

COMMONWEALTH OF DOMINICA

IN THE COURT OF APPEAL

CRIMINAL APPEAL NO. 25 of 1991

BETWEEN:

ANDREW GEORGE

Appellant

and

THE STATE

Respondent

Before: The Honourable Chief Justice Floissac - President
The Honourable Mr. Justice Byron J.A.
The Honourable Mr. Justice Redhead J.A. (Ag.)

Appearances: Mr. Ashton Piper for the Appellant
Mr. Patrick E. Patterson for the Respondent

1992: March 10th.

JUDGMENT

FLOISSAC, C.J.

The appellant was charged for beating Spencer George on the 16th October 1990 at Riviere Cyrique in the Parish of St.David. The Magistrate of District F tried the complaint together with a complaint that the appellant's wife immediately therebefore had beaten the said Spencer George.

The learned magistrate acquitted the appellant's wife on the ground that she acted in self-defence but convicted the appellant and placed him on a bond to keep the peace and to be of good behaviour for a period of six months and in default thereof to come up for sentencing.

The appellant has appealed against the conviction on the ground (inter alia) that is unsafe or unsatisfactory.

For the following reasons, this court does find the conviction unsafe and unsatisfactory:-

- (1) The temporal proximity of the assaults was such as to lead counsel for the respondent to submit that the

assaults constituted one transaction.

- (2) If - as the evidence indicates - the assaults constituted one transaction, the defence or self-defence or defence of his wife should have been equally available to the appellant.
- (3) We have a lurking doubt that justice may not have been done by the conviction.

The appeal is therefore allowed and the conviction and bond set aside.

(Sgd.) V.F.FLOISSAC
CHIEF JUSTICE

(Sgd.) D. BYRON
JUSTICE OF APPEAL

(Sgd.) A.READHEAD
JUSTICE OF APPEAL (Acting)