COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law & Equity Division
2020/CLE/gen/00150

BETWEEN:

ATTORNEY-GENERAL OF THE COMMONWEALTH OF THE BAHAMAS

Plaintiff

AND

RICARDO F. PRATT

Defendant

Before:	The Honourable Mr. Justice Loren Klein
Appearances:	Kingsley Smith (2020 only), Kenria Smith for the Plaintiff Mr. Ricardo F. Pratt, *Pro Se*
Heard:	26, 30 October 2020, 6 November 2020, 22, 31 January 2025.

RULING

KLEIN J.

Supreme Court Act—s. 29, Restriction on institution of vexatious actions—Application by AG to have defendant declared a vexatious litigant— Defendant instituting a large number of matters before the Courts allegedly in pursuance of property rights—"Habitually and persistently and without reasonable grounds"—"Vexatious legal proceedings"—Effect of majority of proceedings being brought in a representative capacity—Interpretation—Meaning of "person" in s. 29—Whether reference to "Supreme Court and inferior courts" in s. 29 extends to matters filed in Court of Appeal—s. 29(2)—Appointment of Attorney if defendant a poor person—Evidence—Proof of impecuniosity.

Practice and Procedure—Commencement of Proceedings—Notice of Originating Motion Unsealed—Whether sealing required—Whether Irregularity or Nullity—Amendment—Application for Cross-examination—Vexatious Proceedings—Affidavit—Strike out—Ord. 41, rr. 5, 6.

Bahamas Constitution—Whether s. 29 inconsistent with right of access to court—Article 20(8)—Whether s. 29 inconsistent with rights in Articles 15, 20, 23, 26, 28, 78.

INTRODUCTION AND BACKGROUND

1. For nearly two decades, the defendant in these proceedings, Ricardo F. Pratt, has waged an incessant litigation campaign, claiming ownership of land on several islands, but predominantly to portions of a large tract of land in West End, Grand Bahama, known as the John Bootle Tract. To this end, he has instituted numerous actions before the Courts of The Bahamas, several in his personal capacity and many more in a representative capacity as the administrator of the estate of persons through whom he claims.

2. His obsession with the John Bootle Tract may be explained by the fact that the 906 acres comprising the land was granted to John Bootle Esq. and his heirs and assigns by Crown Grant in 1818, and Mr. Pratt claims to be "*the lawful great-great-great-great-grandson of the late John Thomas Bootle, Esq.*…" and therefore entitled to the property or various parcels of it by descent on intestacy.

3. This is an ancestry he obviously wears with some pride, as may be discerned from one of the numerous (if desultory) submissions lodged with the Court:

> "The Defendant also submits that his representative capacities cannot be simply captured like a stray dog nor his lineage insulted, but the Defendant is a proud Bahamian citizen descended from Cat Island and Long Island and West End, Grand Bahama, whose family being the original British Loyalists settlers in the Bahama Islands (The Hon. John Bootle Esq. (of West End), Abraham Pratt (of Long Island) and John Seymour (of Cat Island) have been in this country from 1756 and were the original Crown Grantees."

4. Mr. Pratt has litigated all of these matters *pro se* (or as a litigant in person, to use the modern expression) and perhaps fancies himself a legal aficionado. If I may say so, he has built up considerable experience and knowledge of the practice of the law over the years and has acquitted himself well before the Courts, despite having met with little success.

5. It should come as no surprise that his prolific litigation has not been suffered gladly, and this has led the Attorney General ("AG") in the exercise of his constitutional function to protect the public interest in the administration of justice to make an application to put a stop to it, by seeking to have Mr. Pratt declared a vexatious litigant pursuant to s. 29 of the Supreme Court Act ("the Act" or "SCA"). This Ruling is concerned with that application.

Procedural Background

6. It is important to set out some of the procedural background in this matter, as it brings into sharp relief the behavior that is often so telling of persons who unfortunately find themselves the subject of an application for a vexatious litigant order ("VLO").

7. By an Amended Originating Notice of Motion filed 7 September 2020 the AG sought an order pursuant to s. 29 of the Act in the following terms:

> "That no legal proceedings shall without the leave of the Supreme Court be instituted by you in any Court and that any legal proceedings instituted by you in any court before the making of the Order shall not be continued without such leave and that no application shall without such leave be made by you in any legal proceedings, whether by you or another, in any Court on the ground that you Ricardo F. Pratt has (*sic*) habitually and persistently and without reasonable ground instituted vexatious legal proceedings in the Supreme Court."

8. The Amended Notice of Motion was supported by three affidavits, sworn by Lennette King (an attorney in the Office of the Attorney General) on 3 February, 16 September and 21 October 2020. The AG filed another affidavit, that of Luana Ingraham on 21 October 2020, in response to a preliminary application by Mr. Pratt.

9. Not surprisingly, Mr. Pratt vigorously opposed the proceedings at every turn. He filed a number of cross-applications and preliminary challenges, as follows:

(i) a summon to strike out the AG's Notice of Motion filed 19 February 2020 under Ord. 18, r. 19 (1)(a)(b)(d), on various grounds, but mainly on the ground that it was a nullity and abuse of the process of the court, as the notice of motion commencing the process was not in the proper form nor sealed as required by the Rules; and further seeking to cross-examine Lenette King on para. 3 of her affidavit filed 3 February 2020, and to strike out Ricardo Pratt as a party in his 'personal capacity' ("Summons "No. 1") (10 pp).

(ii) a summons filed 13 October 2020 to cross-examine Registrar Carol Misiewicz on her judgment dated 10 March 2020, striking out one of the defendant's claims, to cross-examine Lenette King on her 2nd affidavit, and to strike out para. 3 of that affidavit ("No. 2") (10 pp);

(iii) summons filed 22 October 2020 for a trial of the preliminary issue as to whether the s. 29 action is a nullity; and to strike out paragraphs of the affidavit of Luana Ingraham ("No. 3") (10 pp);

(iv) summons filed 23 October 2020 for the trial of a preliminary issue as to whether the fee simple estate in the John Bootle Tract (said to be owned by the late George Johnson Bootle) vests in Ricardo Pratt, in his capacity as administrator of the Estate of George Johnson Bootle ("No. 4") (4 pp.);

(v) an *ex parte* summons filed 9 November 2020 for leave to appeal any decision of the Court made on 26 October 2020, pursuant to Ord. 31A Rule 18(1)(2)(s) of the RSC ("No. 5") (6 pp);

(vi) amended Notice of Application filed 27 January 2025, seeking directions for a trial, including disclosure, service of witness statements and production of a surveyor's report, allegedly in support of a claim for an order that Ginn-LA West End was unlawfully issued a Certificate of Title for 179.71 acres of land in Quieting Action No. 511 of 2005, in violation of s. 17 of the Quieting Titles Act ("No 6") (16 pp).

10. In support of these applications, Mr. Pratt filed some 8 affidavits, 10 volumes of authorities and cases, and nearly as many written skeleton submissions, at least one in support of each application. Thus, the Court was faced with over 50 pages of summonses and applications alone from Mr. Pratt, and many hundreds of pages in affidavits and submissions. It will come as no surprise that several of these applications were overlapping and/or ill-conceived. For example, (i) and (iii) dealt with the point as to whether the alleged deficiencies in the Notice of Motion originally commencing the application was an irregularity or nullity. The issues raised in "iv" for the determination of who owns the fee simple title to the John Bootle Tract and in "vi" seeking to

set aside the COT granted in 511 of 2005 were not before the court, and the claim to cross-examine the Registrar ("ii") was obviously ill-conceived. I will have more to say about several of these applications later.

11. I heard the parties via Zoom on 26 and 30 October and 6 November 2020, to deal with the preliminary issues and the substantive application. When the matter was called on 26 October, I granted leave to the Attorney General, on an application *in limine*, to amend the Notice of Motion and awarded costs of the amendment to Mr. Pratt, to be taxed if not agreed. Mr. Pratt made an oral motion for leave to appeal the amendment (for which the summons at "v" was later filed), which I indicated that I was not inclined to grant, but requested the parties to lay over brief submissions on the point which I would consider. I further stated that I would not deal with the issues going to the validity of the proceedings raised in "i" and "iii" as a preliminary question of law, but would hear those as part of the merits to avoid the matter being argued piecemeal. I also stated that I would not exercise my discretion to grant leave for cross-examination nor to strike out any paragraphs of the affidavits (see reasons below). Notwithstanding the filing of the summons for leave on 9 November 2020, and before any further appearance before the Court, the defendant filed a precipitous notice of appeal to the Court of Appeal, which was struck out on the hearing of the summons to settle the record on 13 November 2020, for failure to obtain the leave of the Supreme Court pursuant to s. 11(f) of the Court of Appeal rules. The summons at "iv" and the Notice at "vi" (as further explained below) did not raise issues that were justiciable before the Court.

12. There followed a considerable hiatus of the matter, and when the parties appeared before the court for a mention/direction hearing on 22 January of 2025 the defendant filed, without any leave, an additional Volume of authorities (Vol. 10), on which he further sought to rely, among other things, for his "leave" application. I made it clear that I would not grant leave to appeal, but would deal with the issue of whether the proceedings were improperly commenced as part of the main hearing. Because of the passage of time, I gave leave for Mr. Pratt to file any additional submissions on which he wished to rely, as well as a further affidavit (at his request) on a discrete issue, and extended the same opportunity to the AG, and scheduled a further hearing for 31 January 2025.

13. Notwithstanding my directions, Mr. Pratt filed a Notice of Application dated 24 January 2025 ("No. 6" above) which, as noted, sought to have a trial on the merits of his claim to the 179.71 acres of land in the John Bootle Tract. He also filed the additional affidavit on the 27 January 2025, which basically rehashed the material in several of the earlier affidavits, and made some additional allegations, which are not relevant for the purposes of these proceedings.

14. By follow-up email, I indicated that the new "Application" raised matters that were not before the Court, and that I would proceed on the directions I gave. Mr. Pratt then amended that Notice of Application on 27 January 2025 to include a request for the appointment of an "attorney" under s. 29 of the SCA to represent him on the grounds of poverty. By a short email, the Attorney General objected to this request, contending that this was nothing more than a further ploy by Mr.

Pratt to delay and derail the matter and an abuse of the process of the Court. It was further stated that Mr. Pratt had ample time and opportunity for the appointment of an attorney if he genuinely wanted independent representation.

15. I think it is useful to record Mr. Pratt's response to this, as it also provides a useful backdrop to this matter:

> "My request for an Attorney (on the grounds of poverty) is not a stall tactic. I cannot afford an Attorney as I have been unemployed for over Five (5) years and I am about to apply for pension and I am extremely ill.
> Further, I do not understand how this action can proceed if an Originating Motion was not filed and served on me by the AG.
> My request for a trial is not a stall tactic. My Lord every single murderer and rapist and child molester and armed robber in Fox Hill Prison had a Trial. That is a fundamental right to face my accuser and cross-examine them on their evidence.
> Article 20(8) of the Bahamas Constitution guarantees me the right to a Fair hearing, and I am entitled to be able to cross-examine the persons who swore Affidavits, especially in light of the possible false statements made that the Hon. Mrs. Justice Estelle Gray-Evans made a determination in her Judgment that Ginn-LA West End, Limited was the legal and beneficial owner of the John Bootle Tract, because I have read the Judgment over Ten (10) times and she clearly did not determine who has the better title.
> The very foundation of this vexatious litigation application is that I do not own the John Bootle Tract (which is denied) and that I continue to make frivolous and vexatious claims. So, if that was true, there would be no need to make a false statement. Further, I believe that Section 82 and 84 of the Evidence Act, requires the AG to prove that claim, at a Trial and with witnesses, and tested on cross-examination.
> The reason why I need an Attorney, is because I do not understand this Section 29 application by the AG, as I am not a lawyer, and need one to defend me in this action but cannot afford one, and Section 29(2) of the Supreme Court Act is the statute law that allows for me to be appointed a public defender, on the grounds of poverty, just like the murderers in Fox Hill Prison."

