

WHO MAKES SAINT LUCIA'S LAW?

Article 917A, dynamic incorporation,
and sovereign design

*A close reading of Kenny D. Anthony's sovereignty challenge and
Hilaire v Chastanet - and a policy model for borrowing foreign law
without surrendering local review*

*Sovereign design is not the refusal to borrow. It is the capacity to choose the
source, test the fit, publish the rule, authorize its effect, and change course
without losing the ability to govern.*

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Saint Lucia Policy Analysis

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Series: Saint Lucia Is Independent. So Why Can British Laws Still Become Saint Lucian Law?

Contents

Navigation outline. Major sections use Word heading styles for the Navigation Pane and accessible document structure.

Abstract

Executive summary

- 1. The question behind the headline**
- 2. Method, evidence, and limits**
- 3. Anthony's argument, reconstructed at its strongest**
- 4. From conquest to auto-update: a concise legal history**
- 5. What Article 917A actually does**
- 6. *Hilaire v Chastanet*: what the case decided**
- 7. Valid law, good law, and good legal architecture**
- 8. A Sovereign-Law Update Audit**
- 9. What other systems teach**
- 10. A multidisciplinary explanation of how Article 917A behaves**
- 11. The strongest case for keeping Article 917A unchanged**
- 12. Policy options**
- 13. Recommended reform: controlled dynamic reception**
- 14. Implementation roadmap**
- 15. Public-value and risk assessment**
- 16. What must be researched next**
- 17. Conclusion: who makes Saint Lucia's law?**

Appendices

References

Abstract

Article 917A of Saint Lucia's Civil Code provides that the law of England "for the time being" relating to contracts, quasi-contracts, and torts extends to Saint Lucia, subject to local adaptation and express Saint Lucian law. In *Hilaire v Chastanet* [2023] UKPC 22, the Privy Council held that the formula is ambulatory - moving rather than fixed - and, within Article 917A's subject matter, reaches relevant English common law and provisions of Acts in force in England when the matter is tried. It also rejected the constitutional challenge. Westminster does not retain jurisdiction over independent Saint Lucia: a continuing Saint Lucian rule supplies domestic legal effect, and Saint Lucia's Parliament may change it (*Hilaire*, paras 16-22, 34-46).

That answer settles legal pedigree, but not good sovereign design. Reconstructing Kenny D. Anthony's critique at its strongest, this paper argues that "abdication" is too absolute as doctrine but captures a real institutional asymmetry. English institutions take the first move and set the default; Saint Lucia retains a legally available but potentially costly veto. Saint Lucian courts then operate a reconciliation engine: they identify current English law, determine its scope, adapt it *mutatis mutandis*, and resolve conflicts with express local enactments.

The paper offers five analytical contributions. It separates legal validity from democratic legitimacy, accessibility, economic performance, and institutional capability; distinguishes the source of an idea from the act that makes it binding; reframes Article 917A as a standing update rule; develops a ten-dimension Sovereign-Law Update Audit; and identifies an unresolved temporal problem. *Hilaire* specifies the English-law corpus selected at trial but does not settle every question concerning later change, accrued rights, or pending cases. It also reveals an "Anthony paradox": Anthony's descriptive scholarship helped explain the clause's ambulatory meaning, while his normative position rejects the institutional design that meaning creates.

The paper recommends **controlled dynamic reception**: preserve a verified baseline; end ungated future automaticity; publish a free register and version archive; screen local fit and rights; require risk-proportionate domestic activation; protect reliance; and build permanent national and regional law-reform capacity. Sovereignty here means not originality or isolation, but governed choice.

Keywords: Saint Lucia; Article 917A; Civil Code; mixed legal system; dynamic incorporation; reception of English law; sovereignty; legal transplants; law reform; *Hilaire v Chastanet*.

Executive summary

The short answer

British laws can still become Saint Lucian law in the fields covered by Article 917A because **Saint Lucian law tells courts to use the law of England as it changes over time**. Westminster is not exercising a surviving imperial jurisdiction over Saint Lucia. The domestic legal switch is Article 917A, introduced in 1956 and continued after independence. In *Hilaire*, the Privy Council held that the switch reaches later English statutes as well as judge-made law.

This makes Article 917A legally intelligible. In *Hilaire*, it survived the constitutional challenge advanced under sections 40, 47, and 120. That does not make the arrangement wise, accessible, democratically satisfying, or economically optimal.

Ten findings

1. **The rule is domestic; much of its future content is external.** The authority that activates English law is Saint Lucian. The institutions that generate many of the activated rules are not.
2. **Article 917A allocates agenda power, not ultimate supremacy.** England supplies the presumptive update. Saint Lucia can legislate against it, but must first detect the change, understand it, mobilize an alternative, and secure scarce parliamentary time.
3. **Formal control can differ from operational control.** Parliament's legal ability to repeal Article 917A is not the same as a reliable institutional ability to monitor and correct every unsuitable imported development.
4. **The provision creates a reconciliation engine.** Courts do not merely paste an English statute into the Code. They classify, adapt, and reconcile it with local enactments. That work can preserve legal coherence and local operability, but it also moves important choices into litigation after an external change has already become relevant.
5. **Current law and knowable law are different goods.** Automatic updating helps avoid fossilization. Yet a citizen may be unable to discover the operative rule from Saint Lucia's Code or Gazette alone. *Hilaire* held that the Constitution's Gazette requirement for laws made by Parliament does not itself solve this problem.
6. **Selection time is not the same as temporal reach.** *Hilaire* directs courts to the English-law corpus in force when the matter is tried. It did not decide whether a later change may govern earlier conduct or accrued rights. Legislation should make prospectivity, savings, pending-case rules, and reliance protection explicit.
7. **The strongest defence of Article 917A is serious.** A small state can economize on drafting, research, and maintenance; draw on a large body of precedent; and preserve continuity for lawyers and commercial actors. The proper comparison is therefore not English law versus no law, but automatic reception versus several controlled forms of borrowing.

8. **Anthony identifies the right constitutional-policy problem, but sometimes states it too broadly.** His language of "abdication" captures loss of practical authorship and responsibility. Strictly, however, Westminster does not legislate for Saint Lucia of its own force. His contrast between a "dying" common-law civilization and a dynamic civil law is rhetoric, not an established performance finding.
9. **A mixed system is an asset if its interfaces are governed, and comparators offer workable controls.** Access to English, Quebec, Canadian, Caribbean, and civilian reasoning creates intellectual option value. Singapore, Trinidad, Canada, the OECS, and the EEA show alternatives involving fixed versions, registers, domestic gates, representation, and publication.
10. **The best near-term reform is controlled dynamic reception.** Build a verified baseline and public register; freeze automatic future effect on a prospective date; route low-risk technical updates through published negative-resolution procedures; require affirmative parliamentary approval for rights-sensitive or distributive changes; protect accrued rights and pending cases; and modernize the Code module by module.

Central policy recommendation

Saint Lucia should enact an **External Law Application and Review Act** and establish a small, standing Mixed Legal System and Law Reform Unit. The Act should not immediately discard the body of law on which courts, contracts, insurers, firms, and citizens may already rely. It should convert future English developments from automatic law into structured proposals for domestic adoption. Later English decisions and statutes would remain available as persuasive comparative sources unless and until formally activated.

1. The question behind the headline

The headline sounds like a constitutional contradiction. Saint Lucia became independent on 22 February 1979. Section 40 of its Constitution gives Parliament power to make laws for the peace, order and good government of Saint Lucia. Section 47 describes passage, assent, and publication of bills. Section 120 makes the Constitution supreme. How, then, could the United Kingdom's Defamation Act 2013 alter the law applied by a Saint Lucian court without a Saint Lucian bill, vote, assent, or Gazette notice? (Constitution of Saint Lucia, ss 40, 47, 120.)

The answer requires two questions that public debate often collapses.

Question one: What makes a rule legally valid in Saint Lucia? Under *Hilaire*, an English rule within Article 917A becomes relevant through a continuing Saint Lucian legal rule. Article 917A was validly enacted before independence, continued as an existing law, and remains amendable by Saint Lucia's Parliament. On this analysis, no second sovereign legislature competes with Parliament. Westminster makes law for the United Kingdom; Article 917A supplies the domestic consequence (*Hilaire*, paras 16-22).

Question two: Is that a good way for an independent state to maintain its law? This asks who initiates change, who participates, who receives notice, who tests local fit, who bears the costs of error, and how readily the country can refuse or reverse a change. Those are questions of institutional design, democratic legitimacy, rule-of-law quality, political economy, and state capacity. A court can uphold Article 917A without deciding them.

