Easter Term
[2015] UKPC 19
Privy Council Appeal No 0109 of 2013

JUDGMENT

Eutetra Bromfield (Appellant) *v* Vincent Bromfield (Respondent) (Jamaica)

From the Court of Appeal of Jamaica

before

Lady Hale
Lord Wilson
Lord Hodge

JUDGMENT GIVEN ON

27 April 2015

Heard on 13 January 2015

Appellant
Tim Amos QC
Saima Younis

(Instructed by Simons Muirhead & Burton Solicitors)

Respondent
Michael Hylton QC
Marlene Malahoo Forte
Melissa McLeod
(Instructed by Sheridans)

LORD WILSON:

INTRODUCTION

1. It will be convenient to describe the appellant as the wife and the respondent as the husband even though they were divorced in 1998.

2. The wife appeals against the order of the Court of Appeal (Panton P, Morrison JA and Hibbert JA (Ag)) dated 20 December 2012, by which, subject to a minor proposed variation to which the Board will refer at para 9 below, it dismissed her appeal from the order of Brooks J, sitting in the Supreme Court, dated 6 January 2009.

3. Before Brooks J were two applications by the wife. The first was an application issued on 3 April 1998 under the Married Women's Property Act. The second was an application issued on 30 August 2006 under the Matrimonial Causes Act for modification (by way of increase) of an order made by Harris J dated 20 October 2000 that the husband should make periodical payments to the wife in the sum of $50k per month during their joint lives or until further order. There had been a third application before Brooks J, namely by the husband for discharge of the order dated 20 October 2000, but the husband withdrew it in the course of the hearing.

4. Apart from ordering that, in accordance with the husband's own proposal, he should transfer to the wife his interest in the matrimonial home, in which she remained living, Brooks J dismissed her application under the Married Women's Property Act. On her application under the Matrimonial Causes Act he ordered that, also in accordance with the husband's own proposal, he should make to her a lump sum payment of $3m in full and final settlement of all her financial claims against him and that therefore the order for periodical payments dated 20 October 2000 should be superseded.

5. Before both Brooks J and the Court of Appeal, and in the written argument on this further appeal, there was, in the opinion of the Board, too much concentration on the issues raised under the Married Women's Property Act and too little concentration on those raised under the Matrimonial Causes Act. Both local courts were invited, on inadequate documentary material, to investigate the source of the purchase price of various properties bought more than 20 years previously and to rule on rival versions of what the husband had at that time said to the wife. The effect of English authorities on the constituents of a constructive trust was explored at length. But any success on the part of the wife in establishing a beneficial interest to property would have reduced

her entitlement, whether to continued periodical payments or to a lump sum, under the Matrimonial Causes Act. After 1971, when statute first conferred wide powers on the courts of England and Wales to redistribute the property of the spouses following divorce, issues between them about beneficial interests in property under section 17 of the Married Women's Property Act 1882 were generally understood to have become redundant and they were discouraged and fell into desuetude: see *Fielding v Fielding, (Note)* [1977] 1 WLR 1146. Following the coming into force on 7 December 2005 of the Maintenance Act and of amendments to the Matrimonial Causes Act, in particular to section 23, courts in Jamaica now also have wide powers to redistribute property following divorce. But they also have the powers conferred by the Property (Rights of Spouses) Act. This Act came into force on 1 April 2006 and unfortunately its provisions did not apply to the wife's application under the Married Women's Property Act because it was issued prior to that date: section 24. The Property (Rights of Spouses) Act (which also, and enviably, confers rights on certain non-marital cohabitants) confers on the court following divorce limited redistributive powers in relation to the family home and wider such powers in relation to other property: sections 13-15. It requires the court, in any redistribution of other property, to take into account not only the financial contributions, direct or indirect, which would have been relevant to the creation of an equitable interest in property but other contributions and indeed all other circumstances which the justice of the case requires to be taken into account: section 14(2) and (3). The Board hopes that the limited, difficult and ultimately arid inquiry of the type which has been required of both courts by the wife's application under the Married Women's Property Act will not be required of them in the future.

