunition as exemplified by the Police Service Act, 1965 of Trinidad and Tobago.[61] One may therefore conclude that, according to Blackman,[62] "The Police in the West Indian Independent Territories are the instrument for enforcing the rule of law .... the nature of Police work is generally said to be the preservation of law and order or the maintenance of the peace."

Caribbean Police and 'Dismissibility at Pleasurer

The status of the police officer in the region was neatly illustrated by Lewis, J. in Gordon v AG when he stated that, "the provisions of the Police

Act (W.L.), in my opinion show that the position of policemen in this Colony is substantially the same as that of civil servants in regard to service. They are appointed, paid, controlled and dismissible by the Crown and they would therefore appear to be in the fullest sense of the expression 'servants of the Crown' notwithstanding that the Crown may not in Law be liable to control the way in which they do their work;.... but I would say that they are the servants of the Crown, for the Crown having employed them and having chosen them for the work they must do, has in its hands 'the ultimate sanction of good conduct - the power of dismissal.'"[63]

Thus in Thornhill v A.G.[64], it was contended on behalf of the appellant[65] that for the purposes of the (Trinidad and Tobago) Constitution police officers are to be regarded as exercising coercive powers of the state. The respondent countered that the police are deemed to be crown servants only for the limited purposes of the Police Service Act 1965.[66] The Judicial Committee however, found that it is beyond question that a police officer in carrying out his duties is acting as a public officer carrying out an essential executive function of any sovereign state - the maintenance of law and order.[67] Their Lordships accordingly reached the conclusion that contraventions by the police of any human rights as fundamental freedoms guaranteed by the Constitution fall squarely with what had been held in Maharaj v A.G.(No 2)[68] to be the ambit of the protection afforded by sec.6 dealing with contraventions 'by the state or by some other public authority endowed by law and coercive powers.'[69] The Privy Council in that case also noted that a similar provision existed in the 1962 Independence Constitution[70] and parallel sections exist in other Commonwealth territories (which include Caribbean

countries).

Questions have emerged concerning the applicability and relevance of the concept of dismissibility at pleasure in relation to police officers. Okpaluba opines that, "it is common knowledge that the concept of dismissal at pleasure was established by the common law judges in order to frustrate actions by public servants against the Crown for wrongful dismissal. It was established when the Crown could not be sued in its Courts on any account and at a time when the entire common law of dismissal from employment was heavily weighted in favour of the employer."[71] The learned author further submits that the concept of dismissal at pleasure is an anochronism in public law, and is obsolete as a doctrine in view of the emergence of independence Constitutions, the attainment of republican status in some Caribbean countries and public policy generally.[72]

As if to remedy this 'anochronism', a golden opportunity arose for the Courts to settle this question of the status of police officers once and for all in Thomas v A.G.[73] While the Attorney-General in this case contended that all police officers were public servants and therefore dismissible at pleasure, Thomas, a police inspector, maintained that he was protected by the Police Service Act 1965[74] which, according to Alexis,[76] abrogated the common law rule of dismissibility at pleasure. The Privy Council held that the right of the Crown to dismiss the servants had not been transferred to the Police Commission and was inconsistent with both the 1962 Independence Constitution and and the present Republican Constitution (which establish the Police Service Commission); accordingly, a police officer was not a servant of the Crown dismissible at pleasure.[76]

Similar constitutional provisions exist in the Antigua and Barbuda Constitution 1981 which seems to follow the trend of the other Commonwealth Caribbean Constitutions. S.105(1) states that "the power to appoint persons to hold or act in offices in the Police Force ... and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission", with provision for the delegation of any powers to the Commissioner of Police with the approval of the Prime Minister. This "political" connection is perhaps somewhat nullified by S.105(7) which states that "a police officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of any judicial function conferred on him unless the Judicial and Legal Services Commission concurs therein." One may contrast the Belize Constitution 1981 where the defence force seems to fall under the aegis of S.105 dealing with the Public Service. Parallel provisions to the new Antiguan and Barbudan Order exist except that in the latter document, such provisions are only entrenched by a two-thirds majority of both Houses while in Belize, these provisions are safeguarded by a three-quarters majority of all the members of the House of Representatives.[77]

Conclusion:

Reference must be made once again to Gordon v A.G.,[78] where Lewis, J. argued that, "the fact that a policeman has to perform duties which are imposed on him by statute does not by itself preclude him from being regarded as a servant of the Crown." Further, "a contrary view would lead to the astonishing result that a policeman in this Colony is a law unto himself, not responsible to anyone as to the way he performs his statutory duties and not accountable

to anyone if he chooses not to perform them." The learned judge came to the conclusion that, "if a person is employed to perform certain duties and has a discretion how these duties are to be performed, he is notwithstanding this fact in the service of the person who employed him to do them."

Marshall contends[79] that the majority of opinions expressed on the independence of the Police are merely self-reinforcing and stand upon a kind of inverted pyramid, with the legal apex of the pyramid being the judgment of McCardie, J. in Fisher v. Oldham Corporation. Support for this edifice is supplied by a number of other decisions both before and after the Fisher case. Perhaps one of the most notable cases is A.G. for New South Wales v Perpetual Trustee Company which, as Lewis, J. pointed out in Gordon v A.G.[80] only decided that a policeman was the holder of a public office and therefore the action 'per quod servitum amisit' was not appropriate to this case.