The distinction can be stated plainly:

Legal validity asks whether the system recognizes the rule. Sovereign design asks whether the system has chosen a sound way to originate, test, communicate, and revise that rule.

Who does what?

Institution	Present role	Design implication
UK Parliament and English courts	Generate candidate statutes and common-law developments for English purposes.	They set much of the default content but owe Saint Lucia no lawmaking mandate or tailored notice duty.
Article 917A	Supplies the standing Saint Lucian activation rule.	Domestic legal authority exists even though much new content originates externally.
Saint Lucian courts	Classify scope, resolve conflicts, adapt <i>mutatis mutandis</i> , and apply the resulting rule.	Legal compatibility is resolved in litigation; broader policy fit may receive no systematic review.
Saint Lucian Parliament	May override a rule, amend Article 917A, or redesign the update system.	Ultimate authority remains local, but monitoring and agenda costs can make correction uneven.

Institution	Present role	Design implication
Public register	No complete Article 917A change register was located in the official sources reviewed.	A free source-and-version record should make the operative law visible before disputes arise.

This substantive-law pipeline is separate from the former appellate channel to the Privy Council. Saint Lucia's 2023 accession to the Caribbean Court of Justice's appellate jurisdiction changed its final court; it did not amend Article 917A.

This paper does not advise a litigant and does not claim that Article 917A is presently invalid. It treats the Privy Council's holding as the governing legal position and asks what Saint Lucia should do next.

A terminology caution

“British law” is useful headline shorthand but is not the Code's exact category. Article 917A says the “law of England.” The United Kingdom contains distinct legal systems, and not every Act of the UK Parliament forms part of English private law or falls within contract, quasi-contract, or tort. The 2013 statute at issue in *Hilaire* was an Act of the UK Parliament operating in the relevant English field. Throughout this paper, “English law” denotes the selected legal system; “UK Parliament” or “Westminster” denotes the legislature that enacts applicable English statutes.

2. Method, evidence, and limits

The analysis uses five forms of evidence:

- the current 2023 Revised Laws of Saint Lucia, particularly Articles 216, 916A, 917A, and 2143 of the Civil Code;
- the Constitution and reported decisions, especially *Hilaire v Chastanet* [2023] UKPC 22 and *Mathurin v Augustin* HCVAP 2007/041;
- the NationBeat interview with Kenny D. Anthony, checked against its supplied time-stamped transcript;
- official historical and institutional materials from Saint Lucia, CARICOM, the OECS, Canada, Singapore, EFTA, the IMO, and ICAO; and
- comparative-law, political-science, economics, organization-theory, and rule-of-law scholarship.

The paper marks the difference among three kinds of statement. A **finding** reports what an authoritative text or source establishes. An **inference** draws a reasoned implication that should be tested. A **proposal** recommends a future design. No quantitative estimate is offered for Saint Lucia's actual drafting savings, litigation costs, investor effects, or monitoring failures because no adequate local dataset was found. Unknown effects are not treated as zero.

The interview transcript contains ordinary automated-transcription errors. Quotations have been lightly corrected where context makes the intended word unambiguous - for example, "Saint Lucian," "Article 917A," and "Privy Council" - without changing substance. Time stamps are supplied so quotations can be checked against the recording before final republication.

3. Anthony's argument, reconstructed at its strongest

Anthony does not make only one argument. The interview contains a connected theory of colonization, legal training, public accessibility, identity, institutional responsibility, and reform.

3.1 Law as an instrument of governing power

Anthony begins with Saint Lucia's mixed system: civilian private law alongside English-derived public law, procedure, and institutions. He emphasizes that legal transplantation was not politically neutral. "The implantation of a legal system is a conscious act by the colonizer," he says, because control of legal processes helps control the territory (NationBeat, 14:38-15:05). He makes the same point about procedure: "By controlling the procedural law, you then control the courts and its direction" (28:39).

This is historically and analytically useful. A legal system is not only a catalogue of rules. It allocates the authority to make, interpret, and enforce rules. Colonial governments could tolerate some continuity in private relations while insisting on institutions, procedure, and public law through which the colony was governed. The mixed system is therefore a record of accommodation and power, not a laboratory in which traditions blended without politics (Anthony 1988; Anthony 1995; Glenn 2008; Palmer 2012).

3.2 Professional formation can change law without a legislative plan

Anthony's second mechanism is quieter. Lawyers trained in England or in a Caribbean curriculum centered on English sources understandably reach for the authorities they know. Judges facing time pressure do the same. Over repeated cases, education, databases, precedent, and professional convenience can anglicize a formally mixed system even where no legislature adopts a complete plan.

This is a path-dependence claim. It is plausible but empirically incomplete. It could be tested by coding Saint Lucian judgments over time: Which legal families are cited? In which subjects? How often do courts consult Quebec, Louisiana, other mixed systems, the wider Caribbean, or local custom? How often is an English rule rejected or adapted? Anthony's important insight is that legal change occurs through professional infrastructure as well as enacted text (Hathaway 2001; Pierson 2000).

3.3 Article 917A and external authorship

Anthony's sharpest line is: "What we have done as a country is to abdicate our legal sovereignty" (48:24). He reasons that an English Parliament legislates for British conditions and "[doesn't] care two

hoots about Saint Lucia" when making ordinary domestic law (44:45-45:13). If relevant provisions of future English Acts, within Article 917A's subject matter and subject to its exclusions, necessary adaptation, and local-law priority, alter the rule applied in Saint Lucia, domestic legal content can change without Saint Lucian deliberation.

The phrase "abdicate" is a normative conclusion, not the holding in *Hilaire*. Yet it identifies a genuine design asymmetry. The English Parliament is not Saint Lucia's agent. It has no Saint Lucian mandate, information duty, reporting obligation, or incentive to test local effects. It is better described as an **external rule producer whose relevant statutes and common-law developments Article 917A dynamically selects**, subject to scope, conflict, adaptation, and temporal questions.

There is an illuminating Anthony paradox. At paragraph 43, *Hilaire* recounts a Saint Vincent Court of Appeal judgment that relied on Anthony's comparative research for the proposition that Commonwealth courts generally give "law of England for the time being" its ambulatory meaning. His descriptive scholarship thus helps explain the clause's legal effect, while his normative position is that Saint Lucia should redesign that effect. There is no contradiction. Establishing what inherited words mean is different from endorsing the institution they create (*Hilaire*, para 43; Anthony 1995).

3.4 Independence as responsibility, not symbolism

"The act of independence is really a fundamental act," Anthony says; it reclaims a country's right "to determine its legal future" (52:24-52:57). This idea also appears in his 2001 argument for the Caribbean Court of Justice: completing independence meant regional assumption of responsibility, not hostility toward Britain. In that speech he described the CCJ as a court made "with our blessing and in our image" and characterized the change as an "assumption of responsibility by the Region" rather than a repudiation of the Privy Council (Anthony 2001).

The consistent principle is authorship joined to institutional duty. Independence is not a demand that every legal idea originate locally. It is a demand that institutions answerable to the people decide which ideas will bind them and accept responsibility for maintenance.

3.5 Codification as public access

Anthony calls civil law "populist law" because its organizing aspiration is a written, accessible code. He values a body of law that citizens can locate without reconstructing doctrine from many decisions. His practical premise appears early in the interview: "You need certainty in the law. People need to know how disputes are going to be resolved" (09:44).

This is a valuable aspiration, but it should not become a false civil-law/common-law binary. A code can be archaic, technical, amended in scattered instruments, or transformed by judicial gloss. Case law can

be freely published, consolidated, and explained. Accessibility is an institutional outcome, not an automatic property of a legal family. The correct policy question is whether the operative Saint Lucian rule can be found, understood, and historically verified at reasonable cost (Fuller 1969; Bremer 2013, 153-55; Venice Commission 2025, paras 47-50).

3.6 Identity without legal purity

Anthony treats the Civil Code as part of Saint Lucia's cultural inheritance. He connects private law to family, property, legitimacy, and family land. Of family land he observes that "there's an equality ... that is attractive," even when fragmented title impedes bank finance (1:04:17-1:04:43). This is a subtle point: legal arrangements can carry social meanings and distributional values that a narrow efficiency analysis misses.

At the same time, he concedes that all major inherited traditions were imported and that Saint Lucia's system became local through use and adaptation. His best case is therefore not for purification. It is for conscious ownership of a plural inheritance.