THE FACTS

6. It appears that the husband is now aged 79 and that the wife became 72 yesterday. They were married in 1977. They had three children, all girls, namely twins born just prior to the marriage and the third born in 1980. In 1978 the matrimonial home at 3 Pinkneys Green, Kingston 6, was bought in the husband's sole name. Prior to the marriage the wife, who had graduate and postgraduate degrees, had been employed in various managerial positions, including latterly in the Jamaican government; but, following the birth of their third child, she gave it up. Thereafter she worked, at least to some extent, in the husband's two businesses. He had a bus business and a hotel business. The former was conducted through a company which became known as Bloomfield Jamaica Ltd and, upon its incorporation in 1980 and the issue of 1555 shares, there was an allocation to the wife of 100 shares, which she still holds. The latter was conducted through a company named Medallion Hall Ltd, which was incorporated in 1984. It seems that at some stage it was intended that the wife should have 2 shares out of 299 issued shares in that company but in the event no shares were issued to her. The company opened the hotel, known as the Medallion Hall Hotel, in 1989 and it was situated on properties at 53 and 55 Hope Road and at 86 Lady Musgrave Road, in none of which did the wife have a legal interest.

7. In 1992 the husband left the home at 3 Pinkneys Green and the marriage came effectively to an end. In 1995, thus prior to the divorce in 1998, the husband, by way of gift, made a disposition of part of his legal interest in the home to the wife and the three daughters. The Board is surprised that, even after 20 years, the effect of the disposition should not be entirely clear. At the hearing before the Board the wife submitted that its effect was to give an undivided 20% share of the legal interest to each of the wife and of the three daughters and thus to leave the husband with only 20%. The alternative construction is that its effect related only to 20% of the legal interest in all and was such as to divide that 20% interest in five ways, namely 4% to the wife, 4% to each of the daughters and 4% back to the husband himself. Were that to be a correct analysis of the disposition, and without regard to the order of Brooks J for transfer (which has not been implemented), the husband would have an 84% interest in the home; the three daughters together would have 12%; and the wife would have 4%. The important point is, however, that on any view the daughters have some legal interest in it. The evidence does not explain the purpose of the husband's gift.

<u>THE MARRIED WOMEN'S PROPERTY ACT</u>

8. In her application under the Act the wife claimed a substantial equitable interest, in effect equal to that of the husband, not only in the home at 3 Pinkneys Green and in the three properties on which the hotel was situated but also in three other properties in which the husband had an interest. She also contended that he held his shares in the two companies partly in trust for her. Brooks J reminded himself that the burden of proof lay on the wife. He received extensive evidence and argument, in particular about the source of moneys used, directly or indirectly, in the purchase of all these assets, and he deprecated the paucity of the documentary evidence in that regard. Although in two specific respects he rejected the evidence of the husband, Brooks J found the wife generally to be less credible than him. For example he rejected her evidence that the purchase of the home was funded partly out of her resources and he accepted the husband's evidence that instead it was funded by the proceeds of sale of his pre-marital home in Harbour View. Contrary in this respect to the evidence of the husband, Brooks J found that the wife, who had been made a director of Medallion Hall Ltd, had worked in the hotel; but he held that neither her directorship nor her work gave her an interest in the husband's shares in the company.

9. In the course of surveying the wife's complaints about the factual findings and the resulting legal conclusions of Brooks J, the Court of Appeal, by a judgment delivered by Panton P with which the two other members of the court agreed, considered in even greater detail the rival evidence about the source, direct or indirect, of the ancient acquisitions. Subject to one point, the court rejected all the wife's grounds of appeal. The one point related to the property at 55 Hope Road which, although being the site of part of the hotel, was owned by Bloomfield Jamaica Ltd. The court held that, inasmuch as the wife held 100 shares (or 15.55%) of the issued share capital in that company, she had a corresponding 15.55% interest in 55 Hope Road and it proposed

that the court should so declare. Oddly, when coming a few weeks later to sign the Certificate of Result of Appeal, the Deputy Registrar omitted to include the declaration proposed by the court. As it happens, however, the omission was fortuitous. For, as both parties now agree, the Court of Appeal was, with respect, wrong to conclude that 55 Hope Road, being company property, was owned by its shareholders. As Lord Sumption said in *Prest v Petrodel Resources Ltd* [2013] UKSC 34, [2013] 2 AC 415, 476:

> "8. Subject to very limited exceptions, most of which are statutory, a company is a legal entity distinct from its shareholders. … Its property is its own, and not that of its shareholders."