16. I will say at once that I am greatly sympathetic to the plight of Mr. Pratt, if that is indeed his plight. However, for reasons that can be stated shortly, I was not convinced that this was an appropriate case in which to assign counsel.

17. Section 29 is set out in full below, but sub-section (2) states: "*If the person against whom an order is sought under this section is unable on account of poverty to retain a counsel and attorney, the Court shall assign a counsel and attorney to him*." The language of section 29(2) does say that the court "*shall assign*" an attorney, but a pre-condition to the operation of that section is that the court first has to be satisfied that the person is unable on account of poverty to retain counsel and attorney.

18. In this regard, Mr. Pratt did not provide the Court with any evidence of his alleged impecuniosity. There is only the assertion in his email that he has been unemployed for 5 years and a bare statement as to the purpose of his 8th Affidavit (at para. 3) as follows:

> "3. I swear this affidavit in support of the application filed by the Defendant for the appointment of an attorney pursuant to s. 29(2) of the Supreme Court Act on the grounds of poverty."

That is the extent of it. Nothing further is mentioned about his means or assets in the affidavit, which runs to 291 pages with exhibits. To the contrary, the balance of the affidavit is devoted to rehashing legal submissions and allegations made in previous affidavits.

19. In oral submissions, Mr. Pratt made further representations concerning his financial position, and indicated that he could lay over information documenting the fact that he was now "broke" and that he had been fighting foreclosure for the past 3 years. But any probative value of these representations was significantly diminished in light of his statement to the court that he had spent "*thousands and thousands of dollars*" for the commencement of the various actions he had filed, including actions filed in late 2024 or early 2025. One of these was said to be a claim against the Treasurer and Resorts Holding Bahamas Ltd., in his capacity as the administrator of the estate of George Johnson Bootle, claiming $500 million in damages. It was later discovered that indeed Mr. Pratt filed petitions under the Quieting Titles Act ("QTA") in July and September of 2024, all of which would have required (in addition to the requisite filing fees) the commissioning of a land survey, and the court fee on the claim against the Treasurer was stated as $1,000. These are not the actions of someone who claims that he is indigent.

20. Other than his verbal representations to the court, I therefore had before me no evidence of Mr. Pratt's impecuniosity. A litigant who seeks to obtain some legal benefit or privilege afforded by law by reason of his impecuniosity must place satisfactory evidence before the court of that status: **Practice Note (Security for Wife's Costs)** [1953] 1 WLR 905. By way of example, under the *Supreme Court (Civil Procedure Fees) Rules,* 2023, a person who makes an application as an indigent person can have filing fees waived, but he has to (in addition to having a reasonable cause of action or defence) swear an oath that he is unable to pay the requisite fees for the application. I am not aware that Mr. Pratt has commenced any of his actions in *forma pauperis* (as it is called) and it is very unlikely that he would have done so having regard to the requirement to first establish that there is a proper cause of action. Thus, in the absence of any direct evidence of the defendant's impecuniosity, I am unable and unwilling to find that Mr. Pratt is poor, so as to engage the requirement under s. 29(2). A judge does not have the authority to commit the resources of the State in the absence of proper evidence justifying the same.

21. I should also add that section 29 clearly envisages that the person seeking the appointment of an attorney would make an election to be represented by counsel and attorney. Mr. Pratt was made aware of the provisions of s. 29 at the outset of these proceedings and if he had made the request and provided evidence in support, the court would no doubt have given favourable

consideration to it. In my view, Mr. Pratt consciously chose to argue the matter himself, as he has done with the litigation with which this court is concerned for nearly the past two decades, and as he continues to do right up to the present. Having made that election, it would be an abuse of the process of the Court and a misuse of s. 29 to now seek to have an attorney appointed and start this process over again.

22. Further, Mr. Pratt's assertion that he does not "*understand this s. 29 Application as I am not a lawyer*" rings as hollow as it is incredulous. This is belied by the copious submissions, affidavits, and sophisticated arguments that Mr. Pratt has deployed in defence to the AG's application. These arguments would do credit to many an attorney. Further, at the hearings on the 22 and 31 January, Mr. Pratt intimated to that Court that he would be willing to come to some kind of consent position with the AG's Office if the terms prohibited him from instituting any new actions, but allowed him to continue any existing legal proceedings. Unfortunately, that is not the way s. 29 is intended to operate, but it goes to show that Mr. Pratt is completely sentient as to the provisions of s. 29.

23. In any event, and as stated, there was no evidence to satisfy me that Mr. Pratt was impecunious or indigent and I was therefore unable to accede to his request for the appointment of an attorney-at-law.

The Issues

24. Despite the wide-ranging nature of the submissions, the main issues for the consideration of the court (preliminary and substantive) are as follows:

(i) Whether the notice of motion commencing the application was an irregularity or rendered it invalid;
(ii) Whether this was an appropriate case in which to grant leave for cross-examination, and to strike out portions of the supporting affidavits;
(iii) Whether s. 29 is an unjustifiable interference with the constitutional right of access to the court;
(iv) Whether, on its proper construction, proceedings instituted by a "person" under s. 29 includes those instituted in a representative capacity;
(v) Whether the AG has satisfied the statutory requirements under s. 29 for having a person declared a vexatious litigant.

The legal framework

25. The statute authorizing the Attorney-General to take action against a person alleged to be a vexatious litigant is found at s. 29 of the Supreme Court Act. That section provides as follows:

> 29.(1)If on an application made by the Attorney-General under this section, the Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted

vexatious legal proceedings whether in the Court or in any inferior court and whether against the same person or different persons, the Court may, after hearing that person or giving him an opportunity to be heard, order that no legal proceedings shall, without the leave of the court or a judge, be instituted by him in any court, and that any legal proceedings instituted by him before the making of the order shall not be continued by him without such leave, and such leave shall not be given unless the Court or judge is satisfied that the proceedings are not an abuse of the process of the Court and that there is a prima facie ground for the proceedings.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain a counsel and attorney, the Court shall assign a counsel and attorney to him.

(3) A copy of an order made under this section shall be published in the Gazette."

26. This provision closely tracks s. 51 of the UK Supreme Court of Judicature (Consolidation) Act 1925, as amended in 1959 to add a requirement for a vexatious litigant to also seek leave to continue proceedings instituted *before* the making of the Order. Under the current s. 42 of the 1981 UK Supreme Court Act, the power to restrict vexatious legal proceedings is continued in similar terms, although the orders are now called "civil proceeding orders" and "criminal proceeding orders".

27. There are not very many reported decisions under s. 29 of the SCA, but there is an abundance of authority from the UK and other Commonwealth countries decided under similar legislation, which have as their legislative antecedent the UK Vexatious Actions Act 1896.

28. All of the statutory conditions listed in s. 29 have to be fulfilled before the Court can make a vexatious litigant order. That is, the person must have (i) instituted vexatious legal proceedings; (ii) done so habitually and persistently; and (iii) without reasonable cause. The other requirement is that the person ought to be heard or given a reasonable opportunity to be heard before the Order is made.

29. In **Attorney General v. Barker** [2000] 1 FLR 759, Lord Bingham of Cornhill CJ described vexatious litigation as follows: [at 764]

" 'Vexatious' is a familiar term in legal parlance. The hallmark of a vexatious legal proceeding is in my judgment that it has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense all out of proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the court; meaning that by use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process. …

The essential vice of habitual and persistent litigation is keeping on and on litigating when earlier litigation has been unsuccessful and when on any rational and objective assessment the time has come to stop."

30. In **AG v Wentworth** (1998) NSWLR 481 (at 491), a case from New South Wales, Roden J. was considering s. 84(1) of the Supreme Court Act, which is in similar terms to s. 29, in the course of an application to have Mrs. Wenworth declared a vexatious litigant. The Court refused to make the order, but went on to make some instructive comments on the section, describing vexatious litigation as follows:

> "It seems then that litigation may properly be regarded as vexatious for present purposes on either objective or subjective grounds. I believe that the test may be expressed in the following terms:
> 1. Proceedings are vexatious if they are instituted with the intention of annoying or embarrassing the person against whom they are brought.
> 2. They are vexatious if they are brought for collateral purposes, and not for the purpose of having the court adjudicate on the issues to which they give rise.
> 3. They are also to be regarded as vexatious if, irrespective of the motive of the litigant, they are so obviously untenable or manifestly groundless as to be utterly hopeless.
> 4. In order to fall within the terms of s. 84:
> (a) proceedings in categories 1 and 2 must also be instituted without reasonable grounds (proceedings in category 3 necessarily satisfy that criteria);
> (b) the proceedings must have been "habitually and persistently" instituted by the litigant."

31. In considering the statutory factors, the Court must look at the whole history of the matter, and all the circumstances of the case, and proceedings may be held to be vexatious notwithstanding that in each individual case taken singly the pleading may disclose a cause of action: see **Re Vernazza** [1959] 2 All ER 200, **HM Attorney-General v. Harry Singer et.** al. [2012] EWHC 326 (Admin). In the latter case, Cranston J (sitting in the Divisional Court with Toulson LJ) said [at 14]:

> "14. In section 42 proceedings, the fact that some of the cases brought by the potential subject of an order have been successful does not mean that the proceedings as a whole are not vexatious. The successful claims must be set against the unsuccessful claims and the applications to determine whether they are the hallmarks of vexatious litigation (*Attorney General v Ford* [2008] EWHC 2066, [62]. It is necessary to look at the whole picture and the cumulative effect of a person's activities, both against those implicated in the proceedings and on the administration of justice (**Attorney General v Covey** [2001] EWCA Civ 254, [61]. It is not open to the potential subject of an order to question findings already made in the earlier proceedings."

32. In **AG v Barker** (*supra*), a passage which was cited with approval by the Court of Appeal in **Bhamjee v Forsdick and Others** [2004] 1 WLR 88 (2003), [para. 22 in **Bhamjee**, pg. 764 of **AG v Barker**], Lord Bingham of Cornhill gave a memorable description of the phrase "habitually and persistently" as follows:

> "The hallmark is that the plaintiff sues the same party repeatedly in reliance on essentially the same cause of action, perhaps with minor variations, after it has been ruled upon, thereby imposing on defendants the burden of resisting claim after claim; that the claimant relies on essentially the same cause of action, perhaps with minor variations, after it has been ruled upon, in actions against successive parties who if they were to be sued at all should be joined in the same action; that the

> claimant automatically challenges every adverse decision on appeal; and that the claimant refuses to take any notice or give any effect to the orders of the court. The essential vice of habitual and persistent litigation is keeping on and on litigating when earlier litigation has been unsuccessful and when on any rational and objective assessment the time has come to stop."