3.7 Modernization, not preservation in amber

Anthony is a retentionist, but not a preservationist. "There's room for fundamental reform in our inherited Civil Code," he says (26:52). He stresses the mismatch between a code enacted in 1879 and contemporary land tenure, employment, family, tenancy, and contractual relations: "We are applying laws ... enacted ... in 1879 to a society that has evolved dramatically" (1:06:27-1:06:56).

As Prime Minister, he sought Canadian assistance after Quebec modernized its Civil Code. A three-phase Saint Lucia/Canada project, jointly supported by CIDA, envisaged review, consultation, drafting, implementation, and public education. A Family Law Committee delivered a draft report in 2004. Anthony says the broader effort stalled after funding was withdrawn. He calls that result "one failure - an agonizing failure" (1:12:04; Government of Saint Lucia 2003; 2004).

This admission matters. It prevents a simplistic account in which only colonial inheritance causes dependency. Domestic coordination failure, limited drafting capacity, agenda competition, and project design also shape sovereignty. A reform proposal that ignores the failed modernization effort merely repeats its vulnerability.

3.8 What should be retained from Anthony's lens - and what should not

Anthony offers five durable principles:

1. institutions and professional training shape law as much as formal text;
2. independence entails responsibility for legal maintenance;

3. accessibility and public understanding are constitutional-policy goods;
4. comparative lawyers should draw deliberately from multiple sources; and
5. inherited law should be modernized for present social conditions, not defended as heritage alone.

Three claims require qualification:

- **"Abdication" is too complete as a doctrinal description.** Saint Lucia retains the legal power to amend or repeal Article 917A, and local express enactments prevail.
- **Westminster does not itself legislate extraterritorially for Saint Lucia.** Its enactment acquires domestic effect through Saint Lucian law. The distinction does not erase the democratic concern, but it identifies the correct mechanism.
- **The "dying common law" versus dynamic civil law contrast is unsupported rhetoric.** Neither legal family guarantees access, justice, innovation, or economic performance. Institutional quality and local reception matter more than labels.

Anthony's closing questions are stronger than his civilizational answer: Which body of law better expresses self-government, fits the life Saint Lucia seeks to build, and protects identity (1:15:08)? This paper generalizes them: **Which source and update process best create public value while preserving rights, viability, and future choice?**

4. From conquest to auto-update: a concise legal history

4.1 The Custom of Paris and the Lower Canada connection

The Privy Council's historical account in *Hilaire* begins with the application of the Custom of Paris in 1681 and later French ordinances. Britain acquired permanent control in 1803; Saint Lucia was ceded to Britain in 1814. French-derived private law and English governing institutions then coexisted (*Hilaire*, paras 6-10; Liverpool 1983; Floissac 1983).

The Civil Code Ordinance 1876 authorized codification. Its preamble identified uncertainty and public inconvenience and sought to consolidate and amend the civil law, adapting ancient law to modern society and local circumstances. The resulting Code, brought into force in 1879, drew heavily on the Civil Code of Lower Canada. That choice gave British administrators and practitioners an English-language code while preserving much civilian structure. The history is more accurate, therefore, than saying Saint Lucia simply copied the Code Napoléon.

4.2 The 1956 assimilation project

Act 34 of 1956 made major amendments, including Article 917A. *Hilaire* describes the amendment as part of a process of assimilating the Code to English law. It was enacted by the Governor with the advice

and consent of a Legislative Council created under the Saint Lucia (Legislative Council) Order in Council 1951, with elected and nominated members (*Hilaire*, paras 11-12).

The wording did not merely adopt the English law existing on a cut-off date. It selected the law of England "for the time being." That phrase became the key to future movement.

4.3 Independence and legal continuity

Independence created a new constitutional order but did not erase every existing rule. Paragraph 2 of Schedule 2 **to the Saint Lucia Constitution Order 1978** continued existing laws, subject to power to modify them to conform with the Constitution. That transitional schedule is part of the Order, not Schedule 2 to the Constitution itself. The policy logic of continuity is powerful: a legal vacuum at midnight on independence would have disrupted rights, courts, contracts, property, and government (Saint Lucia Constitution Order 1978, sch 2 to the Order, para 2; *Hilaire*, paras 15-20).

Continuity, however, can do two different things:

- preserve rules already in force at the constitutional transition; or
- preserve a rule that dynamically selects relevant future statutes and common-law developments generated elsewhere.

Article 917A does the second. That distinction explains the intuition behind the constitutional challenge in *Hilaire*, even though the challenge failed.

4.4 The unfinished reform cycle

The 2002-2004 Canada-supported reform project shows that modernization was not merely an interview aspiration. Official Saint Lucian releases described a staged process of consultation, legislative drafting, implementation, and public sensitization, drawing on Quebec experience while recognizing Saint Lucia's uniqueness. The Family Law report was presented as one part of wider justice-sector reform. Yet no comprehensive modern Code resulted.

The episode yields an institutional lesson: one-off external funding is not a substitute for a permanent domestic or regional maintenance function. A legal system is not renovated once and finished. It requires continuing inventory, drafting, consultation, consolidation, training, and version control.

4.5 Position at the research cut-off

Article 917A appears in the official 2023 Revised Laws edition examined. Press reporting in 2023 described a proposed Application of United Kingdom Law Bill, but a reported draft is not an enacted law. The National Printing Corporation's annual Acts indexes for 2023-2025 and for 2026 through Act No. 6 disclosed no Act whose title indicated repeal or replacement. This index-and-title review is not a

conclusive Gazette audit and does not exclude a differently titled, later, or unpublished measure. The official Code and any subsequent Gazette enactment remain controlling. Research cut-off: 2 September 2026.

5. What Article 917A actually does

5.1 The provision in plain language

Article 917A(1) performs four operations (Civil Code, art 917A(1)-(3)):

1. it selects English law relating to contracts, quasi-contracts, and torts;
2. it selects that law dynamically - "for the time being" - rather than at a single historic date;
3. it requires necessary adaptations through *mutatis mutandis*; and
4. it directs specified Code articles to be construed accordingly rather than by the law of Lower Canada or the Custom of Paris.

It then preserves two notable civilian rules: English consideration does not govern Saint Lucian contracts, and third-party contractual rights continue under the Code. Article 917A(2) protects the Code's rules on proof and limits the effect on specific contracts. Article 917A(3) provides that an express Code provision or other Saint Lucian statute prevails when it conflicts with English law.

The rule can be rendered as an adjudicative sequence:

Step 1 - Scope: Is the disputed matter one of contract, quasi-contract, or tort? **Step 2 - Source:** What is the relevant English common law and statute law at the legally applicable time? **Step 3 - Exclusions:** Do Article 917A's consideration, third-party, proof, or specific-contract limits apply? **Step 4 - Local conflict:** Is there an express and conflicting provision of the Code or another local statute? **Step 5 - Adaptation:** What changes are necessary to make the English rule operate in Saint Lucia? **Step 6 - Application:** What rule results for the dispute?

This is why "automatic import" is only partly accurate. The source update is automatic in principle; its concrete domestic meaning often depends on judicial classification, conflict analysis, and adaptation.

5.2 Article 917A is not alone

The 2023 Revised Laws contain other outward-facing clauses. Article 916A(3) applies English law "for the time being" to rights, powers, and duties under trusts, subject to the Code and other statutes. Article 216 applies English law "for the time being" to custody, guardianship, tutors, and related powers, again with local adaptations. Article 2143 authorizes trustee investments in securities in which English trustees are "for the time being" permitted to invest. Anthony also identifies provisions whose wording and judicial treatment raise further ambulatory questions.

This has a direct reform implication: **amending Article 917A alone would not complete the job**. Saint Lucia needs a whole-of-statute inventory of dynamic references, with each clause classified by subject, source, version rule, local safeguard, publication route, and transition risk.

5.3 The asymmetry hidden in "for the time being"

Article 917A makes no institutional bargain with the United Kingdom. Saint Lucia receives no guaranteed notice tailored to its legal system, no consultation right, no vote, and no assurance that Westminster has considered Saint Lucian conditions. There is also no reciprocal obligation for the United Kingdom to follow Saint Lucian law.

The mechanism is therefore unlike ordinary domestic delegation to a minister or regulator, who has a mandate and can be supervised. It is unlike an integration treaty in which states exchange benefits and participate in shared institutions. The most exact description is **domestically authorized, unilateral dynamic incorporation** (Dorf 2008, 103-05; Edgar and Stack 2023, 734-36).