10. Even when, as in the present case, their clients have a right of appeal to the Board under the Constitution, practitioners should have regard to the extreme difficulty of bringing a successful appeal against findings of fact which have been indorsed by the local appellate court. In *Devi v Roy* [1946] AC 508 the Board traced back to 1849 its practice of declining to conduct a third review of the evidence save in exceptional circumstances, which it identified as a miscarriage of justice or a violation of some principle of law or procedure; and the Board has all too frequently been required to restate its practice during the last 70 years, for example in the appeal from Jamaica in *Chin v Chin (No 2)* [2007] UKPC 57 at para 8. In the present case the wife has faced a hopeless task in arguing, at length in her written Case but more economically at the hearing, that the Board should set aside the dismissal of her application and should either declare her to be entitled to a 50% equitable interest in the assets vested in the husband's name or direct that her application be reheard. In summary the wife makes the following seven points:

(a) she was a director of both companies;

(b) she was a shareholder in Bloomfield Jamaica Ltd, albeit only as to 15.5% and it was at one stage intended that she should have shares, albeit only two, in Medallion Hall Ltd;

(c) the judge found that she worked in the hotel business and in other of the husband's enterprises;

(d) in that respect, as well as in one other, the judge disbelieved the husband;

(e) the wife also worked in the home and thereby saved the husband from paying for a greater amount of household help;

(f) as the Court of Appeal accepted, it was unfortunate that Brooks J had failed expressly to find that the parties had no common intention that they should own the properties and the companies equally, although, in the Court of Appeal's view, such a finding was to be inferred; and

(g) it was inherently improbable that the wife would have acted as she did unless it had been agreed that she should have an interest in the properties and the companies.

11. None of the seven points, even if taken cumulatively, begins to justify the Board in reversing the conclusion of the Court of Appeal that, on the evidence before him, Brooks J had been entitled both to make his findings of fact and, by the application to them of equitable principles not in dispute, to conclude that, otherwise than in relation to the matrimonial home, the wife's application under the Married Women's Property Act should be dismissed.

THE MATRIMONIAL CAUSES ACT

12. In his judgment Brooks J noted that the wife was applying under section 20(3) of the Matrimonial Causes Act for a modification of the order dated 20 October 2000. Section 20(3) provides:

> "If, after any [order for periodical payments, secured or unsecured] has been made, the Court is satisfied that the means of either or both of the parties have changed, the Court may, if it thinks fit, discharge or modify the order , or temporarily suspend the order … and subsequently revive it …"

13. The analysis of Brooks J proceeded as follows:

(a) The wife was then aged 64 (although in fact she was 65).

(b) She was seeking an increase of periodical payments from $50k per month under the order dated 20 October 2000 to $235k per month.

(c) She had produced a detailed budget totalling $235k per month but some elements of it were inflated or unrealistic.

(d) Although at least one of the daughters was living with her, she must be taken to be living alone.

(e) "A sum of $100k per month would not be considered penury".

(f) Since the making of the order dated 20 October 2000, namely in 2006, the husband had remarried.

(g) He also had a teenage son whose education he proposed to finance to the tertiary level.

(h) The husband contended that he could no longer afford to pay $50k per month to the wife.

(i) But the husband had "not given any indication of his income and expenses in order to assist the court in identifying an appropriate figure" apart from stating in cross-examination that he earned a salary of $2m to $2.5m per year.

(j) In the light of the time which had elapsed since the divorce and the subsequent changes in the husband's life, the time had come for periodical payments to cease.

(k) The husband's "failure to provide any credible information concerning his income and expenditure" encouraged the move to an order for a lump sum payment.

(l) The husband was offering to transfer his interest in the home to the wife and to pay a lump sum to her of $3m.

(m) The figure of $100k per month, or $1.2m per year, needed to be capitalised.

(n) In the light of multipliers used in the calculation of damages payable to men aged 63 and 66 in two reported cases, and applying a slight increase because most women lived longer than most men, it was appropriate to adopt a multiplier of five and thus to arrive at a capital sum of $6m.

(o) The husband was offering to pay to the wife a lump sum of only $3m but he was also offering to transfer to her his interest in the home and, “assuming that [she] were able to secure a further lump sum by relocating to a less expensive property”, the offer of $3m assumed credibility.

(p) Two years previously the husband had obtained a valuation of the home in the sum of $43m.

(q) He (Brooks J) was satisfied that the lump sum of $3m and the cash sum which the wife could release from sale of the home would, together, be sufficient to enable her to generate, whether by investment in a business or otherwise, income of a fair standard for the rest of her life.