33. Because a VLO may have the effect of curtailing a person's right to access the courts, in deciding whether to make an order the court must strike a balance between rights of access to the court and the need to protect the court's processes and the rights of others harassed by such claims. In **AG v Jones** [1990] 2 All ER 636 [at 640], Staughton LJ described this balancing act as follows:

> "The power to restrain someone from commencing or continuing legal proceedings is no doubt a drastic restriction of his civil rights, and is still a restriction if it is subject to the grant of leave by a High Court judge. But there must come a time when it is right to exercise that power, for at least two reasons. First, the opponents who are harassed by the worry and expense of litigation are entitled to protection; second, the resources of the judicial system are barely sufficient to afford justice without unreasonable delay to those who do have genuine grievances and should not be squandered on those who do not."

34. But despite this tension, the case law is clear that vexatious litigant orders are not incompatible with the fundamental right to access the courts: see **A-G v Covey, AG v Matthews** [2001] EWCA Civ 254, in the context of Article 6 of the European Convention on Human Rights ("ECHR") and the archetype for art. 20(8); **Attorney-General v Bowleg** [1997] BHS J. No. 35; and **Bowleg v. Kerzner International (Bahamas) Ltd. (also known as Brookfield) and others** (unreported) (April 2014). I shall return to several of these cases.

35. Another important part of the court's amoury to control vexatious litigation is the inherent power to prevent the abuse of its system. This power was recognized in **AG v Vernazza** (supra), where Lord Denning said [21]:

> "The Courts of this country have an inherent power to prevent the abuse of illegal machinery which would occur, if for no possible benefit the defendants are to be dragged through litigation which must be long and expensive; see Willis v. Earl of Beauchamp (1896) 11 PD 59 at p. 63 by Bowen LJ; and when the Courts of this country exercise this power, they are not depriving a man of a vested right. No man, let alone a vexatious litigant, has a vested right to bring or continue proceedings which are an abuse of the process of the Court."

36. More recently, in **Ebert v Birth; Ebert v Vanvil** (1999) The Times, April 28; [1999] 3 WLR 670, the Court of Appeal affirmed that the inherent jurisdiction of the Court to prevent and control vexatious proceedings still existed alongside the statutory power, referring to the case of **Grepe v Loam** [1887] 37 Ch. D 168, after which such orders are called (*Grepe v Loam* Orders). However, the Master of the Rolls, Lord Woolf, went on to say that while the inherent jurisdiction remained alongside the statutory jurisdiction, it was not as broad as the statutory power and could only be exercised in conformity with it.

ANALYSIS AND DISCUSSION

Preliminary Issues

(i) Order 80 procedure; strike out pursuant to Ord. 18, rule 19(1) (a)(b)(d)

37. The Office of the Attorney General("OAG") commenced these proceedings by filing what was intituled as a "Notice of Motion" dated 3 February 2020. Mr. Pratt filed a summons dated 19 February 2020 seeking an order to strike out the notice of motion on the ground that it was said not to be in compliance with Ord. 80, r.4(2), and Ord. 8, r. 3(4)(5)), and that the proceedings were a nullity. He invited the Court to determine this as a preliminary point and filed a summons for that purpose.

38. Apparently, following the objection taken by Mr. Pratt, this document was "amended" by inserting the word "Originating", so that it read "Notice of Originating Motion", and the latter was filed 7 September 2020. On the 20 October 2020, when the matter was called, the OAG formally sought leave to amend the Notice of Motion, which was granted with costs to Mr. Pratt. According to the AG's written submissions, it is not the practice of the Registry to seal a Notice of Motion, but "*ex abundanti cautela…"* they impressed upon the Registrar to have the said Amended Originating Notice of Motion sealed. The sealed version was then served on the defendant and the Court on 29 October 2020.

39. Mr. Pratt made two central arguments. First, he argued that the defect in starting the proceedings rendered it a nullity and not just an irregularity. He relied on **Strachan v The Gleaner Ltd. & Ano. (Jamaica)** [2005] UKPC 33, where the Board discussed the distinction between what are sometimes called "irregularities" and "nullities" in proceedings (although the Board clarified that it was confusing to use the term "nullity" with respect to Orders). The Board referred to **In Re Pritchard, decd.** [1963] Ch. 502, where Lord Upjohn LJ observed that proceedings started by an originating summons issued in the wrong Registry were a nullity and could not be cured by amendment. Danckwerts LJ held that the originating process in that case had no more effect to commence proceedings than a dog licence.

40. He also referred to **Freeport Container Port Limited v. Jermaine Campbell** [2020/CLE/gen/00150], where the Court of Appeal indicated that for limitation purposes the period stops running with the issue of a writ sealed by an officer of the Registry, irrespective of the payment of fees. He also referred to the well-known Privy Council Case of **Benjamin Leonard MacFoy v. United Africa Company Ltd. (West Africa)** [1961] UKPC for the principle that nothing can be founded on a nullity.

41. Not surprisingly, the AG argued that the proceedings were not a nullity and, to the extent that there were any procedural errors, they could be corrected by amendment. They relied on Ord. 2, r. 1(3), Ord. 31A, r. 26, Ord. 20, r. 7(1), and several cases in support of the principle that any errors in commencing proceedings were to be treated as irregularities, and that the Court had wide powers to amend.

42. The principal authority cited was **Texan Management Limited et. al. v. Pacific Electric Wire & Cable Company Limited** [2009] UKPC 46, where the Board was concerned, *inter alia*, with the question of whether the failure to serve affidavit evidence with an application disputing the court's jurisdiction, as required by the Rules, rendered the application a nullity. The Board resolved this issue as follows (per Lord Collins, paras. 31, 87):

> "….Except where the consequence of failure to comply with a rule has been specified, where there has been a procedural error or failure to comply with a rule, the failure does not invalidate any step in the proceedings and the court may make an order to put matters right: EC CPR r. 26.9. […]
>
> The Court of Appeal was wrong to find that because no evidence was filed with the application, there had been no valid application. There was a minor procedural defect in not serving the evidence with the application, and the judge properly exercised her discretion to excuse it."

43. Several of the Rules that are relevant to the discussion of this preliminary point are as follows:

Ord. 2, r. 1

> "Where, in beginning or purporting to begin any proceedings or in any stage in the course of or in connection with any proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of these Rules, whether in respect of time, place manner, form or content or in any other respect the failure shall be treated as an irregularity and shall not nullify the proceedings, any step taken in the proceedings, or any document, judgment or order therein."

Ord. 31A, 18(1)(2)(s):

> "(1) The Court's powers in this rule are in addition to any powers given to the Court by any other rule, practice direction or enactment.
> (2) Except where these Rules provide otherwise, the Court may—
>
> > (s) take any other step, give any other direction or make any other order for the purpose of managing the case and ensuring the just resolution of the case."

Ord. 31A, r. 26:

> (2) An error of procedure or failure to comply with a rule, practice direction or Court order does not invalidate any step taken in the proceedings, unless the Court so orders.
> (3) Where there has been an error of procedure or failure to comply with a rule, practice direction, Court order or direction, the Court may make such order as it deems necessary.
> (4) The Court may make such an order on or without an application by a party.

Ord. 20, r. 7(1)

> "For the purposes of determining the real issue in controversy between the parties to any proceedings, or of correcting any defect or error in any proceedings, the Court may at any stage of the proceedings and either of its own motion or on the application of any party to the proceedings order any document in the proceedings to be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as it may direct."

Ord. 5, r. 1, r. 5:

> "Subject to the provisions of any Act and these Rules, civil proceedings in the Supreme Court may be begun by writ, originating summons, originating motion or petition.
>
> "Proceedings may be begun by originating motion or petition, but only if, by these Rules or by or under any Act the proceedings in question are required or authorized to be so begun."

Ord. 80, r. 4 (1)(2):

> "(1) Every application to the Supreme Court by the Attorney-General under section 29 of the Supreme Court Act, 1996, shall be heard and determined by a judge.
> (2) The application must be made by originating motion, notice of which, together with an affidavit in support shall be filed in the Registry and served on the person against whom the order is sought."

Ord. 8, r. 3(4)(5):

> "(4) The notice of an originating motion must be issued in the Registry.
> (5) Issue of the notice of an originating motion takes place upon its being sealed by an officer of the Registry."

44. Mr. Pratt expended a considerable amount of energy and paper on this issue. He remained resolute at the close of the hearing that the proceedings were a nullity, even in the face of the clear provisions of Ord. 2, r. 1, and the fact that the Court gave leave to amend. I am clearly of the view that this is not a case in which I should exercise my discretion to set aside the proceedings on the grounds alleged by Mr. Pratt. However, I need to mention a few matters because the issue of the sealing of the notice of motion is mired in some antiquity.

45. I deal first with the form of the proceedings. Order 8., r. 3 says that a notice of an originating motion must be in "*Form No. 13, in Appendix A…*". As experienced practitioners know, the reference to "Appendix A" is a reference to Appendix A of the *English Supreme Court Practice*, (commonly called the "White Book"), and Ord. 1, r. 7 provides that those forms shall be used where applicable with such variations as the circumstances and practice of the Supreme Court requires. Form 13 is intituled "*Notice of originating motion*" and, as indicated, the OAG had corrected the document to read "*Notice of originating motion*." So nothing turns on this challenge, and in any event this was a trifling error in the heading easily amended and/or excused.

46. With respect to the sealing, this raises a more interesting point. The OAG mentioned that it is not the practice of the Registry to seal originating motions, or notices of such motions. I am inclined to agree with the first proposition, which mirrors the English practice, but I am not sure of the second (see **Re Tighe's application** [1994] Lexis Citation 4477, and **Re WJT** [1994] Lexis Citation 1865).

47. **Re Tighe's** concerned an application for a restraint order, which was required to be made under Ord. 115, r. 3(1) of the English Rules by originating motion. The preliminary point was taken that as the originating motion was not sealed in accordance with Ord. 8, r (3)(1), all the proceedings that flowed from it were thereby invalidated. Tucker J. dismissed the challenge, stating as follows:

> "It appears that the originating motion in the present proceedings has not been so sealed. Moreover, it seems that the practice in the Crown Office is that such motions never are sealed. I am satisfied, however, that the rules do not require that originating motions in *ex parte* applications should be sealed. Sub-rule (6) does not require the originating motion itself to be sealed. The requirement relates not to the motion but to the notice of motion, if notice be appropriate. There is a clear distinction between the motion, which in the present case founded an application *ex parte*, and notice of that motion. The provisions of Ord 8, rr. 2 and 3 refer only to the notice. There was no obligation upon the prosecution to serve the originating motion on the party to be affected, since the rules expressly enabled it to be made ex parte. Therefore, there was no requirement for a notice of that motion, and there was nothing which required to be sealed. The position would be otherwise were the application to have been made *inter partes*.
>
> In any event, Ord. 2, r. 1 provides: "…a failure to comply with the requirements of these rules…shall be treated as an irregularity and shall not nullify the proceedings [or] any steps taken in the proceedings."

48. In the instant case, the application was necessarily *inter partes* and, therefore, the OAG's intuition in having the seal impressed by the Registry was warranted, since Ord. 8, r. 3 (5) [which corresponds to the UK 8, r. 3(6)] does provide for the *notice* of the originating motion to issue on being sealed. As indicated, the sealed notice of originating motion was served on Mr. Pratt, and I therefore hold that the proceedings were not a nullity, whatever procedural errors may have occurred initially with the forms.