6. *Hilaire v Chastanet*: what the case decided

6.1 The dispute

The underlying defamation litigation arose from statements published in 2015 and 2016. The parties disputed whether the United Kingdom's Defamation Act 2013 formed part of Saint Lucian law. The High Court held in 2018 that it did not. The Eastern Caribbean Court of Appeal reversed in 2020. The Privy Council dismissed the further appeal in 2023 (*Hilaire*, paras 1-5).

The first-instance judgment remains worth reading even though it was reversed. At paragraph 33, Smith J focused on accessibility, clarity, certainty, and predictability; the hearing itself illustrated the research burden because counsel spent extensive time disputing which law applied. At paragraph 46, he worried that fragments of the Code and the 2013 Act would be "cobbled together." The appellate courts rejected his legal construction, not the general importance of those design values. The sequence neatly demonstrates the thesis of this paper: a court can lose on validity and still identify a policy problem Parliament should examine (*Hilaire*, High Court, paras 33, 46).

The Board addressed three issues:

1. whether Article 917A was invalid because it conflicted with sections 40, 47, and 120 of the Constitution;
2. whether "law of England" included statutes as well as common law; and
3. whether particular provisions of the 2013 Act were excluded or modified by express provisions of the Civil Code.

6.2 Validity: a Saint Lucian rule incorporates the foreign rule

On constitutionality, the Board adopted the Court of Appeal's central reasoning. Article 917A was part of Saint Lucian law. Incorporation of a foreign rule was an exercise of lawmaking through that local rule, not proof of a parallel Westminster legislative authority. Independence did not, without more, invalidate the existing legal order. Parliament could repeal or alter the clause and had not done so (*Hilaire*, paras 16-22).

The Board therefore rejected the claim that Article 917A surrendered the lawmaking power conferred by section 40. It also rejected the section 47 publication argument. The imported English enactment was not itself a law "made by Parliament" within section 47's Gazette requirement. Its relevance flowed from Article 917A.

The reasoning is coherent within a positivist account of legal validity: the domestic system can select an external fact or norm as a trigger. Statutes routinely calculate payments from prices, rates, technical documents, or other changing facts. The harder question is how normatively broad and institutionally accountable such a reference should be (Hart 2012; Dorf 2008, 115-23).

6.3 "Law of England" includes legislation

The Board held that "law of England" includes both common law and statute law. A common-law-only interpretation could produce a peculiar freeze whenever Parliament replaced a common-law field with legislation: Saint Lucia would retain doctrine no longer developed in its source system while later English cases interpreted a statute that supposedly did not apply. The text and history supported the broader reading (*Hilaire*, paras 34-45).

The Board also held that "for the time being" is ambulatory. English law is not pinned to 1956. Paragraph 46(i) speaks of the English common law and relevant Acts in force "at the time that the matter is tried" (*Hilaire*, para 46(i)).

That answer concerns **selection time**: which English-law corpus the court consults. It does not necessarily answer **temporal reach**: whether a rule selected at trial governs conduct, contracts, or causes of action that predate that rule. Nor does it identify every rule protecting **accrued rights** when the external corpus changes.

Hilaire was not a retroactivity case. The Defamation Act 2013 was fully commenced for England and Wales on 1 January 2014; the alleged publications occurred in 2015 and 2016. The Board therefore did not face an English statute enacted after the relevant conduct but before trial (SI 2013/3027, art 2; *Hilaire*, paras 1, 46).

Saint Lucia's Interpretation Act section 27 preserves prior operation, accrued rights, liabilities, proceedings, and remedies when an enactment is repealed, revoked, expires, or otherwise ceases to have effect. Yet section 2 defines an Act and enactment by reference to Saint Lucian legislation. No authority located for this paper decides whether section 27 protects a right when an English rule incorporated through Article 917A changes without a Saint Lucian repeal. Civil Code Article 2203 contains express savings for changes made by the 1956 amendment, but is not a general answer for every later movement in English law (Interpretation Act, ss 2, 27; Civil Code, art 2203; cf *Ryan-Cox v Cox*, paras 15-16, 21).

The bounded conclusion is important: it would be unsafe to claim that *Hilaire* lets a later Westminster enactment retrospectively extinguish any accrued Saint Lucian right. It is equally unsafe to assume that every transition is already clear. Questions remain about changes between accrual and first-instance trial, changes on appeal or retrial, and whether English commencement and transitional provisions themselves travel *mutatis mutandis*. A reform statute should state the controlling dates and savings directly.

6.4 Local law still matters

Article 917A(3) is not decorative. In *Mathurin v Augustin*, an English statute had abolished recovery of damages for a deceased person's "lost years," but Article 609 of the Saint Lucian Code preserved the cause of action. The express local rule prevailed.

In *Hilaire*, the Board treated the 2013 Act's serious-harm requirement and statutory defences of truth and honest opinion as applicable. It reconciled the Act's single-publication rule with Article 2123's local limitation rule by modifying the English provision so that the limitation period ran consistently with the Code's knowledge-based accrual. Some local provisions became redundant rather than conflicting (*Hilaire*, paras 48-71).

This illustrates both safeguard and burden. The Code can block or reshape English law. Yet the safeguard operates through legal analysis, often in expensive litigation, and only where the local provision is express and conflicting. Local silence is the space into which the external rule enters.

6.5 What *Hilaire* did not decide

The judgment did not establish that:

- every British statute applies in Saint Lucia;
- English law overrides the Constitution or express local statutes;
- Parliament is unable to repeal Article 917A;
- dynamic incorporation is the best democratic or economic arrangement;

- the United Kingdom intends its statutes to govern Saint Lucia; or
- codification is superior or inferior to common law.

Nor did it conduct an empirical assessment of public access, monitoring capacity, business effects, distributional consequences, or modernization alternatives. Those matters were not necessary to the legal holding.

6.6 Justice Saunders's critique - and a necessary distinction

In a 2024 public address, CCJ President Adrian Saunders placed *Hilaire* within a wider Caribbean narrative about colonial laws, constitutional savings clauses, final appellate institutions, and incomplete self-determination. He argued that the judgment strengthens the perception that inherited law is privileged until a national Parliament removes it, and contrasted that orientation with a more rights-centered Caribbean jurisprudence (Saunders 2024).

The intervention is important evidence of regional constitutional thought, but it is not a judgment binding Saint Lucia. It also states the implication more broadly than the Board's formal holding. *Hilaire* did not hold that any colonial law survives even when it is actually inconsistent with the Constitution. The Board concluded that this particular reception rule was not inconsistent; it also discussed the constitutional power to modify existing law where necessary, while finding that the proposed modification had not been adequately formulated. The disagreement is therefore partly legal and partly narrative: how independence should guide interpretation at the boundary of continuity and self-determination.

6.7 A new final interpreter

Saint Lucia completed its transition to the Caribbean Court of Justice's appellate jurisdiction in July 2023, shortly after *Hilaire* was decided in June. The transition provisions protect specified pending Privy Council proceedings and permit enforcement of specified unsatisfied Privy Council judgments; they do not purport to amend Article 917A, and they do not themselves define the precedential status of completed Privy Council decisions. The narrower institutional point is clear: the CCJ is now the court that will ultimately interpret the clause in a future Saint Lucian appeal. This makes legislative clarity more, not less, valuable: Parliament can resolve notice, version, and transition questions prospectively rather than waiting for another expensive constitutional dispute (Constitution of Saint Lucia, s 108A(4)-(7); Caribbean Court of Justice (Agreement) Act, s 27(2)-(4), in force 20 July 2023).

7. Valid law, good law, and good legal architecture

The central error in much public argument is to treat one evaluative dimension as if it decided all the others. At least five must be kept separate.

7.1 Legal validity

Validity concerns pedigree within the constitutional system. Under *Hilaire*, Article 917A survived independence, does not create a competing legislature, and remains alterable by Parliament. Unless revisited by a competent court or changed by legislation, that is the operative law.

7.2 Democratic legitimacy

Legitimacy asks whether people affected by a rule had a meaningful route of authorization, representation, contestation, and accountability. The locally enacted colonial provision - adopted in 1956 by the Governor with the advice and consent of a Legislative Council containing elected and nominated members, then continued through independence - supplies legal authorization. That pedigree is not equivalent to contemporaneous democratic approval of each update. Later English choices lack direct Saint Lucian input. The evaluation must therefore consider whether a decades-old open authorization is sufficiently bounded, visible, and reversible (Scharpf 1998; Dorf 2008, 115-23, 146-68).