14. Brooks J proceeded to order that the lump sum of $3m be paid in three equal monthly instalments. The Board is informed that the instalments were duly paid. But they were paid to her attorney on her behalf and, no doubt legitimately, he reimbursed himself out of them in respect of her costs.

15. In embarking on an explanation for the Court of Appeal’s dismissal of the wife’s appeal against the order of Brooks J for payment of a lump sum, Panton P recorded the submission of the husband’s attorney, with which the court clearly agreed, that “section 23 of the Matrimonial Causes Act gave the court an opportunity to do what it did”. As the Board will explain, the reference to section 23 may have been entirely appropriate. Nevertheless there seems to have been no reference to section 23 in the proceedings up to that point and the parties appear to agree that the President was more probably referring, as had Brooks J, to section 20(3) and that his reference was mistyped.

16. The President then proceeded as follows:

> “The appellant has not stated the nature of the order that she wishes this court to make. We do not think that she could possibly be asking for an increase of the sum ordered by Harris J and for that order to be in perpetuity.”

With respect, it is clear to the Board that the wife was, as before, seeking an increase in the order for periodical payments to $235k per month and was, as before, contending that it should continue during the joint lives or until further order.

17. The President thereupon explained the kernel of the Court of Appeal's decision in the following terms:

> "Where a marriage has been dissolved, and one of the parties has remarried and thereby taken on further responsibilities including children, it ought not to be expected that that party will ordinarily continue to maintain the other party of the dissolved marriage indefinitely. That is the principle that ought to be regarded as guiding the instant situation. We are of the view that Brooks J (as he then was) approached the matter in the correct way. There could not be a lifetime award in a situation such as this … The appellant has not … demonstrated that the lump sum awarded is unreasonable in the circumstances."

18. In his written submissions to the Court of Appeal, as in his written case before the Board, the wife's attorney complained that neither party had issued an application before Brooks J for an order for the husband to pay a lump sum in full and final settlement of the wife's financial claims. But he never asserted that, irrespective of the issue of an application, Brooks J had no jurisdiction to make such an order. Nevertheless it was far from obvious to the Board that the power under section 20(3) of the Matrimonial Causes Act to "modify" the order for periodical payments dated 20 October 2000, being the power invoked by Brooks J and probably also by the Court of Appeal, was apt to have invested him with jurisdiction to order the husband to make a lump sum payment to the wife. At the hearing the Board therefore invited counsel to explain the source of his jurisdiction to do so.

19. Unfortunately the invitation to counsel caught them unawares. Doing their best, both counsel submitted that the judge's jurisdiction lay in section 20(1) of the Matrimonial Causes Act, which provides:

> "On any decree for dissolution of marriage, the court may, if it thinks fit –
>
> > (a) order a spouse … to secure to the [dependant] spouse …, to the satisfaction of the court –
> >
> > > (i) such gross sum of money; or
> > >
> > > (ii) such annual sum of money for any term not exceeding the life of the dependant spouse,

as … the Court thinks reasonable;”

It is clear that section 20(1)(a) confers jurisdiction to order not a lump sum payment but secured periodical payments, ie periodical payments secured on specified assets to be provided by the paying spouse. It provides no answer to the Board's inquiry. In parenthesis, however, the Board expresses surprise that the words "for any term not exceeding the life of the dependant spouse" have been set within section 20(1)(a)(ii) and not underneath both (i) and (ii) so as to apply to both of them. The current version of section 20(1) came into force on 7 December 2005 and replaced an earlier version of the subsection in which those words clearly applied to the gross sum as well as to the annual sum. The provision of secured periodical payments, whether in the form of a gross or of an annual sum, cannot lawfully endure beyond the life of the dependant spouse. No doubt the problem is one of formatting.

20. At the hearing the Board directed the parties to file written submissions as to whether the judge's jurisdiction had instead been located in section 23 of the Matrimonial Causes Act, when read together with section 15 of the Maintenance Act.

21. Section 23 of the Matrimonial Causes Act provides:

> "(1) The court may make such order as it thinks just for the custody, maintenance and education of any relevant child or for the maintenance of a spouse –
>
> > (a) … in any proceedings for dissolution … of marriage before, by or after the final decree;
>
> …
>
> (2) An order under subsection (1) for the maintenance and education of any relevant child or for the maintenance of a spouse shall be in accordance with the provisions of the Maintenance Act."

The inclusion in section 23 of the power in subsection (1) to make orders for the maintenance of a spouse and of the provision in subsection (2) took effect on 7 December 2005, being the date on which the Maintenance Act came into force.