49. For completeness, it should also be stated that neither **Strachan**, **In re Pritchard**, or **Freeport Container** is of any direct assistance to Mr. Pratt. In **Strachan**, the issue was whether an order setting aside a default judgment on liability where damages had already been assessed was valid. The Board rejected the challenge that the setting-aside Order was a nullity and dismissed the appeal, although it made references to **In re Pritchard.** In this case, the main issue was whether the amendment could be made after the Statute of Limitations expired, and a majority of the Court of Appeal held that it could not. Notably, Lord Denning dissented and his view that the decision was a retrograde one and that the High Court had ample power to correct the error of filing in the wrong Registry has been vindicated by the more modern authorities. **Re Freeport**

Container simply says that a writ issues on being sealed, which is no new law and not relevant to the case before the Court.

(ii) The Applications for Cross-Examination and strike out

50. As mentioned, Mr. Pratt applied to cross-examine both counsel from the OAG who swore affidavits (Lenette King on her 3 February 2020 affidavit and Luana Ingraham on her affidavit dated 21 October 2020), as well as Deputy Registrar Carol Misiewicz (now retired) on a Ruling she made. He also applied to strike out certain paragraphs of the AG's affidavits.

51. The request to cross-examine the Registrar was based on her Ruling dated 10 March 2020 striking out a writ and statement of claim filed by Mr. Pratt, which was one of the several actions Mr. Pratt has filed launching a collateral attack on the decision of Gray-Evans J., in which she found that the title granted to Ginn-LA West End Limited in Supreme Court Action 2005/CLE/gen/00511 was not forged or obtained by fraud. He claimed, *inter alia*, that the Deputy Registrar "*knowingly and maliciously fabricated evidence*" by deliberately lying and stating that counsel and attorney Robert Adams (as he then was) appeared on that application. I should state at once that there is no basis in law or principle on which a claimant can seek to cross-examine any judicial officer on a Ruling (see s. 120 of the Evidence Act, which states that a judgment is conclusive proof of the facts stated therein in favour of the court delivering it). The available redress is either to appeal or review, if the proceedings permit of review. I therefore indicated to Mr. Pratt that this was an improper and impermissible application and I dismissed it out of hand.

52. With respect to the evidence of Lenette King, in addition to the request for cross-examination, there was a request to strike out the paragraphs of her affidavits which stated that the defendant has habitually and persistently and without reasonable ground instituted vexatious legal proceedings in the Supreme Court and continues to do so, on the grounds that this was "*perjury*" and a knowing and false fabrication of evidence. Mr. Pratt contends that there is no evidence of this, since almost all of the applications filed by him were in a representative capacity and secondly, that the issue was not one for the personal opinion of the affiant "*who is not a justice of the Supreme Court nor a Court of Appeal Justice*".

53. Mr. Pratt sought to cross-examine Ms. Ingraham on the affidavit she swore in response to Mr. Pratt's affidavit filed 19 February 2020, opposing the application by the OAG. He also sought to have struck out paragraphs 4 of that affidavit, where she asserts that the Order sought will also "*capture*" Mr. Pratt in respect of the matters which he litigated in a representative capacity (i.e., as the administrator of the Estates of George J. Bootle, Ruel Pratt and William Seymour)—which explains Mr. Pratt's colourful retort that his representative capacities "*cannot be captured like a stray dog*". He also attacked para. 24 of the affidavit, containing the assertion that a Certificate of Title for 179.71 acres was granted to Ginn in Action No. 511 of 2005. Mr. Pratt's view is that the COT granted in 511 of 2005 was fraudulently granted, and that s. 29 does not extend to actions brought in a representative capacity. Consequently, he contends these are not matters that Ms.

Ingraham can prove of her own knowledge, under the well-known principles of Ord. 41, Rule 5, and 6.

54. There is no dispute that pursuant to Ord. 38, r. 2(3) or Ord. 31A, r. 18 (2)(k), the Court can require the maker of an affidavit or witness statement to attend for cross-examination, and similar powers exist under Pt. 30 of the CPR. I was not of the opinion, however, for reasons that follow, that this was an appropriate case to grant leave for cross-examination or to exercise the Court's strike-out power.

55. With respect to the assertion that Ginn was granted a COT in No. 511 of 2005, that merely recites judicial findings made in previous proceedings. Whatever views Mr. Pratt may have of the legitimacy of that judgment, it has not been overturned, despite his numerous challenges. On the issue of whether the s. 29 order can extend to representative proceedings, this is really a legal question for the Court and perhaps a submission of law, which should not be contained in an affidavit. But the inclusion of improper material in affidavits can be safely ignored under the principle in **Savings Investments Bank Ltd. v Gasco Investments (Netherlands) BV and others** [1984] 1 All ER 296, as applied by the Supreme Court in **McMillen Trust (Trustees of) v Rawat** [1991] BHS J. No. 42. Ms. King's assertion that Mr. Pratt is a vexatious litigant is not a question of fact alone, but a mixed question of fact and law, which the Court must determine from the affidavits and based on legal principles. It cannot be determined on the basis of any cross-examination. Again, to the extent that any personal opinion is expressed in any of the affidavits, I can safely ignore them.

56. In the circumstances, I am far from persuaded that this was a matter in which it would be a proper exercise of my discretion to allow cross-examination of Ms. Ingraham or Ms. King, nor is there any cogent basis for me to strike out any affidavit evidence. I therefore did not grant leave to cross-examine any of the affiants, or strike out any material from the affidavits. I should also add that it could hardly lie in the mouth of Mr. Pratt to attack any of the OAG's affidavits on the basis of opinion evidence or legal submissions, as his affidavits are replete with submissions and scandalous material. The OAG was perhaps benevolent in not taking the point.

The Constitutional Arguments: Is s. 29 an unjustified interference with Article 20(8)?

57. I am dealing with the Constitutional arguments as preliminary points, not because they were argued as such, but because if the Court found that they had merit, it could not proceed to determine the substantive s. 29 application. Mr. Pratt challenged the application mainly on the ground that it was a violation of his fundamental right under 20(8) to have "*unrestricted and unimpeded access*" to the Courts of The Bahamas. But he also alleged a laundry list of constitutional violations under the following articles as follows: Article 2, Article 15(a)(b)(c), Article 20(1)(2)(d)(8)(9)(10), Article 23(1), Article 26(1)(2), Article 28(1)(2) and Article 78.

58. With the exception of the art. 20(8) claim, none of these other claims was developed in any significant way. But I set them out for completeness. Article 2 is the Supreme Law Clause, which

simply articulates that the Constitution is the supreme law and any law that is inconsistent with it is *pro tanto* void; Article 15 contains a preambular statement of rights, which has been held in respect of Constitutions that follow the drafting style of The Bahamas' Constitution not to confer free-standing rights (**Newbold v Commissioner of Police** [2014] 4 LRC 684); Article 20 sets out provisions intended to secure the protection of the law, which includes rights of access to a court and (as indicated) that is the only article which is perhaps properly invoked in the challenge; Article 23 protects freedom of expression, and it was never said how this was relevant; Article 28 is the enforcement proceedings; and Article 78 sets out the functions of the Attorney General (amended in 2017), which are also not directly relevant.

59. The central claim of the defendant in this regard is that the s. 29 application interferes with his right to access justice and the courts under art. 20 (8), because the requirement for leave imposed by a VLO would conflict with 20(8), which says that where proceedings are issued for the determination of any legal right before a court or other adjudicating authority, the case shall be given a fair hearing. Mr. Pratt does not seem to be arguing that s. 29 is unconstitutional *per se*, but only that the part of s. 29 which provides that leave shall also be required in respect of any existing legal proceedings where a VLO is made.

60. He relies on dicta from the local case of **Harbour Lobster Fish Co. v AG** [1998] BHS J No. 15, which he attributes to Gonsalves-Sabola P (although the quote is actually to be found in the judgment of Hall JA) where it is said that [para. 53]:

> "It is a fair and purposive reading of that paragraph to say that the words "where proceedings for such a determination are instituted before such a court" are under-girded by an implied acknowledgement of the right of that person to institute those proceedings, in other words, the right of access to the courts. If an act of Parliament denied this right it would certainly be of doubtful constitutional validity."

61. Not surprisingly, the OAG argues that s. 29 in its entirety is compatible with the Constitution, relying on both UK authority and two local authorities: see **Attorney-General v Bowleg** (*supra*) and **Bowleg v. Kerzner International (Bahamas) Ltd.** (*supra*). In the former, the challenge was based both on Art. 20(8) and article 54(2) (the article which sets out Parliament's legislative capacity to make laws for the peace, order and good government). In dismissing the challenge, Moree J. (Act'g) held that:

> "19. Mr. Bowleg claims that Section 29 of the Act is contrary to Article 23 of the Constitution and that an Order in the terms sought by the Plaintiff in the Originating Notice of Motion would hinder his enjoyment of freedom of expression. This submission is misconceived as the Constitution does not confer on any person the right to subject a third party to frivolous and vexatious litigation nor is there any provision in the Constitution which prevents a Court from summarily striking out an action if it is scandalous, frivolous, vexatious or otherwise an abuse of the process of the Court. Of course, whether such an action falls into this category is an issue to be decided by the Court in any given case. Mr. Bowleg also submits that Section 29 is repugnant to Article 52 of the Constitution as the section is not a law for the peace, order and good government of the Bahamas. …

> 22. After carefully considering the submissions of Counsel for the Attorney General and Mr. Bowleg on interaction between section 29 of the Act and the Constitution and having regard to the relevant constitutional principles, I am satisfied that section 29 of the Act is in no way repugnant to any provisions of the Constitution. It is a perfectly constitutional section which in no way infringes the fundamental rights of the Defendant."

62. In **Bowleg v Kerzer**, Isaacs J. held similarly that the constitutionality of the section was not in doubt, and he dismissed the claim on the alternative remedies point (i.e., the proviso to Article 28(3), which requires alternative remedies to be exhausted before resort to the Constitutional claim). However, he also emphasized the inherent jurisdiction of the Court to protect its process.

> "7. In any event, I heard and dismissed the Plaintiff's constitutional application on the ground that he had an alternative means of redress as per the proviso to Article 28 of the Constitution. […]
> 8. He could have appealed the Order of Moree, J (Act'g) to the Court of Appeal but he did not appear to have done so. I opine that in the circumstances, the present constitutional challenge could not be maintained and is unsustainable. Thus, I dismissed his constitutional claim outright…
> 9. There is a further basis upon which I could have refused his constitutional application, namely, the inherent jurisdiction of the Court to protect its own processes. Notwithstanding the rights adumbrated in Chapter III of the Constitutional, persons are not at liberty to use the courts as instruments of abuse and harassment. […] The right of superior courts to rise to their own protection is recognized in every jurisdiction within the common law family of nations; and I need cite no authority for such trite law."

63. In my judgment, it is far too late in the day to take any constitutional challenge to s. 29, and similar legislation that provide for the Court to control access of persons considered vexatious or serial litigants. Ironically, contrary to the paragraph attributed to Gonsalves-Sabola P. in **Harbour Lobster**, this is what the learned justice actually said [para. 14 of his judgment]:

> "As regards the declaration of the right to "the protection of the law", unless a person is permitted to initiate proceedings in the judicial system in order to vindicate or redress perceived wrongs or enforce a right, and if prosecuted, to defend himself, it would be almost vacuous to speak of a right to the protection of the law. <u>But on the other hand, such access cannot be at large or absolute. It must be governed by rules of procedure. Among the many rules that have become standard are rules that bar the institution of frivolous and vexatious proceedings, control the capacity of children as litigants or the ability of non-residents to institute proceedings.</u>" [Emphasis supplied.]