In view of the above, it seems proper to agree with Lewis,J. in Gordon v A.G. that, "I do not think that the question whether the police in this Colony are servants of the Crown can in any sense be regarded as a borderline case ...."[81] This is so particularly in view of the Crown Proceedings Acts which are substantially the same in the Caribbean as in England. Furthermore, it cannot seriously be denied that, although the various Public and Police Service Commissions seem to interpose themselves between the Police and the State, the Police are in fact the paid agents of the executive.

Thus, even though police officers may no longer be dismissible at pleasure, according to Thomas v A.G., they are nevertheless to be regarded, at least in the Commonwealth Caribbean area, as servants of the State due to the manifold executive function which

they perform.

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FOOTNOTES

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3. Wade and Phillips, Constitutional and Administrative Law (9th ed. by A.W. Brodley).(1977) p.339
4. Ibid. p.339
5. B. Whitaker, The Police (1964), p.19
6. J.F. Garner, Administrative Law (5th ed.), (1979), p.469
7. T.A. Critchley, A History of Police in England and Wales 900-1966 (1967)
8. O'Hood Phillips, Constitutional and Administrative Law (6th ed.), (1978), p.403
9. De Smith, Constitutional and Administrative Law (4thed.), (1977), p. 370-371
10. Wade and Phillips, op.cit.p.344
11. Ibid. p.345
12. Ibid. p.345
13. De Smith, op.cit.p.372
14. Garner, op.cit.p.469
15. H.W.R.Wade, Administrative Law (4th ed.)(1977) p.133

16. Coombes v The Justices of the County of Berks, (1883) 9 A.C.61

17. Ibid.p.67

18. Metropolitan Meat Industry Board v Sheedy, (1927) A.C.899

19. Fisher v Oldham Corporation, (1930) 2 K.B. 364

20. Coombes v Berks Justices, op.cit.p.71

21. Fisher v Oldham Corporation, op.cit.p.371

22. Enever v The King, (1906) 3 C.L.R. 969

23. Coombes v Berks Justices, supra n.16

24. G. Marshall, Police and Government (1965), p.37-38

25. Coombes v Berks Justices, op.cit.p.79 per Lord Bromwell

26. Metropolitan Meat Industry Board v Sheedy, supra n.18

27. Lewis v Cattle, (1938) 2 K.B. 454

28. Official Secrets Act, 1911 (U.K.) S.2(1)

29. Lewis v Cottle op.cit at footnote 27 per Lord Hewart, C.J. pp. 457-458

30. A.G. for New South Wales v Perpetual Trustee Company, (1952) 85 C.L.R.237; (1955) A.C. 457 (P.C.)

31. Marshall, op.cit.p.44

32. Ibid. p.44

33. Sawer, (1953) 16 M.L.R.97; (1955) 18 M.L.R. 488

34. Sawer, (1955). 18 M.L.R. 488

35. Ibid.p.489

36. Ibid.p.489

37. A.G. for New South Wales v Perpetual Trustee Company, (1952) 85 C.L.R. 237, 249 per Dixon,J.

38. Marshall, op.cit.p.16

39. Ibid. p.27

40. Wade and Phillips, op.cit.p.346

41. Francis v Chief of Police, (1973) A.C.761,772H

42. R.v. Metropolitan Police Commissioner, ex p. Blackburn, (1968) 2 Q.B.118

43. Ibid.p.135G

44. Ibid.p.136

45. Wade, op.cit.p.136

46. Dixon,J. Supra n.37

47. M.D. Ducille, Law, the Police and Public Relations with special reference to Jamaica (LL.B. Thesis - U.W.I.) p.5

48. Christie v Leochinsky, (1947) A.C.573

49. Devlin, op.cit.p.64

50. G.J.Borrie, Public Law (2nd ed.) (1970)p.186

51. Wade and Phillips, op.cit.p.345

52. K.W.Patchett, Reception of Law in the West Indies

53. O'Hood Phillips, op.cit.p.409

54. Gordon v Attorney-General (1960) 2 W.I.R.235, 243 per Lewis, J.

55. Ibid. p.244

56. O'Hood Phillips, op.cit. p.399

57. De Smith, op.cit. p.373

58. Ducille, op.cit. p.5

59. F. Alexis, After Thornhill - Does Anything Remain of the Bill of Rights? (1977) W.I.L.J. 24;27

60. Ibid. p.27

61. Act 30 of 1965 (Trinidad and Tobago)

62. H.B. Blackman, The Role of the Police in the West Indian Independent Territories (LL.B. Thesis - U.W.I.) p.9

63. Gordon v A.G., op.cit. p.244

64. Thornhill v Attorney-General, (1981) A.C.61

65. Ibid. p.64

66. Ibid. p.66

67. Ibid. p.73

68. Maharaj v Attorney-General (No.2.) (1979) A.C. 385, 396

69. Thornhill v A.G., p.74

70. Ibid. pp. 69-70

71. C. Okpaluba, Dismissal at Pleasure - The Persistence of an Anochronism, Anglo- American Law Review (1977), pp. 284-296

72. Ibid. p.295

73. Thomas v Attorney-General, (1981) 3 W.L.R. 601

74. Supra n.61

75. Alexis, op.cit. p.28

76. Thomas v A.G. op.cit. p.603

77. Compare S.47 of the Antigua and Barbuda Constitution 1981 with the Belize Constitution 1981 S.69 (3) protected by Schedule 2;

78. Gordan v A.G., op.cit. pp.240-241

79. Marshall, op.cit. p.34

80. Gordan v A.G., op. cit. p.238

81. Ibid. p.245

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"There is no crueler tyranny than that which is perpetuated under the shield of law and in the name of justice."

(Baron de Montesquieu)