22. Section 15 of the Maintenance Act, of which the side-note is "Powers of Court regarding maintenance orders", provides:

> “(1) In relation to an application for a maintenance order, the Court may make an interim or final order requiring –
>
> > (a) that an amount be paid periodically whether for an indefinite or limited period, or until the happening of a specified event;
> >
> > (b) that a lump sum be paid or held in trust;
> >
> > (c) that property be transferred to or held in trust for or vested in the dependant …”

23. In her written submissions to the Board following the hearing the wife argues that those two sections conferred no power on Brooks J to order payment of a lump sum because, although her application for modification of the order for periodical payments was issued after 7 December 2005, the order of Harris J was made before that date. But the Board sees no reason to attach significance in this context to the date of the order made by Harris J. It accepts the written submissions of the husband that:

> (a) section 23(1) of the Matrimonial Causes Act conferred on Brooks J jurisdiction to make an order for the “maintenance” of the wife;
>
> (b) section 23(2) requires the order to have been in accordance with the provisions of the Maintenance Act; and
>
> (c) section 15(1)(b) of the Maintenance Act makes clear that an order for payment of a lump sum is a species of an order for “maintenance”.

24. The Board therefore concludes that Brooks J had jurisdiction to make the order for a lump sum. Experience in England and Wales of the jurisdiction to make financial orders following divorce shows that it is indeed sometimes extremely valuable that, on an application to vary an order for periodical payments, the court should be able to order payment of a lump sum in full and final settlement of all the applicant’s financial claims and on that basis to discharge the order for periodical payments. Section 31(7A) and (7B) of the English Matrimonial Causes Act 1973, which was inserted into it in 1998, expressly conferred power to make such orders upon an application to vary an order for periodical payments but those subsections were necessary because section 31(5) had expressly prohibited the making of such orders. There is no parallel with section 31(5) in the Jamaican Matrimonial Causes Act. Nevertheless, had Harris J in 2000 made an order for the husband to pay a lump sum to the wife as well as to make periodical

payments to her, there would have been lively argument as to whether Brooks J had jurisdiction to make a second order for payment of a lump sum; and Parliament might wish to make express provision so as to override that potential difficulty.

25. What were the considerations by reference to which Brooks J should have determined the wife's application for modification of the order for periodical payments and have determined whether, instead, to order the husband to make a lump sum payment to the wife in full and final settlement? In two separate places the Matrimonial Causes Act offered him the answer. For section 20(4) of that Act required him to have regard to the matters specified in section 14(4) of the Maintenance Act in determining the wife's application; and, as set out in para 21 above, section 23(2) required any order for a lump sum to be in accordance with the provisions of the Maintenance Act. He was therefore required to turn to section 14(4), which, like section 15, is in Part VI of the Maintenance Act, entitled "Maintenance Orders". Section 14(4) provides:

> "In determining the amount and duration of support, the court shall consider all the circumstances of the parties … and –
>
> (a) the respondent's and the dependant's assets and means;
>
> (b) the assets and means that the dependant and the respondent are likely to have in the future;
>
> (c) the dependant's capacity to contribute to the dependant's own support;
>
> (d) the capacity of the respondent to provide support;
>
> (e) the mental and physical health and age of the dependant and the respondent and the capacity of each of them for appropriate gainful employment;
>
> (f) the measures available for the dependant to become able to provide for the dependant's own support and the length of time and cost involved to enable the dependant to take those measures;
>
> (g) any legal obligation of the respondent or the dependant to provide support for another person;

(h) …

(i) any contribution made by the dependant to the realization of the respondent's career potential;

(j) …

(k) the extent to which the payment of maintenance to the dependant would increase the dependant's earning capacity by enabling the dependant to undertake a course of education or training or to establish himself or herself in a business or otherwise to obtain an adequate income;

(l) the quality of the relationship between the dependant and the respondent;

(m) any fact or circumstance which, in the opinion of the court, the justice of the case requires to be taken into account."