64. The Strasbourg and UK jurisprudence is clear that legislation that seeks to control the institution of vexatious litigation is compatible with art. 6 of the ECHR, on which article 20 of the Bahamian Constitution is patterned. In **H v UK** (1985) 45 DR 281, the Commission of Human Rights, in declaring a challenge to the UK vexatious litigant proceedings inadmissible, said:

> "The vexatious litigant order…did not limit the applicant's access to court completely, but provided for a review by a senior judge…or any case the applicant wished to bring. The Commission

> considers that such a review is not such as to deny the essence of the right of access to court; indeed, some form of regulation of access to court is necessary in the interests of the proper attainment of justice and must therefore be regarded as a legitimate aim…".

65. This was endorsed in **Ebert v Official Receiver** [2021] 3 All ER 942 by the UK Court of Appeal which said [at 9]:

> "If we may respectfully say so, that conclusion was not surprising. The detailed and elaborate procedures operated under s. 42 of the 1981 Act respect the important convention values that procedures relating to the assertion of rights should be under judicial rather than administrative control; that an order inhibiting a citizen's freedoms should not be made without detailed enquiry; and the citizen should be able to revisit the issue in the context of new facts and of new complaints that he wishes to make; and that each step should be the subject of a separate judicial decision. The procedures also respect proportionality in the general access to public resources; in that they seek to prevent the monopolization of court services by a few litigants…".

66. I am therefore fortified by the UK and European jurisprudence and the local cases that the provisions of s. 29 relating to the control of vexatious litigants, by analogy to article 6(1) of the ECHR, are not incompatible with art. 20(8). I also do not think that any discrete question of law arises in relation to the restriction placed by s. 29 on the continuation of matters instituted before the Order is made. There is no reason in law or logic why a restriction on the institution of litigation by a vexatious litigant should be treated differently from a restriction on the continuation of such proceedings for the purposes of constitutionality. In both cases, the aim is to protect the court and the public from abuse, which are legitimate aims proportionately pursued, and it cannot be suggested that because a matter is subsisting at the time a VLO is made that the applicant has a fundamental right for it to be completed. This would make nonsense of the inherent and rules-based authority of the Court to put a stop to litigation that is abusive or vexatious, even including Constitutional applications (see **Ingraham and others v. Glinton and another** [2006] UKPC 40).

67. As a variation on this theme, Mr. Pratt claims that it would be unlawful to grant any order that halts the matters already commenced (as opposed to any fresh actions), as he had "*paid his money for a service*" and if that is not provided, he is entitled to his money back. The point is as novel as it is farfetched. I know of no authority for it, and the AG's Office did not have an opportunity to address it, as it was only raised in Mr. Pratt's reply. But the filing fees paid in respect of various proceedings are prescribed by Rules made under the SCA (*supra*) and required to be paid by all litigants at the commencement of proceedings. They are not a guarantee that the matter will proceed to conclusion, or receive a full hearing. If this were the case, the Court could not strike out any action without refunding filing fees. This is manifestly absurd. In any event, as explained, the effect of a VLO is not to abrogate a right to be heard, but simply to require leave for the institution or continuation of those proceedings.

Substantive Application

68. The OAG affidavits catalogue the numerous actions and applications filed by Mr. Pratt, which predominantly relate to the claims to various parcels of the John Bootle Tract. It is clear that these represent an incomplete record, as Mr. Pratt himself confirmed to the court that he instituted new proceedings as recently as a few months ago. It would only unnecessarily add to the length of this Ruling to refer to the details of these proceedings as set out in those affidavits, so I think only a succinct reference is necessary.

69. For convenience, and without any disrespect to any party or entity, I have used the following abbreviations: "RP", for "Ricardo Pratt"; "JB" for "John Bootle"; "WS" for "William Seymour"; "Ginn" for "Ginn-LA West End Ltd."; "GJBP" or "GJB" for "George Johnson Bootle Pratt", "QTA" for Quieting Titles Act.; "admin. est." for "Administrator of Estate"; "COA" for "Court of Appeal"; "PC" for "Privy Council"; and I have omitted the "00" which normally precedes action numbers.

(1.) Proceedings commenced 5 August 2008 (*Wayne Allen and RP v Ginn* [**178 of 2008**] under s. 27 of the QTA claiming ownership of 179.71 acres of the JB Tract and seeking damages for various alleged torts to land (trespass, wrongful interference, etc.). Struck out under Ord. 18 on grounds that the judge did not consider the allegations of fraud. Appeal to the COA allowed against the striking out and matter remitted for trial. Application for leave to PC dismissed.

(2.) Proceedings commenced 15 October 2008 (*RP v City Services (Bahamas) Ltd. and Grand Bahama Fishing & Transfer Co. Ltd*.), [**242 of 2008**] claiming 10.05 acres of the 960-acre JB Tract and damages for various torts to land.

(3.) Proceedings commenced 21 November 2011 (*RP (admin. est. Ruel Pratt) v. Ginn and G-LA Resorts Holdings (Bahamas) Ltd.*, [**118 of 2011**], claiming 179.71 and 28.59 acres of the JB Tract and damages for various torts to land (trespass, wrongful entry, "slander of title", etc.). Ruling 26 January 2017 comprehensively decided that Mr. Pratt did not prove any entitlement, and made numerous adverse findings of fact against him.

(4.) Proceedings commenced 5 March 2012 (*RP (admin. est. Ruel Pratt) v. Armbrister Properties Ltd*.) [**54 of 2012**] claiming ownership of 15.63 and 2.66 acres of the John Seymour Tract (140 acres) in Cat Island and damages for various torts to land and alleged constitutional breaches. Claim against defendant settled and withdrawn.

(5.) Proceedings commenced 1 May 2013 (RP (*admin. est. Ruel Pratt) v. Grand Bahama Fishing & Transfer Company et. al.,* [**176 of 2013**] claiming ownership of 50 acres of the JB Tract; multiple applications made between 2013 and 2018 for joinder of parties, consolidation with 138 of 2014, and leave to cross-examine parties.

(6.) Proceedings commenced 1 May 2014 (*RP (admin. est. Ruel Pratt)* [**138 of 2014**] *v. Chancellors Chambers*, claiming 50 acres of the JB Tract (consolidated with 176 of 2013, marked settled in 138 of 2014 on 10 April 2018).

(7.) Proceedings commenced 21 May 2013 (*RP (admin. est. Ruel Pratt) v. Credit Suisse et. al.* [**215 of 2013**], claiming 179.71 and 28.59 acres of the JB Tract; 9 March 2018 application for recusal of Gray-Evans J., for bias, on the grounds that she is a party named in 1205 of 2017, and an application for her joinder as a defendant in the current action.

(8.) Proceedings commenced 15 December 2015 (*RP (admin. est. Ruel Pratt) v. Dean S. Adler and Luber-Adler Real Estate Fund IV et. al* [**423 of 2015**], alleging trespass, etc. to 179.1 and 28.59 acres of the JB Tract. Application made 6 January 2016 to join the Crown and AG and 27 October 2016 to join Dupuch & Turnquest.

(9.) Proceeding commenced 15 October 2008 (*RP (admin. Est. Ruel Pratt) v. Euriette Wright and Hon. Justice Estelle Gray-Evans* [**1205 of 2017**] claiming ownership of an undivided one-half share of 1.95 acres of the "Ellen Rolle Tract" situated in Bootle's Cove, Grand Bahama. Application for leave to commence action against the Government of the Bahamas on 6 November 2013, and on 20 June 2018 to join the AG as a defendant, on behalf of Gray-Evans J. and Deputy Registrar Stephana J. Saunders. Summons filed to strike out as disclosing no reasonable cause of action.

(10.) Proceedings commenced 26 October 2017 (*RP (admin. est. Ruel Pratt) v. Dupuch Turquest & Sir Orville A. Turnquest, Q.C., and Terrance Gape* [**1239 of 2017**], re-alleging claim for some 179.71 acres and 28.59 acres of the JB Tract, and pleading multiple torts against named parties. Summons filed to strike out on grounds of abuse of process in re-litigating matters raised in 118 of 2011 and naming improper parties.

(11.) Proceedings commenced 28 November 2017 (*RP (admin. est. Ruel Pratt) v. Ginn and Graham Thompson & Co.* [**1388 of 2017**] claiming ownership of 179.71 and 28.59 acres of JB Tract, alleging perjury, unlawful means conspiracy, collusion and fraud in 118 of 2011. Writ and statement of claim struck out on 10 March 2020 by Deputy Registrar Carol Misiewicz.

(12.) Proceeding commenced 5 June 2018 (*R (admin. est. of Ruel Pratt) v. Stephana Saunders (Deputy Registrar of the Supreme Court)* [**636 of 2018**], claiming ownership of 15,000 sq. ft. lot and undivided half-share in 1.95 acres of land in Fortune Cay Subdivision, Bootle Cove, alleging forgery, denial of fair hearing, misfeasance and malfeasance. Summons filed to strike out.

(13.) Proceedings filed 15 October 2019 (*RP (admin. est. GJBP), QTA Petition*) [**331 of 2018**], claiming ownership of 179.71 and 28.59 acres of JB Tract.

(14.) Proceedings filed 28 October 2019 (*RP (admin. Est. GJBP) v. LRA-OBB Ltd. (formerly known as Ginn*) [**1509 of 2019**), claiming ownership of the JB Tract of 960.00 acres, or 1,450.0 acres, by more modern survey methods.

(15.) Proceedings filed 29 June 2020 (*RP (admin. est. WS) v. Jerreth Rolle and Eric Darville Jr*. [**93 of 2020**] claiming ownership of 180 acres and the portion of the airport property which forms a party of the 339.2 acres of the JB Tract and damages for trespass, economic loss, and wrongful interference with the plaintiff's use of the land.

(16.) Proceedings filed 6 July 2020 (*R (admin. est. GJBP) v. Resorts Holdings (Bahamas) Ltd.,* [**97 of 2020**] claiming ownership of 960 acres of JB Tract, or 1,450 acres by more modern survey methods.

(17.) Proceedings commenced 2 October 2020 (*R (admin. est. Ruel Pratt) v. Taccara Wright (in her capacity as Counsel & Attorney-at-Law) and Ginn* [**116 of 2020**] claiming ownership of 50 acres (Wilchcombe Tract) from part of the JB Tract. Alleges defendant forged a document of title to the Wilcombe Tract, and committed perjury and collusion in 118 of 2011.

(18.) Proceedings commenced 5 October 2020 (*R (admin. Ruel Pratt) v Dawson Malone (in his capacity as Acting Deputy Registrar*) [**117 of 2020**] alleging breaches of his fundamental right to be heard in respect of summonses filed in 118 of 2011, and allegedly conspiring with the defendants in that action.

(19.) Proceedings commenced 20 April 2009 [**Civ. App. No. 58 of 2009**] appealing Evans-Gray J's. decision in 178 of 2008 (appealed allowed). Notice of Motion for appeal to PC dismissed.

(20.) Proceedings commenced 2 March 2017 [**CivApp. No. 58 of 2017**] appealing Evans-Gray J's decision in 118 of 2011. Appeal withdrawn.