7.3 Rule-of-law quality

The rule of law values accessibility, clarity, stability, prospectivity, and congruence between announced and applied rules. A valid law can perform poorly on these measures. A citizen reading the Civil Code will learn that English law matters, but not necessarily which English statutes, judicial developments, amendments, commencement dates, and Saint Lucian adaptations presently govern (Fuller 1969; Venice Commission 2025, paras 33, 47-50).

The Gazette holding in *Hilaire* exposes a design gap rather than a logical contradiction. Section 47 does not require local republication of the English Act because it was not made by Saint Lucia's Parliament. Nothing prevents Parliament from creating a broader statutory notice and accessibility duty for incorporated law.

7.4 Welfare and economic performance

An update rule can be democratically thin yet generate valuable expertise, currency, interoperability, and drafting savings. It can also import mismatch, impose research and litigation costs, shift wealth or liability, and create uncertainty. These effects require evidence. No legal-family label settles them (Dorf 2008, 133-37; Epstein and O'Halloran 1999, 14-85; La Porta, Lopez-de-Silanes, and Shleifer 2008).

7.5 Institutional capability

Formal authority is not operational capacity. A state may possess the legal right to override every imported change but lack the monitoring staff, comparative-law expertise, data, consultation machinery,

drafting time, or legislative agenda space to exercise that right reliably (Aghion and Tirole 1997; Morris 2025).

A useful diagnostic - not a measured equation - is:

Effective domestic control $\approx$ probability of detecting a change $\times$ probability of assessing local fit $\times$ probability of correcting it when unsuitable.

If any term is persistently low, formal repeal power may coexist with weak day-to-day control. This does not negate sovereignty in international law. It identifies a capability problem for public policy.

8. A Sovereign-Law Update Audit

Article 917A should be evaluated as infrastructure for changing law, not only as a surviving colonial text. The following audit is a qualitative decision tool. It deliberately produces no composite score: a gain in drafting speed cannot automatically compensate for a failure of constitutional rights, and an accessible register cannot cure a rule that is substantively unfit.

8.1 Ten questions

Dimension	Audit question	Article 917A's present design
Source	Who creates the candidate rule and for whose purposes?	English judges and legislators, acting for the English legal system and UK public.
Activation	What act makes a source change domestic law?	The standing words "for the time being"; no new local vote is ordinarily required.
Voice	Can Saint Lucia shape the upstream rule?	No guaranteed notice, representation, consultation, or vote.
Scope	How broad and value-sensitive is the field?	Broad fields of contract, quasi-contract, and tort, subject to stated exclusions.
Notice	Where can a citizen find the change and its local commencement?	UK sources plus local case interpretation; no complete official Saint Lucian change register was found.
Fit	Who screens constitutional, social, economic, and cultural suitability?	No systematic ex ante fit screen is specified. In disputes, courts address scope, constitutional compatibility, express statutory conflict, and necessary adaptation; broader policy suitability is principally for Parliament.
Adaptation	Who determines the necessary local changes?	Courts through <i>mutatis mutandis</i> , incrementally and case by case.
Override	What local rule defeats the imported rule?	An express conflicting Code provision or other local statute; Parliament can legislate more broadly.

Dimension	Audit question	Article 917A's present design
Time	Which version applies, and what happens to accrued rights and pending cases?	Ambulatory source-selection: <i>Hilaire</i> points to relevant English Acts in force when the matter is tried. It did not decide retrospective application to pre-change facts or accrued rights, and no comprehensive rule governing automatic external turnover was identified.
Maintenance and exit	Who monitors the system, and how costly is refusal or replacement?	No dedicated monitoring institution identified; formal repeal is easy relative to operational replacement.

8.2 Three layers of revocability

The statement "Parliament can repeal it tomorrow" addresses only the first of three layers:

1. **Legal revocability:** Is amendment constitutionally permitted? For Article 917A, yes.
2. **Political revocability:** Can a coalition place reform on a crowded agenda, agree on an alternative, and enact it?
3. **Operational reversibility:** Can courts, practitioners, educators, firms, and citizens transition without gaps, inaccessible law, or severe reliance costs?

An arrangement can be legally revocable but practically sticky. Decades of cases, standard contracts, insurance assumptions, textbooks, legal education, and database habits can raise the exercise price of the repeal option. This is path dependence, not proof of permanent incapacity. It means that reform must build replacement capability before switching off the existing source (Hathaway 2001; Pierson 2000).

8.3 The source-activation distinction

A particularly useful distinction is between the **source of an idea** and the **act that makes it binding**. A self-governing legal system can search the world for solutions. Quebec, England, the wider Commonwealth, Louisiana, the OECS, CARICOM, civil-law jurisdictions, academic scholarship, and local custom may all be sources. Sovereignty need not demand intellectual autarky.

The stronger demand is that legal effect pass through an institution with appropriate local authority, information, safeguards, and public accountability. On this view, the problem is not borrowing. It is an activation rule that is broad, quiet, and insufficiently governed.

8.4 The subject-risk principle

The case for automatic updating varies with the subject. It is strongest where rules are:

- narrow and technical;
- updated frequently;

- supported by clear interoperability or collective-safety benefits;
- produced by a body in which Saint Lucia participates; and
- easy to publish, test, and roll back.

It is weakest where rules:

- allocate civil liability or redistribute bargaining power;
- affect expression, family, personhood, land, or constitutional rights;
- depend heavily on local social conditions;
- originate in an institution without Saint Lucian voice; or
- can operate before citizens receive usable notice.

Contract and tort contain both technical and deeply distributive rules. A single activation route for the whole field is therefore too coarse.

9. What other systems teach

Comparators do not supply a transplantable answer. They reveal design choices that Article 917A's apparent binary - retain or repeal - conceals.

9.1 Trinidad and Tobago: reception can be frozen

Section 12 of Trinidad and Tobago's Supreme Court of Judicature Act receives common law, equity, and statutes of general application according to fixed historical dates - 1 March 1848 for Trinidad and 1 January 1889 for Tobago - subject to local written law. Whatever the merits of those old dates, the design proves a basic point: reception need not be ambulatory (Supreme Court of Judicature Act (Trinidad and Tobago), s 12).

Freezing gains local control over future change but creates maintenance debt. If no domestic institution updates the corpus, yesterday's certainty becomes tomorrow's obsolescence. A cut-off is a transition device, not a complete reform strategy.

9.2 Singapore: inventory, schedule, and nationalization

Singapore's Application of English Law Act 1993 addressed uncertainty created by continuing dependence on English mercantile law. It retained English common law already forming part of Singapore law only so far as suitable to local circumstances, listed surviving English enactments, generally fixed them at the 12 November 1993 version, subordinated them to local Acts, and excluded other English enactments (Application of English Law Act 1993 (Singapore), ss 3-5).

Singapore's model offers four useful devices:

1. identify the inherited corpus rather than leave it implicit;
2. distinguish common-law reasoning from statutory enactments;
3. pin retained legislation to a verifiable version; and
4. state that later foreign authority may persuade without automatically binding.

Its limitation is capacity. Singapore can support a legislative maintenance system far larger than Saint Lucia's. The lesson should be adapted through regional pooling and risk-based prioritization, not copied whole.

9.3 Niue: consent and the small-state dilemma

Article 36 of Niue's Constitution allows post-self-government New Zealand legislation to extend to Niue only where the Niue Assembly requests and consents by resolution and the New Zealand enactment expressly records compliance. The model places a visible local consent gate before effect (Constitution of Niue, art 36).

Niue also illustrates the opposite risk. Frozen New Zealand statutes can diverge and become difficult to ascertain; later Niue enactments have experimented with "as amended" or opt-out formulas. The experience shows why validity and good design must remain separate. A small legislature may rationally borrow a moving rule, but should still decide how notice, objection, and versioning work (Angelo, Perham, and Lau 2021, 246-72).

9.4 Canada and the United States: even technical references need governance

Canada's Statutory Instruments Act expressly permits documents to be incorporated either as they exist on a specified date or "as amended from time to time." It places responsibility on the regulation-making authority to ensure that incorporated material is accessible. Canadian legislation also protects against penal or administrative sanctions where incorporated material was not reasonably accessible (Statutory Instruments Act (Canada), ss 18.1, 18.3, 18.6).

Parliamentary scrutiny has nevertheless found practical problems: external standards may be costly, available only in one language, difficult to version, or absent from a central repository. Recommendations have included annual lists, archived versions, free access, periodic re-incorporation, and expiry (Canada, Standing Joint Committee for the Scrutiny of Regulations 2017, paras 27-32, 51-58, 68-79).