26. With regret, and conscious that neither Brooks J nor the Court of Appeal appears to have received from the advocates the assistance that each deserved, the Board has reached the clear conclusion that the orders for capital provision for the wife in full and final settlement of all her claims are flawed and should be set aside and that the issues raised under the Matrimonial Causes Act should be re-heard, indeed, in the light of the elevation of Brooks J, by another judge of the Supreme Court. It may be that, on proper examination, the provision offered by the husband and accepted by Brooks J will be found to be appropriate. But its appropriateness is in no way evident to the Board which, respectfully, makes the following seven criticisms of the way in which the judge reached his conclusions:

(1) Instead of accepting the husband's "failure to provide any credible information concerning his income and expenditure", the judge should have discharged his duty under section 14(4)(a) of the Maintenance Act by seeking to obtain the information in other ways. The Board's own researches suggest that, as it would expect, there is power to order a party to disclose specified documents (rule 28.6 of the Civil Procedure Rules) and to answer questionnaires (rule 34.2) and also power to issue a witness summons to a third party to give oral evidence and presumably also to produce documents (rule 11.12(1)). By virtue of Rule 76.3(1), all these rules apply to matrimonial proceedings but there is no evidence of the use of such powers in relation to the issues between these parties under the Matrimonial Causes Act. The Board would, for example, expect copies of the

husband's recent tax returns, bank statements, credit card statements, company accounts and passport to have shed light on his income and expenditure or, at least, to have identified questions apt for a questionnaire.

(2) It was impossible for the judge to identify fair capital provision for the wife without any reference to the approximate size and nature of the existing assets of the husband and of herself.

(3) The judge investigated the wife's itemised monthly budget and may have been entitled to conclude that it was exaggerated. But he failed to identify even the major items which he declined to accept; and in particular he gave no explanation for having alighted on a figure of $100k per month as being sufficient to meet her reasonable needs (other than to observe that the figure was "not…penury").

(4) The Board recognises that it has not been considered necessary in Jamaica to formulate capitalisation tables analogous to the *Duxbury* tables used in England and Wales but no doubt the courts can at least receive evidence of the commercial cost of annuities. At all events the Board considers that the judgment insufficiently explained why a multiplier of five was apt to identify the capital sum which should enable a 65 year old woman to spend $1.2m per year, inflation-linked, for the rest of her statistical life; nor is it clear from the Notes of Proceedings that any opportunity was given to the wife's attorney to comment on the multiplier before the judge adopted it.

(5) Although the valuation obtained by the husband in 2007, if accurate, demonstrated that the home was of high value, the judge concluded that it would be reasonable for it to be sold without apparently affording to the wife the opportunity to comment on whether it would be reasonable for her to move home.

(6) Nor did the judge have any evidence about the cost of reasonable alternative accommodation for the wife and for those persons (unidentified in the judgment) who were living in the home with her and who might reasonably continue to make their home with her.

(7) Nor did the judge remind himself that on any view the three daughters were legal joint owners of the home; nor proceed to address whether they would be likely to consent to its sale or could be required by court order to join in its sale; nor estimate the extent to which, in the event of a sale, their interest would deplete the proceeds available to the wife.

27. Such has been, at every stage, the emphasis on the wife's application under the Married Women's Property Act that, although lacking the Notes of Proceedings before the Court of Appeal, the Board doubts whether many of these seven points were there advanced on the wife's behalf. But, in dismissing the appeal against the orders under the Matrimonial Causes Act, the Court of Appeal, as noted in para 17 above, stated the guiding principle to be that, where following divorce the husband had remarried and taken on further responsibilities including children, he could not ordinarily be required to maintain his first wife indefinitely and that in such circumstances there could not be a lifetime award. In the view of the Board the Court of Appeal did not there accurately state the law. The accurate statement is set out in section 14(4)(g) of the Maintenance Act set out in para 25 above, namely that any legal obligation of the husband to provide support for another person is one of the matters, but no more than one of the matters, which the court is required to consider. Section 14(4)(g) reflects the principle in English law that "although it should not go so far as to give priority to the claims of the first wife, it should certainly not give priority to the claims of the second wife" (*Vaughan v Vaughan* [2010] EWCA Civ 349, [2011] Fam 46, para 38).

28. The Board will humbly advise Her Majesty to dismiss the appeal under the Married Women's Property Act; but to allow the appeal under the Matrimonial Causes Act, to set aside the dismissal by the Court of Appeal of the wife's appeal thereunder and, in lieu, to order that her application be reheard by a judge of the Supreme Court. The Board accedes to the wife's application for an interim order for the reinstatement, with effect only from today, of the order dated 20 October 2000 for the husband to make periodical payments to her in the sum of $50,000 per month. In devising the order which it ultimately makes against the husband for the wife's further support, the Supreme Court will no doubt make such allowance for these interim payments as it thinks fit.