(21.) Proceedings commenced 5 June 2018 [**Civ. App. No. 127 of 2018]** appealing decision made in 118 of 2011 by Registrar Dawson Malone.

(22.) Proceeding commenced 15 October 2020 [**114 of 2020**], appealing Deputy Registrar Carol Misiewicz decision in 1388 of 2017.

70. Although that is where the AG's affidavit evidence stopped, upon review of several unreported decisions and enquiry of the Registry, further proceedings came to light (all of which are matters of public record):

(24.) Proceedings commenced 21 August 2020 (*RP (admin. est. Ruel Pratt) v. West End Resort Ltd.)* [**102 of 2020**] claiming ownership of all or part of 146 acres and 500 acres granted to John D. Smith; dismissed on grounds that claimant could not prove that he had legal title when the action brought.

(24.) Proceedings commenced 1 March 2013 (RP (admin. Est. RP) [**74 of 2013**] claiming ownership of 810.8 acres of the JB Tract. Dismissed 7 February 2025 as abuse of the process of the Court.

(28.) Petition filed 15 July 2024 under the QTA (*RP (admin. est. GJB)* [**622 of 2024**]; claiming 6.0 acres of a tract of land called the "Charlotte Johnson Tract" (405 acres).

(29.) Petition filed 26 September 2024 under the QTA (*RP (admin. est. GJB*) [**859 of 2024**] claiming 4 acres of a tract of land in the Charlotte Johnson Tract (413 acres), located in the Eastern District of the Bahamas.

(30.) Proceedings commenced 2 December 2024 (*RP (admin. est. GJB*) *v. Resorts* [**187 of 2024**] claiming ownership of 1, 142.6 acres of land (JB Tract), and declarations that the Defendants are not owners in fee simple. Claims $500 million in damages. Summons to strike out filed by 1st Defendant on grounds, *inter alia*, that claim is an abusive as it seeks to relitigate matters already decided by the courts.

71. It should be noted that the list does not take into account the numerous summonses and other applications interspersed over this litigation history, such as for joinder of parties, consolidation of actions, judgment in default of defence, stays of costs orders, and various other interlocutory applications.

72. According to the Attorney General, the conduct of the defendant in instituting some 19 civil actions and 3 appeals against various persons and companies, including the Treasurer of the

Commonwealth of The Bahamas, Justices and Registrars of the Supreme Court, law firms, counsel and attorneys-at-law, banks, insurance companies, as well as filing numerous summonses for joinder of multiple parties and other interlocutory applications in those matters over a period stretching back to 2008, is consistent with the "habitual and persistent" institution of litigation contemplated by s. 29.

73. It is further submitted that these actions were instituted without reasonable cause. For example, at the time of the filing of the affidavits, it was asserted that some 16 of these actions arose out of Mr. Pratt's claim to ownership of either the whole or portions of the John Bootle Tract (179.71 acres, 50 acres and 28.59 acres), notwithstanding that a Certificate of Title had been granted for one parcel in 2006, and that a 2017 Ruling had conclusively determined that Mr. Pratt was not the owner. In that 2017 judgment, the learned judged found (among many other findings of facts adverse to Mr. Pratt) that:

"145. "…on the balance of probabilities, the plaintiff has failed to prove his claim that he is the documentary title holder of the John Bootle Tract, including the property by virtue of his title descent/intestacy. [….]

191. …I find that the plaintiff has failed to prove, on a balance of probabilities, his claim that he is the owner of the John Bootle Tract, including and the Property by virtue of the various agreements for sale and or assignments of agreements for sale…".

74. Further, the OAG pointed out that while Mr. Pratt initially appealed Gray-Evans J's decision, he withdrew that appeal but continued to file a number of actions, purportedly under s. 3 of the QTA, all re-alleging ownership of the 179.71 acres and 28.59 acres within the John Bootle Tract: two were filed in 2017 (1239 and 1388), one each in 2018 (331) and 2019 (1590), and three in 2020 (93, 97 and 116). (Section 3 of the QTA provides for any person who claims to have any estate or interest in land to apply to the court to have his title to that land investigated and declared in a certificate of title granted in accordance with the Act.)

75. They also referred to the appeal in 178 of 2008, where the Court of Appeal ruled in the defendant's favour (on a procedural point) and remitted the matter to the Supreme Court for a determination of the issues, but nonetheless the defendant sought leave to appeal to the Privy Council, which the Court of Appeal dismissed. Further, apart from this "successful" appeal, the OAG pointed out in oral submissions that Mr. Pratt has had little to no success in the matters heard, and the others have gotten nowhere.

76. In summary, the OAG submits that:

> "[W]hen this Court examines the history of all the proceedings instituted by the Defendant, the Defendant's demeanour indicates that he will continue to harass persons by instituting vexatious legal proceedings against them if he is not prevented by the Court from doing so. It is clear that the majority of the matters are so untenable or manifestly groundless as to be utterly hopeless and are vexatious and they fall precisely within the meaning of what is contemplated by section 29."

Mr. Pratt's substantive arguments against the s. 29 Application

77. Mr. Pratt makes no bones about the fact that he has filed a large number of actions, but he argues that those matters are not within the kinds of actions contemplated by s. 29, based on his construction of that section. Firstly, he argued that s. 29 only applies to matters instituted by a person in his 'personal capacity', and since all but two of the actions relied on by the AG were commenced in a representative capacity, there is no evidential basis on which the AG could establish that he is a vexatious litigant. Secondly, he argued that even if this court did exercise its discretion to make a VLO, that Order could only apply to the restraint of fresh proceedings, and not those already in train. The third point was that in any event, as s. 29 only mentioned "*Supreme Court and inferior courts*", it did not encompass appeals before the Court of Appeal, or any higher court. I will deal with each of these points in turn.

Whether "person" within the meaning of s.29(1) captures litigation instituted in a representative capacity

78. With respect to this issue, Mr. Pratt raised three novel arguments. Firstly, he contends that of 18 of the actions relied on by the Attorney General to establish that he is a vexatious litigant, only two were brought in his personal capacity, and that "*Ricardo F. Pratt (in his representative capacities) had reasonable grounds to institute the sixteen (16) actions filed in the Supreme Court*", either on the grounds of fraud pursuant to s. 27 of the Quieting Titles Act, or actions for the recovery of land pursuant to s. 30 of the Act.

79. Next, he argued that whenever s. 27 is invoked, there cannot be any question of the action being vexatious or instituted without reasonable grounds, because the role of the court in such actions is to "*determine whether specific fraudulent acts or omissions have taken place as alleged*" and this can never amount to an unreasonable ground. I must say at once that I perceive no merit in this argument. The fact that the court might have a duty to investigate whether its machinery has been used fraudulently is nothing to the point as to whether the evidence discloses a sufficient or reasonable basis for the Court to embark on such an enquiry.

80. Further, Mr. Pratt contended that the named defendant in this action is "*Ricardo F. Pratt (in his personal capacity) and that* "*Ricardo F. Pratt (in his representative capacity)*" is not a named party to the action. Thus, the argument, if one follows the logic, is that no order could issue preventing him from suing in a representative capacity. In this regard, one of the reliefs sought in the summons of 19 February 2020 was that Ricardo Pratt, in his personal capacity, was an improper and unnecessary party to the proceedings and should be struck out, as having only filed 2 proceedings in that capacity, which have either been settled or withdrawn.

81. These arguments are novel and superficially attractive, but I think they are all bound to fail. The issue of whether proceedings instituted by a "person" in a representative capacity were cognizable under s. 51(1) of the UK Supreme Court of Judicature (Consolidation) Act [the

statutory forerunner of s. 29] was dealt with frontally in **re Langton** (*supra*). There on an application to have the respondent declared a vexatious litigant, the respondent contended that since he had instituted a number of the actions in his capacity as the administrator of the estate of his deceased mother, those should not be factored into the consideration of whether he was a "person" who had habitually and persistently instituted legal proceedings within section 51. Lord Parker CJ disposed of the argument in this fashion:

> "I would only add this, that Mr. Butter, to whom the court is always indebted for his argument on these occasions, has raised a novel point, namely, that the reference to "any person" in section 51(1) of the Act of 1925 should be given a restricted meaning as applying only to any person acting in a purely personal capacity. Mr. Butter points out that in these various actions, a number of them, indeed all except four, I think, have been instituted by the respondent as administrator of the estate of his deceased mother. He says accordingly that actions so commenced ought not to be considered by the court in deciding whether they are satisfied that the respondent has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings. For my part, I am quite unable to see any ground for giving a restricted meaning there to "any person". Certainly, as it seems to me, it covers any person acting in a representative or fiduciary capacity. After all, as Mr. Solicitor has said, the whole purpose of this section is to protect those against whom these actions are being brought, and to prevent them from being subject to the burden of costs which they will never recover. In my judgment, there is no ground from giving any restricted meaning to the words; accordingly, I think this is a proper case in which an order should be made."

82. Further, in **HM Attorney General v Vaidya** [2017] EWHC 2152 (Admin), which involved a civil proceedings order against the respondent to prevent him without leave from instituting or making applications in cases in the civil courts and tribunals, in particular the Employment Tribunal and the Employment Appeal Tribunal, Bean LJ observed as follows:

> "I turn finally to the question of whether that Section 42 Order should extend to preventing Dr. Vaidya from acting as such a representative or McKenzie Friend in any proceedings in any court of law or tribunal. Dr. Vaidya argued that such an order would impede other citizens' access to justice….<u>In my view, when an order is made under Section 42 against a vexatious litigant it should be standard practice to include a paragraph prohibiting the vexatious litigant from acting as a representative or McKenzie friend</u>. <u>If a litigant is to be prevented without leave of the court from bringing cases himself, the case must be even stronger to prevent him from appearing as a representative.</u>" [Emphasis added.]

83. I therefore do not think the fact that the vast majority of the applications were pursued in a representative capacity can extricate Mr. Pratt from the grasp of s. 29. All of these are proceedings which the AG can rightly take into account as part of the application.

Whether s. 29 applies to proceedings in train before the making of the Order

84. With respect to the issue of whether such an order can extend to existing proceedings, this can be given short shrift, and the contention appears to be based on an erroneous construction of a provision whose meaning is plain. It was the very issue which the Court of Appeal (and later House

of Lords) was concerned with in **AG v Vernazza** (*supra*). There, a vexatious litigant had appealed to the Court of Appeal an order by the High Court declaring him to be a vexatious litigant and requiring the leave of the Court to institute proceedings in any court. While the appeal was pending, Parliament passed an amendment to s. 51 of the 1925 Act which added the words "*…and that any legal proceeding instituted before the making of the order shall not be continued by him without such leave*."

85. The Attorney General cross-appealed to the Court of Appeal to vary the order of the High Court by adding an order in the terms of the amendment, but although the Court of Appeal found on the merits that Mr. Vernazza was a vexatious litigant, it refused the variation, on the ground that the amendment could not retrospectively alter the rights of Mr. Vernazza. However, the House of Lords held that the Court of Appeal did indeed have jurisdiction to vary the order (the discrete point on which the Appeal Court's decision was overruled). The House held that even assuming that the statute was retrospective, it was procedural in nature, providing a new remedy but not depriving Vernazza of any substantive rights, since it was still open to him to prosecute a claim that was not an abuse of the process of the court and for which there was a *prima facie* case.