United States federal rules generally approve only a named edition of an incorporated document. Later amendments require a new Federal Register action. This sacrifices automatic currency for notice and review (1 CFR §§ 51.1(f), 51.5, 51.7, 51.9, 51.11).

These systems usually concern specialized technical standards, not the core of private obligations. The inference is therefore modest but powerful: if dynamic references in narrow expert fields require express authority, source identification, accessibility, and version control, a moving reference covering contract and tort deserves at least equal institutional care.

9.5 The OECS: external law can still be meaningfully ours

Saint Lucia's own OECS arrangements are the most revealing comparison. The Revised Treaty of Basseterre and the Organisation of Eastern Caribbean States Act allow certain Organization legislation to have domestic force after prescribed publication. Yet the arrangement differs fundamentally from Article 917A (OECS Act, ss 3-4; Revised Treaty of Basseterre, arts 5, 8, 10, 14):

- Saint Lucia is represented in the OECS Authority;
- non-procedural Authority decisions require the affirmative vote of all full Member States present and voting; absent heads receive a consideration period, while abstention or non-response does not block the decision;
- national parliamentary delegations, including opposition representation, sit in the OECS Assembly;
- legislative competence is enumerated;
- subsidiarity limits action in non-exclusive fields;
- public participation and publication form part of the architecture; and
- the arrangement is reciprocal and serves shared regional projects.

The OECS is not democratically perfect; its Assembly's role is limited and formal procedures must be tested in practice. But it refutes the idea that sovereignty means every word must be drafted within a national ministry. Shared lawmaking can strengthen sovereign capability when voice, scope, purpose, and accountability are designed into the institution (Büthe and Mattli 2011, 42-59).

9.6 CARICOM and model laws: preserve the domestic last mile

Article 240 of the Revised Treaty of Chaguaramas generally leaves decisions of Community organs subject to the relevant constitutional procedures of member states before creating municipal rights and obligations, while requiring expeditious implementation. UNCITRAL model laws take a still lighter approach: they supply a tested text that national lawmakers may adapt and enact (Revised Treaty of Chaguaramas, art 240; UNCITRAL, "Frequently Asked Questions - Texts").

These mechanisms pursue harmonization while preserving a visible domestic last mile. Their familiar weakness is implementation delay. That is a real cost, but it can be managed through deadlines, standard impact templates, regional drafting support, and transparent implementation scorecards rather than by eliminating local activation entirely.

9.7 The EEA: dynamic alignment with a gate

The European Economic Area is continuously updated, but a new EU act does not simply become law in EEA-EFTA states. Experts assess relevance and adaptations; the EEA Joint Committee incorporates the act by consensus; national constitutional approval is obtained where required; and Joint Committee decisions are published. The EFTA states can influence preparatory work but do not vote in EU institutions. Refusal can lead to suspension of an affected part of the Agreement (EEA Agreement, arts 93, 98-103; EFTA, "Q&A about the EEA Agreement"; Fossum 2023).

The EEA therefore reveals both voice and price. Formal consent exists, yet economic integration can make refusal costly. Article 917A has far less voice and no comparable negotiated package of reciprocal market rights. This makes its automaticity harder - not impossible - to justify.

9.8 IMO and ICAO: when reverse defaults may make sense

The International Maritime Organization uses tacit acceptance for many technical safety amendments; ICAO standards combine centralized adoption with notification of national differences. Speed and uniformity are valuable because ships and aircraft cross borders and safety systems must interoperate. States participate in treaty institutions, the fields are bounded, changes are notified, and objection routes are explicit (IMO, "Conventions"; Chicago Convention, arts 37, 38, 90).

These are not direct municipal-law analogues. They show the conditions under which an opt-out design becomes plausible. Article 917A lacks several of those conditions: bounded technical scope, reciprocal governance, upstream voice, and a dedicated notice-and-objection process.

9.9 Comparative synthesis

Model	Update gate	Main advantage	Main risk
Article 917A	Automatic, then litigation or local override	Currency and low initial drafting cost	Weak notice, voice, and ex ante fit review
Historic cut-off	Named foreign-law date	Clear local control over future change	Fossilization and maintenance debt
Scheduled corpus	Listed rules and versions	Inventory and legal certainty	Review burden and omission risk
Negative resolution	Published update unless disallowed	Speed with a domestic veto	Legislative inattention can mimic automaticity
Affirmative adoption	Local approval before effect	Visible democratic authorization	Delay and agenda congestion
Regional pooling	Joint rule with representation	Shared capacity and reciprocity	Institutional distance and coordination cost
Persuasive-only borrowing	Courts/legislators choose reasoning	Maximum source diversity and local choice	Less uniformity; greater research burden

No model dominates on every dimension. The best design is likely a portfolio: different gates for different risks.

10. A multidisciplinary explanation of how Article 917A behaves

10.1 Political science: formal sovereignty and effective control

Political science distinguishes legal recognition from effective autonomy and control. Article 917A does not make Saint Lucia less than a sovereign state. It does create a channel through which external decisions alter domestic legal content unless local institutions respond (Krasner 1999).

The organizational distinction between **formal authority** and **real authority** is illuminating. Parliament holds the formal right to decide. An upstream institution can nonetheless acquire practical agenda power where it moves first, information is costly, and the formal decision-maker is overloaded. Applied cautiously - England is not a subordinate agent - the lens explains why a legal veto may not equal routine control (Aghion and Tirole 1997).

10.2 Game theory: the negative-consent default

Article 917A sets a default strategy. England changes its law. If the change falls within the clause, the presumptive Saint Lucian position moves with it. To obtain another outcome, Saint Lucian actors must detect the move, coordinate, and incur the costs of override.

This resembles a negative-consent system without a tailored notification stage. Defaults matter because attention and parliamentary time are scarce. A rule can persist not because a current majority endorses each update, but because opponents face collective-action and agenda costs. Status quo bias and legislative inertia reinforce the effect (Bendor, Glazer, and Hammond 2001; Samuelson and Zeckhauser 1988; Pierson 2000).

The relationship is not a repeated bargaining game between equals. Westminster receives no strategic penalty for poor Saint Lucian fit, because it does not act for Saint Lucia. That absence of feedback is a more precise concern than allegations of hostile British intent.

10.3 Economics: make, borrow, or govern a hybrid

A transaction-cost comparison should count the full lifecycle of law (Dorf 2008; Epstein and O'Halloran 1999; Edgar and Stack 2023).

Benefits of dynamic reception may include:

- access to a large research and judicial system;

- reduced drafting and updating cost;
- rapid response to new commercial and technological problems;
- consistency with familiar legal forms;
- a deep stock of precedent; and
- possible compatibility benefits for insurers, investors, and cross-border contracts.

Costs may include:

- mismatch with Saint Lucian conditions and preferences;
- monitoring and research across two systems;
- litigation to determine scope, conflict, adaptation, and time;
- reduced public accessibility;
- distributional changes without local policy appraisal;
- professional dependence on external databases and training; and
- transition costs that grow with time.

The phrase "free English law" is therefore misleading. Drafting costs may be outsourced, but discovery, reconciliation, litigation, and dependency costs remain local. Conversely, "write everything ourselves" ignores economies of scale. The rational choice is a governed hybrid.

10.4 Credible commitment: a possible defence with missing evidence

One economic defence is that anchoring private law to a mature external system reassures investors and contracting parties that local government will not opportunistically rewrite rules. This is a credible-commitment hypothesis. It should not be dismissed, but it must identify (Kydland and Prescott 1977; Elster 2000):

- the domestic temptation being constrained;
- the audience receiving the promise;
- why English changes are a better commitment device than entrenched local procedures, independent courts, or treaty standards; and
- evidence that benefits exceed uncertainty from unknown future English reforms.

Article 917A does not commit Saint Lucia to a known rule; it adopts an unknown stream of future decisions subject to repeal. That is unlike binding oneself to a specified fiscal rule or property guarantee. Without evidence, the commitment defence remains a research proposition rather than a conclusion.

10.5 Legal transplants: fit matters more than family prestige

Empirical legal-transplant scholarship cautions against assuming that a legal family's label determines performance. Berkowitz, Pistor, and Richard found that familiarity, adaptation, and reception conditions were more strongly associated with legality than the identity of the exporting family in their cross-country study. Spamann found no simple common-law advantage across several measures of civil procedure and contract enforcement (Berkowitz, Pistor, and Richard 2003; Spamann 2010; Goldbach 2019).

These studies are broad, dated, and not causal estimates for Saint Lucia. Their responsible use is negative: they undermine confident claims that English or civil law is inherently economically superior. The local research agenda should examine how particular rules work in Saint Lucia.