86. As Lord Denning explained: [pg. 976]:

> "Even if this new Act did affect substantive rights, however, I think there are clear words in this Act which show that Parliament intended it to be retrospective. The Act empowers the High Court to make an order "that any legal proceedings instituted by him in any court *before the making of the order shall not be continued by him without such leave*". That Act was passed on May 14, 1959. Suppose the court made an order the next day, May 15, 1959, following the very words of the statute, as Parliament clearly contemplated that it might. That order would clearly prohibit the continuance of proceedings already begun before the Act. Else it would have no effect. […]

87. The question of retrospectivity which troubled the Courts in **Vernazza** does not at all arise in the instant case, and it is beyond clear that s. 29 as enacted was intended to have retrospective effect.

Whether s. 29 Order in respect of proceedings instituted in the "Supreme Court or any inferior court" applies to appeals in the Court of Appeal

88. This issue seems to have first reared its head in **re Vernazza**, and although the Court did not have to decide the issue, it made the following observations, which suggest that the court considered that proceedings in the Court of Appeal were within the scope of s. 51(1) of the Judicature Act, 1925. There, Omered LJ said [pg. 209-210]:

> "The question also arises whether an appeal to this court can be regarded as a separate institution of proceedings other than an institution of proceedings in the original action. It is probably unnecessary to decide that question here, but I lean to the view that an appeal to this court from a decision of the High Court or from any other court is the institution of a separate proceedings."

89. Willmer LJ also read the provision in a similar way, as appears from this statement [pg. 215]:

> "It seems to me that there was abundant evidence before the Divisional Court which would justify them in coming to a conclusion that the institution of that action, involving as it did the consequential institution of a number of other proceedings and the prosecution of a number of appeals, gave rise to the institution of vexatious legal proceedings which over the years may fairly be said to have become "habitual" and "persistent".

90. However, the matter came directly to be decided in **Attorney General v Jones** (*supra*), where the respondent contended, *inter alia*, that s. 42 of the UK Act was only concerned with civil proceedings in the High Court or an inferior court, which did not include the Court of Appeal. The Court of Appeal, consisting of Lord Donaldson MR, and Stuart-Smith and Staughton LJJ, held that appeals to the Court of Appeal fell within the scope of 42(1)(b) of the UK 1981 Act, since they were applications in the course of proceedings that had been instituted in the lower courts. In this regard, Staughton LJ held [pg. 640]:

> "The Supreme Court Act 1981, as its short title indicates, is to a large extent dealing only with the Supreme Court, that is (by s. 1) the Court of Appeal, the High Court and the Crown Court. Some of its provisions have a wider application, notably s. 49, which deals with the concurrent administration of law and equity; other miscellaneous examples are to be found, particularly from s. 139 onwards. But in general it is these three courts with which the statute is concerned. Against that background it seems to me that the intent and purpose of the words 'whether in the High Court or any inferior court' were to define the court in which the proceedings were commenced; Parliament was concerned that otherwise s. 42 might be thought to be dealing only with proceedings commenced in the High Court. It may well be that this displayed an abundance of caution. But it is much preferable to the alternative construction, which would permit any amount of vexatious litigation before the Court of Appeal whilst providing a means of halting similar conduct in the High Court or County Court. Accordingly, I hold that a vexatious appeal to the Court of Appeal comes within s. 42(1)(b) if the proceedings were commenced in the High Court or any inferior court."

91. A similar issue came before a differently constituted Court of Appeal (Lord Donaldson, MR, and Rusell and Leggatt L.JJ in **Henry Garratt & Co v Ewing** [1991] 1 WLR 1356, in which it was argued by the respondent that **AG-v Jones** was wrongly decided and should not be followed. Lord Donaldson MR explained the position and the ruling in **AG-Jones** as follows [pg. 1360-1361]:

> "What then does *Attorney-General v Jones* [1990] 1 WLR 859 decide? Mr. Marcus Jones was appealing against a decision of the Divisional Court of the Queen's Bench Division (Stocker L.J. and Schiemann J) (unreported), 20 March 1989, on the ground that the Divisional Court should not have taken his conduct into account in connection with the Court of Appeal, since section 42 on its true construction applied only to proceedings in the High Court or in an inferior court. A similar point was subsequently argued by Mr. Ewing himself before a differently constituted Divisional Court (in that case Mann L.J. and Rose J.) (unreported) 21 December 1989, judgment being given

before Mr. Jones' appeal was heard in this court. Both courts reached the conclusion that "civil proceedings" whether in the High Court or any inferior court" included appeals from orders of such courts. In both cases they were seeking to construe section 42(1)(b), which refers to "vexatious applications in any civil proceedings, whether in the High Court or any inferior court" and concluded that the reference to the levels of court qualified the word "proceedings" and not the word "applications". Thus, the issue which came before this Court in Jones's case was whether the vexatious conduct of litigation in the Court Appeal fell within section 42(1)(b) which in terms applies only to applications. […]

While it is true that there is no detailed discussion of the circumstances which would entail an appeal being an application in civil proceedings, I do interpret that judgment as holding that substantive appeals to the Court of Appeal and applications to that court in connection therewith are all within the designation of "applications in any civil proceedings" within the meaning of s. 42(1)(b)."

92. To better appreciate the UK judgments, it is useful to set out the sub-sections of s. 42(1) of the UK Act with which they were concerned.

"42—(1) If on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground—

(a) instituted vexations civil proceedings, whether in the High Court or any inferior court, and whether against the same person or against different persons;
(b) made vexatious applications in any civil proceedings, whether in the High Court or any inferior court, and whether instituted by him or another;
(c) instituted vexatious prosecutions (whether against the same person or different persons),

the court may, after hearing that person or giving him an opportunity to be heard, make a civil proceedings order or criminal proceedings order or an all proceedings order."

93. In **Jones and Ewing**, the courts were concerned with the specific question of whether "applications" in the context of Section 42(1)(b) encapsulated appeals, and they found in the affirmative. So there was never even a question of whether 42(1)(a), which is the version found in s. 29, extended to proceedings in the Court of Appeal.

94. These authorities are not binding on me, but they are very persuasive, emanating not only from several UK Divisional Courts but also several judgments of the Court of Appeal. Considering the similarity in the provisions under consideration, I find no reason why they should not be followed here. I therefore find that appeals to the Court of Appeal arising from applications issued in the Supreme Court or any inferior court, are caught by s. 29, either on the basis that they arise out of or are made in the course of proceedings instituted in those Courts, or that they are legal proceedings instituted in those Courts and being continued in the Court of Appeal. It also occurs to me, and this may seem a trivial point but I nevertheless make the observation, that the wording of s. 29 refers to proceedings instituted in the "*Court and any inferior court*", but the terms of the Order the court is empowered to make is to prevent the institution or continuation of proceedings

without leave in "any *court*" (lower case). To my mind, this formulation was deliberately used by the draftsperson.

95. For the reasons I have given, I am of the view, fortified by the authority of the English senior courts, that all of the proceedings commenced by Mr. Pratt can be taken into account for the purposes of s. 29, that this extends to matters instituted in the Court of Appeal, and that any VLO (if made) can restrain existing proceedings. I go on now to consider the requirements of s. 29.

Whether the AG satisfied the requirements of s. 29

96. As set out above, in order to fall within the terms of s. 29 the person must have (i) instituted vexatious legal proceedings; (ii) done so habitually and persistently; and (iii) without reasonable cause.

Habitually and persistently

97. In **AG v Barker**, Lord Bingham described habitual and persistent litigation as repeatedly suing in reliance on the same cause of action, with minor variations, after it has been ruled on; suing successive parties, who ought to be joined in one action (if made parties at all); challenging every adverse decision on appeal; and taking little notice or heed of the court's orders. He said the essential vice of habitual and persistent litigation was "*keeping on and on litigating when earlier litigation had been unsuccessful*" and on any rational assessment it was time to stop.

98. I have little doubt that Mr. Pratt comes within this category. He has been consistently litigating from 2008 (and earlier) and, as pointed out by the AG, some 16 of these proceedings were directly concerned with his claim to a portion of the JB Tract.

99. Something needs to be said about that claim to provide a proper appreciation of the litigation history. The *fons et origo* of Mr. Pratt's litigation in respect of the JB Tract is the decision of Thompson J. on 18 May 2006 (511 of 2005), in which she granted a COT to Ginn-LA West End, Ltd. in respect of two tracts of land comprising 28.59 acres and 179.71 acres, being portions of a tract of land in the John Bootle Tract. A peculiar and important fact concerning that judgment is that the Grand Bahama Hotel Company (not Ginn) was the Petitioner in that Action, but apparently the Petitioner sold its interest to Ginn between November 2004 and March 2005, and the Court ordered the certificate to issue to Ginn instead of the Petitioner. That judgment was appealed to the Court of Appeal by Wilbert Bootle (Civ App. No.112 of 2008) (a name that should ring a bell) and the Court of Appeal dismissed his application for leave to adduce new evidence and for an extension of time, after the matter was struck out by the Registrar for failure to comply with the order made on the summons for direction.

100. By a specially endorsed writ filed 6 August 2008 (178 of 2008), Mr. Wayne Allen and Mr. Pratt brought an action under the QTA seeking to have the COT granted in 511 of 2005 set aside on the grounds of fraud and that it was issued to an entity that was neither a party, petitioner or

adverse claimant under the QTA. As set out in para. 1 of the litigation summary, Gray-Evans J. initially struck out this claim, on the grounds that the plaintiffs had no *locus standi*, but in Civ App. No. 58 of 2009 the Court of Appeal allowed Mr. Pratt's appeal (Mr. Allen withdrew) on the technical grounds that the Court adopted the wrong approach by considering *locus standi* without regard to the requirements of s. 27. This was only a pyrrhic victory, however, as may be discerned from the following comments of the Court of Appeal:

> "The facts indicate however that the appellant has now twice been found to have no standing due to a lack of interest in the subject land. Additionally, the Court having investigated his complaints that the Certificate was obtained by fraud and or forgery and found them to be without merit the interest of Justice has been served. In these circumstances, he can suffer no prejudice by his appeal being dismissed and if section 13 was applicable to civil appeals I would have no hesitation in dismissing this appeal."

(Section 13 allows the Court of Appeal to dismiss an appeal in criminal cases if no miscarriage of justice occurs even if the point raised in the appeal might be decided in favour of the appellant.)

101. In *Ricardo Pratt v Ginn La West End Ltd.* [2001/CLE/gen/FP/00118], Gray-Evans J. made devastating findings of fact against the claims by Mr. Pratt to the 179.81 acres and 28.569 acres of the John Bootle Tract. She stated as follows [227(17)]:

> "17. The same or similar issues as are raised by the plaintiff against the validity of the 2006 Certificate of Title and the proceedings before Jeanne Thompson J were raised, examined, and considered by the Court of Appeal in the case of Wilbert Bootle et. al v Grand Bahama Hotel Company SSCiv No. 112 of 2008, an appeal of the learned judge's decision by Wilbert Bootle, one of the Adverse Claimants in the 2005 Quieting Action, which appeal was dismissed by the Court of Appeal.
>
> 18. That case is persuasive authority to show that the complaints that the plaintiff now makes as to the procedural impropriety in the issuance of the Certificate of Title to the first defendant instead of the Grand Bahama Hotel Company are of no substance or merit."

102. Earlier in her ruling, the Judge had commented:

> "…[W]hile it is tempting to strike out the plaintiff's claim based on his statement that the affidavits of heirship on which he had relied during the trial were "erroneous", because of the number of actions which the plaintiff has commenced in this court in relation to the same land or portions thereof, coupled with the certainty that I had struck out his claim at that point, the plaintiff would simply have commenced another action, I opted to proceed with consideration of the plaintiff's claim in light of the later affidavit of heirship filed 14 May 2014."

103. In the application to strike out the writ of summons and statement of claim Mr. Pratt filed in 2017/CLE/gen/01388, Registrar Misiewicz said:

> "The plaintiff is seeking to re-litigate the same issue through trying to put a different spin on the case. This is a classic example of a vexatious claim and an abuse of the court's machinery. Sir Nicholas Browne-Wilkinson V-C in Arnold National Westminster Bank plc [1898] Ch. 63, held 'it is unjust for a man to be vexed twice with litigation on the same subject matter.' "

104. Just a few weeks ago (7 February 2025), in 74 of 2013, Hanna-Adderly J. struck out a claim by Mr. Pratt asserting claims to the same property (with some variations) as follows:

> "5. As the identical issue has been raised and decisively answered by the Supreme Court per Evans, Sr J or 26 January 2017 in Action No. 2011/CLE/gen/FP/00118 ("**the Evans' Judgment**") per Winder CJ, on 15 September 2023 in Action 2010/CLE/gen/01509: Ricardo Pratt (in the capacity as Administrator of the Estate of George Johnson Bootle) ("**the Winder Judgment**") and upheld on 18 September 20204 by the Court of Appeal per Isaacs P in SCCivApp No. 183 of 2023 ("**the Isaacs' Judgment**) the Action is clearly an abuse of the process of the Court and clearly has no chance of succeeding in light of decisions of concurrent courts."

105. Thus, Mr. Pratt has persisted in filing proceedings after proceedings seeking to litigate and re-litigate the validity of the COT granted in 115 of 2004 and other claims to parcels of the JB tract, notwithstanding that the Supreme Court and the Court of Appeal have on more than one occasion told him there is no merit in his claims. True to form, each of these actions had the "minor variations" Lord Bingham spoke of in **AG v Barker**, in many case disguised as being brought on behalf of the estate of persons through whom Mr. Pratt claims, or some other permutation relating to different parcels or portions of the JB Tract. But the claims were essentially founded on the same cause of action which had already been rejected.

Institution of vexatious proceedings

106. It is not necessary to encumber this judgment with any exposition of the meaning of "institution of proceedings" within the meaning of s. 29, a task which Wilmer LJ described in **Re Vernazza** as "almost impossible" (at 215) when considering the UK equivalent (s. 51 of the 1925 Act). In that same case, Ormerod LJ rejected the submission that "institution of proceedings" meant nothing more than the commencement of an action by a writ, and accepted that it could extend to certain summonses, counterclaims, and petitions for leave to appeal (a point later confirmed in **AG v Jones**, *supra*). In **Wentworth**, Roden J. expressed the view that even interlocutory proceedings, "*if they seek substantive relief and particularly if they seek to bring an additional party into the proceedings*" are capable of being caught by s. 84. In any event, he concluded that "*it is the substance of the matter rather than the form that must be considered*."

107. I agree that the institution of proceedings in the context of s.29 should be given a wide interpretation, which is not just limited to writs and petitions but to other proceedings such as certain summonses and notices of motion. In fact, considering that one of the main purposes in enacting s. 29 was to prevent persons being harassed or vexed by baseless litigation, it would significantly undermine the effect of that provision if, for example, summonses (or now

applications) to join other defendants did not count as proceedings for the purposes of vexatious proceedings.

108. In any event, even considering the writ actions and petitions alone filed, I would easily have come to the conclusion that Mr. Pratt has instituted numerous proceedings, which are vexatious. But I have also taken into account, in looking at the overall history and effect of the litigation, the numerous summonses and or motions filed to join multiple parties, or seek constitutional or other relief against other parties. These are not counted in the litigation summary, but are set out in the AG's affidavit evidence.

Proceedings instituted without reasonable cause (vexatious proceedings)

109. In **AG v Barker**, Lord Bingham identified vexatious legal proceedings as those with little or no basis in law, which subjects the defendants to harassment and expense all out of proportion to any gain likely to accrue to the claimant. In **Wentworth**, Roden J. said that, on an objective view, litigation may be regarded as vexatious if "*irrespective of the motive of the litigant, they are so obviously untenable or manifestly groundless, as to be utterly hopeless*." It will be noted that I have grouped "vexatious proceedings" and proceedings instituted "without reasonable cause" under the same rubric. This is because, as pointed out by Roden J., proceedings that do not have a reasonable cause are inherently vexatious.

110. I do not think I need to say very much here, as the preceding sections have clearly demonstrated that the majority of these actions were in respect of claims to the GB Tract, which was an issue that had already been determined by the Court. It is also to be remarked that many of the actions were claims for trespass and interference with land, and various claims for damages, when it is trite law that possession of documentary title or actual possession is necessary to sustain such actions.

111. Mr. Pratt argued that there were reasonable grounds to bring all of the representative actions in respect of the JB tract (a point which I have already dismissed), but also that there was a claim not connected to the Grand Bahama Property. In this regard, I note that Mr. Pratt also made a claim as administrator of the estate of Ruel Pratt to property traced through John Seymour ("the John Seymour Tract") in Cat Island), but this matter has now been settled. As noted, there are also recent QTA actions issued in respect of property in Eastern New Providence, which are being pursued as the administrator of the estate of George Johnson Bootle.

112. As several of these matters have not been substantively considered, I cannot say whether or not there are reasonable grounds for them. If there are reasonable grounds, then Mr. Pratt can seek leave to continue them. But these few matters do not at all change my overall assessment of the pattern and effect of the litigation. As explained, the fact that there may be a few good causes or a few good points among the many proceedings does not mean that they are not vexatious as a whole. The court has to look at the cumulative effect and the whole picture. In **Attorney General v Covey** [2001] EWCA Civ 254, Lord Woolf CJ said that the court should take into account the

cumulative effect of the defendant's activities both against the individuals who are drawn into the proceedings and on the administration of justice generally.

113. In this regard, in one of his numerous affidavits, Mr. Pratt included an extract of an article from the *Tribune* of 25 September 2023, in which it is related that several counsel complained to various Attorneys-General over Mr. Pratt's repeated litigation relating to the JB Tract as follows:

> "…the plaintiff ought not be at liberty to continue pleading unfounded assertions against our clients, or others, relative to the John Bootle Tract or any tract of land for which he does not hold title";
>
> "We are also concerned, as officers of the court, that the court is having to divert the resources of the Supreme Court registry and Supreme Court staff in dealing with these actions which are taking up an inordinate and unnecessary amount of the court's resources and time with no benefit or advantage."

Reasonable opportunity to be heard

114. I also note, for completeness, that I am satisfied that Mr. Pratt has been afforded a reasonable opportunity to be heard. Indeed, if I may say so, the Court allowed him considerable latitude to make submissions, even if they occasionally went off canter. In addition, he submitted a mass of material before the Court, often without any leave, and in fact a further authority (Vol. 11) was submitted even after the Court had reserved its decision. It has not been necessary to refer to every argument or authority Mr. Pratt laid over, but I have carefully considered all that was relevant to the application before the Court.

115. Having regard to the principles and the evidence of the Attorney General, I am satisfied that the grounds for a vexatious litigant order against Mr. Pratt are amply made out. In fact, I hardly think that a case could be any clearer.

General Observation

116. Before I end this application, I am constrained to mention a matter that was of some concern to me. I have no doubt that Mr. Pratt has convinced himself that he is entitled to portions of the JB Tract, and that the original COT granted to Ginn was unlawful. As such, he is determined to continue to litigate this matter to the very end, unless stopped. He himself said to the Court this is a matter he has pursued "*ad nauseam*" and that he "*has been forced to come to court over and repeatedly on that single issue, at least, 10, 15, 20 times*."

117. But it is equally clear, from written submissions and the occasion digression in oral submissions, that he considers himself on a much wider mission, as a gladiator on a righteous crusade against injustice and wrongdoing perpetrated by the State or private persons. He made several allegorical and cryptic references as follows: that he "*comes from a long line of Romans*" and that "*Romans don't quit*"; "*that his family for 5,000 years has controlled the world*"; that "*we are in the White House*", and that "*the land in West End is 55 miles east of…Mar-a-Largo*", making

it "*the most important piece of land in the world, and the Government cannot allow it to fall into the hands of the Iranians, the Chinese*…".

118. In written submissions he stated that:

> "The Defendant contends that the Section 29 application of the Attorney General is mala fide, and that the real reason for the extreme oppression and persecution of the Defendant, is a bold and brazen attempt by the Crown to misuse the machinery of the Supreme Court to stop the Defendant from (1) exposing that the Crown is turning a blind eye to White Bahamians and white foreign investors such as Ginn-LA West End, Ltd.; and Credit Suisse, and Lubert-Adler; and the Grand Bahama Development Company Ltd., and Port Group, Limited, and white Bahamian lawyers, in stealing land owned by black Bahamians; […]
>
> and (2) exposing that the Crown is knowingly or unknowingly protecting the legacy of the oppressive UBP (and that the late H. G. Christie, who locked up my grandmother the late Joanna Pratt) and stole the land belonging to my grandfather the late John Seymour located in Cat Island, Bahamas, by issuing a 2nd Crown Grant in 1968 to the late H.G. Christie and Armbrister Properties, Ltd., for land which was already granted and not escheated to the Crown…".

119. I was not concerned with Mr. Pratt's subjective intention for bringing litigation, no matter how eccentric, and the AG's Office properly limited their application to the objective grounds—that the same cause of action was being litigated over and again under different guises. What these soliloquys do illustrate, however, is that the litigation urge is motivated by reasons more grandiose than claims to property rights. On any "*rational and objective assessment*" the time has come to stop, and the Court must put a stop to it.

CONCLUSION AND DISPOSITION

120. For the foregoing reasons, I am entirely satisfied that Mr. Pratt has habitually and persistently and without reasonable grounds instituted vexatious proceedings within the meaning of s. 29 of the SCA, and I am further satisfied that I should exercise my discretion to grant the Order sought by the Attorney General, which I will make in the following terms:

(1) That no legal proceedings shall without the leave of the Supreme Court be instituted by Mr. Ricardo F. Pratt in any court and that any proceedings instituted by Mr. Ricardo F. Pratt before the making of this Order shall not be continued without the leave of the Court, on the grounds that Mr. Ricardo F. Pratt has habitually and persistently and without reasonable grounds instituted vexatious legal proceedings in the Supreme Court.
(2) Such leave shall not be given unless the Court or a judge is satisfied that the proceedings are not an abuse of the process of the Court and there is a *prima facie* ground for the proceedings.
(3) This Order also applies to proceedings sought to be instituted or instituted by Mr. Pratt in a representative capacity.

121. It will be apparent, that I have included in the Order what is called a "*Re Vaidya*" provision, after the case by that name, where it was said that it should be standard practice to include a paragraph prohibiting the vexatious litigant from acting as a representative or 'McKenzie' friend when an order is made against a vexatious litigant.

122. I invite counsel for the Attorney-General to draw the appropriate minute of Order giving effect to the Court's ruling.

123. I will hear the parties on costs.

Klein J.

17 February 2025