10.6 Business strategy: automatic update versus version control

The software analogy is useful if kept in its place. An application pinned forever to an old dependency accumulates security and compatibility debt. One configured to install every update without testing can break critical functions. Mature organizations inventory dependencies, receive notices, test compatibility, stage rollout, archive versions, and maintain rollback plans (Kula et al. 2018; Baldwin and Clark 2000).

Article 917A presents an analogous governance choice. A business signing a long-term contract benefits from a current legal system, but also wants to know which version governs, when a change starts, and whether settled expectations are protected. The policy lesson is not that law is software. It is that **currency without change control and stability without maintenance are both incomplete strategies.**

10.7 Philosophy: non-domination and the duty to justify

A republican conception of freedom asks not only whether another actor has interfered badly, but whether people are exposed to power that need not track their interests and is not answerable to them. Westminster does not aim to dominate Saint Lucia when it reforms English tort law. Yet Article 917A can expose Saint Lucian legal relations to decisions made without a duty to consider them. The concern arises from architecture, not motive (Pettit 1997).

This lens should not be overstated. Parliament can close the channel. The appropriate conclusion is that a modern reception rule should make external influence trackable, contestable, and subject to reasoned local authorization.

10.8 Public policy: sovereignty as maintained capability

A state is not strategically sovereign merely because it can choose on paper. It needs institutions that can finance, administer, explain, execute, and revise the choice. Legal sovereignty therefore has a maintenance dimension (Morris 2025).

If Saint Lucia turns off Article 917A without an inventory, transition rule, and updating institution, it may exchange dependence for disorder or fossilization. If it retains the clause without monitoring, it may preserve continuity while allowing domestic capability to atrophy. Good policy expands future choice: it preserves access to outside knowledge while building the capacity to accept, adapt, reject, or replace it.

11. The strongest case for keeping Article 917A unchanged

Reform should confront the best alternative, not a caricature. A defender could argue:

1. **Continuity has value.** Courts and practitioners have used English obligations law for decades. Abrupt change may destabilize precedent and contracts.
2. **Saint Lucia is small.** Maintaining a complete, current private-law code demands scarce comparative research, consultation, drafting, publication, education, and judicial capacity.
3. **The source is sophisticated and accessible.** English statutes and judgments are extensively reasoned and increasingly available online.
4. **Local safeguards exist.** Necessary adaptations apply; express Saint Lucian law prevails; Parliament may intervene at any time.
5. **Common legal vocabulary supports commerce.** Familiarity may reduce some transaction costs for international firms, lenders, insurers, and counsel.
6. **Selective reception can be inconsistent.** Periodic political adoption may lag, omit interconnected provisions, or expose technical updates to partisan delay.
7. **The failed reform project demonstrates execution risk.** A theoretically superior code that cannot be completed or maintained may be worse than a functioning inherited system.

These are substantial points. They defeat any recommendation of immediate repeal without replacement. They do not establish that every future English rule should obtain legal effect before local notice and review. Most benefits can be retained through continued comparative use, a verified baseline, regional capacity, and streamlined adoption procedures.

12. Policy options

Option A - Retain Article 917A unchanged

What it does: preserves the present dynamic pipeline and judicial safeguards.

Best argument: lowest immediate transition cost; maintains currency and familiar sources.

Weakness: leaves notice, voice, temporal clarity, and systematic local-fit review unresolved. It also relies on litigation and sporadic parliamentary correction rather than an explicit maintenance process.

Option B - Immediate repeal and reversion

What it does: switches off the clause and attempts to restore prior Code or civilian doctrine.

Best argument: creates a clear symbolic and legal break.

Weakness: it may be impossible to identify a coherent body to which the system reverts after nearly seventy years of assimilation, precedent, and statutory interaction. It risks gaps, retrospective uncertainty, and high transition cost. This option is not recommended.

Option C - Freeze English law at a commencement date

What it does: preserves the verified English law forming part of Saint Lucian law on a named date; later developments become persuasive only.

Best argument: stops unexamined future changes while protecting continuity.

Weakness: without a domestic update institution, the law will fossilize. The baseline itself requires careful inventory and may remain partly implicit.

Option D - Schedule each retained enactment

What it does: follows Singapore by listing imported statutes and versions, excluding others.

Best argument: produces a knowable national corpus and forces decisions about retention.

Weakness: costly initial review; common-law developments and interactions still require rules; omissions may surprise.

Option E - Controlled dynamic reception

What it does: combines a frozen verified baseline with prospective, risk-tiered domestic activation.

Best argument: retains speed and knowledge benefits where justified while restoring notice, fit review, and local authorization.

Weakness: requires a standing monitoring function and careful prevention of rubber-stamping.

Option F - Full modern Civil Code

What it does: rewrites obligations and related fields as a comprehensive contemporary code.

Best argument: maximum coherence, accessibility, and local authorship.

Weakness: high cost, long timelines, coordination risk, and danger that a one-time code again becomes obsolete.

Decision matrix

The ratings are qualitative and deliberately unscored. “High” transition risk is not cancelled mathematically by “high” authorization; constitutional, rights, and feasibility judgments remain visible.

Option	Local authorization and notice	Continuity and currency	Capacity and transition risk
A. Status quo	Low for each new change	High currency; high continuity	Low immediate burden; unresolved monitoring risk
B. Immediate repeal	High symbolic control	Low continuity; uncertain corpus	Very high transition and gap risk
C. Freeze date	Medium; clear prospective cut-off	High initial continuity; declining currency	Medium initial burden; high maintenance risk if unsupported
D. Scheduled corpus	High notice and version clarity	High continuity if inventory is accurate	High initial review; medium continuing burden
E. Controlled reception	High, calibrated by risk tier	High continuity and managed currency	Medium permanent burden; medium implementation risk
F. Full modern Code	Highest direct authorship	Potentially high coherence; currency depends on maintenance	Very high drafting and coordination burden

Preferred portfolio

Options E and F should be sequenced. Controlled reception is the bridge and continuing maintenance architecture; modular codification is the long-term product. Option C can operate briefly as a transition, and Option D should be used for foreign enactments already forming part of the baseline.

13. Recommended reform: controlled dynamic reception

13.1 The governing principle

Saint Lucia should **import information before it imports legal effect**. English developments should arrive first as visible candidate rules, accompanied by an explanation of scope, local fit, rights effects, costs, and transition. Legal effect should follow through a procedure proportionate to risk.

This principle preserves the advantages of comparative openness. It changes the default from “foreign change now, local correction later” to “foreign proposal now, locally authorized effect after review.”

13.2 An External Law Application and Review Act

The proposed Act should contain seven elements.

1. A verified baseline

On a prospective commencement date, preserve the rules already forming part of Saint Lucian law through Article 917A, subject to later judicial correction. Do not purport to erase vested rights or reopen final judgments. Require the Attorney General to produce, in stages, a schedule and concordance of identified English enactments, principal doctrines, local modifications, and leading Saint Lucian authorities.

The schedule should be evidentiary and corrective at first rather than falsely claiming instant completeness. Unknown law is not made nonexistent by an incomplete inventory. A statutory process should allow omissions and errors to be corrected with public reasons and version history.

2. Prospective end to ungated automaticity

After commencement, a later English statute, amendment, repeal, or common-law change should not alter Saint Lucian law solely because it occurred in England. It should remain available as persuasive authority unless adopted under the Act or independently enacted by Parliament.

For common law, the statute should distinguish a genuinely new English rule from persuasive clarification of a principle already forming part of Saint Lucian law. Courts should retain ordinary interpretive development but should give reasons when choosing whether and how later foreign decisions influence local doctrine.

3. A risk-tiered activation system

Tier 1 - technical or continuity updates. Narrow changes that correct references, maintain interoperability, or make no material change to rights may be adopted by a published instrument after an impact note and a delay, subject to negative resolution in Parliament.

Tier 2 - substantive private-law updates. Changes affecting liability, remedies, limitation, contractual power, speech, consumer interests, employment, land, family relations, or vulnerable groups should require affirmative parliamentary resolution on a reasoned adoption instrument.

Tier 3 - fundamental or structurally coupled changes. Changes with constitutional implications, significant fiscal or distributional effects, retroactive operation, or major interaction with the Code should require primary legislation.

The classification decision should itself be public and reviewable for legality. A minister should not be able to label a major liability reform "technical" without reasons.

4. A public External Law Register

The register should be official, free, searchable, and maintained with archived versions. For each item it should state:

- source jurisdiction, title, provision, and authoritative link;
- exact version and source commencement date;
- Saint Lucian legal basis and domestic commencement date;
- subject and risk tier;
- local adaptations and conflicting provisions;
- impact statement and consultation record;
- parliamentary status;
- cases interpreting the item; and
- superseded versions and transition rules.

No future external change should impose an adverse civil consequence before the locally operative text, adoption instrument, and effective date are reasonably accessible. The detailed formulation would need constitutional and private-law review; Canada's accessibility protections provide a design starting point, not a clause to copy mechanically.

5. Express temporal and reliance rules

The Act should address:

- conduct occurring before an update;
- causes of action already accrued;
- limitation periods already running;
- contracts formed before commencement;
- proceedings already filed or tried;
- final judgments;
- continuing relationships; and
- transitional judicial discretion where strict application would be unjust.

The default should be prospectivity, with any departure stated expressly and justified. This would reduce the trial-time version uncertainty exposed by *Hilaire's* ambulatory formulation.

6. Local-law priority and constitutional screening

The present priority for express local enactments should be retained and clarified. Every adoption note should identify relevant constitutional rights and local statutes, not wait for a litigant to discover

conflict. Parliament should consider whether local purpose, not merely literal inconsistency, requires modification.

The Act should not authorize delegated instruments to amend the Constitution or override primary Saint Lucian legislation. Where an adopted foreign text uses UK institutions, remedies, currency, geography, or procedure, the instrument should publish the exact adaptations rather than leave every detail implicit.

7. Periodic review and expiry

The controlled-reception system should be reviewed after three years and at least every five years thereafter. Tier 1 authority should expire unless renewed. The responsible unit should report annually on updates monitored, adopted, rejected, pending, and found irrelevant; access problems; litigation; consultation; and modernization progress.

13.3 A standing Mixed Legal System and Law Reform Unit

The 2002-2004 experience warns against dependence on a temporary project. Saint Lucia needs a small permanent function, designed for a small state rather than a large commission transplanted from abroad.

Its core team might include:

- a senior legislative counsel or comparative private-law lawyer;
- a research counsel/data officer;
- shared administrative and public-engagement support; and
- rotating secondments from the judiciary, Bar, UWI, business, consumer, and civil-society communities, subject to independence safeguards.

The unit should maintain the register, triage external changes, commission distributional and sector advice, support drafting, and publish plain-language explanations. It should not monopolize policy. Decisions with material rights or distributional effects belong to accountable ministers and Parliament after consultation.

13.4 Regionalize scale, not responsibility

OECS states face similar constraints. A shared research and drafting secretariat could monitor source-law developments, compare regional cases, prepare model impact notes, and maintain common technical infrastructure. Each state's constitutional process would still determine domestic effect.

Quebec and Canadian institutions remain natural partners because of the Code's lineage and Quebec's successful modernization experience. Louisiana and other mixed jurisdictions can widen the

comparative pool. Partnerships should transfer methods and capacity, not reproduce a donor-led project whose end terminates maintenance.

13.5 Modular modernization of the Civil Code

Comprehensive recodification is attractive but vulnerable to delay. A modular program should begin with a dependency map: which provisions, cases, statutes, and practices interact across fields? Modules can then be sequenced without assuming that law is perfectly separable (Baldwin and Clark 2000, used here as an institutional-design analogy).

A plausible order is:

1. general law of obligations and interpretation;
2. tort, defamation, damages, and limitation;
3. general contract, digital transactions, consumer protection, and unfair terms;
4. trusts and fiduciary obligations;
5. specific contracts, leases, employment interfaces, and secured transactions; and
6. family, succession, and family-land interfaces through dedicated social consultation.

Each module should include a concordance, plain-language guide, practitioner training, judicial education, commencement plan, and post-implementation review. Codification should preserve useful common-law and civilian solutions according to local fit. It should not become a civilizational loyalty test.

14. Implementation roadmap

Phase 0 - Evidence and risk control (0-6 months)

Actions

1. Cabinet authorizes a public Article 917A review with independent advisory participation.
2. The Attorney General publishes terms of reference and a provisional inventory of all "for the time being," "law of England," and comparable external-reference clauses across the statute book.
3. A litigation and reliance map identifies pending proceedings, standard commercial instruments, insurance practices, and public bodies most exposed to transition.
4. A prototype External Law Register begins with Article 917A, Article 916A, Article 216, and Article 2143.
5. Government requests OECS and Quebec/Canadian technical cooperation and publishes the proposed governance terms.

Important limit: an administrative review cannot suspend Article 917A. Until legislation changes it, courts must apply the law as authoritatively interpreted.

Phase 1 - Transitional legislation (6-18 months)

Actions

1. Consult on and enact the External Law Application and Review Act.
2. Preserve the pre-commencement baseline and protect final judgments, accrued rights, and pending proceedings through express provisions.
3. End ungated effect for future changes.
4. Launch the official register, archived versions, update-alert service, and standard impact template.
5. Establish the Unit and its conflict-of-interest, independence, publication, and parliamentary-reporting rules.
6. Publish the first scheduled corpus of known English enactments operating through Article 917A.

Phase 2 - Priority modernization (18-36 months)

Actions

1. Review defamation and online publication first because *Hilaire* provides a concrete map of interacting rules.
2. Review damages, limitation, consumer contracts, electronic transactions, and unfair terms using litigation and market evidence.
3. Audit trusts, guardianship, and trustee-investment clauses rather than treating Article 917A in isolation.
4. Train judges, lawyers, public officers, journalists, businesses, and educators on the new source and version rules.

Phase 3 - Modular Code renewal (3-5 years)

Actions

1. Enact completed modules on a published schedule.
2. Repeal or narrow reception clauses as replacement coverage becomes operational.
3. Conduct post-legislative review of disputes, access, cost, and unintended effects.
4. Decide, with evidence, whether remaining modules require national drafting, OECS models, selective foreign adoption, or continued controlled reception.

14.1 A no-regrets first 180 days

Even before legislation, four steps create value without prejudging the final model:

- publish the text and a plain-language explanation of Article 917A;
- open a public call for cases and transactions in which later English law has been invoked;

- create an expert-verified provisional list of applicable English enactments and Saint Lucian adaptations; and
- require government legal advice on any newly detected development to record source, version, rights, local fit, and recommended action.

These steps turn a largely invisible dependency into inspectable public information.

15. Public-value and risk assessment

15.1 Rights and legality floor

Any reform must comply with the Constitution, preserve judicial independence, and avoid retrospective deprivation of accrued rights. The executive should not receive power to make major private law under a vague "technical" label. Public access must include persons without subscription databases or specialist counsel. Defamation reform must consider expression and reputation together; family and land reforms must include persons whose interests are not well represented in formal markets.

15.2 Viability floor

The reform must be maintainable with Saint Lucia's fiscal and professional capacity. A beautiful code without an update budget, responsible owner, publication workflow, and training plan will age into the problem it was designed to solve. Regional shared services should reduce fixed costs. High-risk subjects should receive deeper national deliberation; low-risk monitoring can be pooled.

15.3 Stakeholder effects

Stakeholder	Potential gain	Potential burden	Design response
Citizens and small firms	More discoverable law and local accountability	Transition learning	Free guides, alerts, delayed commencement
Judiciary	Clearer source, version, and transition rules	Early interpretive work	Concordances, training, reasoned adaptation standards
Bar and legal educators	Predictable corpus and richer comparative method	Retraining and research	Phased modules, CPD, open databases
Parliament	Restored visible control	Added agenda and scrutiny load	Risk tiers, standard notes, specialist committee support
Government legal service	Better inventory and coordination	Permanent monitoring duty	Dedicated Unit and OECS sharing
Media and civil society	Transparent defamation framework	Compliance adjustment	Rights impact review and public education
Insurers, lenders, investors	Version certainty and managed transition	Loss of automatic English alignment	Advance notice, consultation, clear governing-law rules

Stakeholder	Potential gain	Potential burden	Design response
Vulnerable and customary-interest groups	Local social fit considered	Risk of elite capture in codification	Targeted outreach, accessible language, published responses

15.4 Principal risks and mitigations

Risk: legal vacuum. Preserve the verified baseline; change future effect prospectively; enact module-specific transition rules.

Risk: fossilization. Give the Unit a statutory monitoring duty, deadlines, annual reports, and an escalation route when government does not respond.

Risk: executive lawmaking by label. Define tiers in primary legislation; require reasons; reserve fundamental changes to Parliament; allow committee and judicial scrutiny.

Risk: rubber-stamp parliamentary adoption. Require a standardized local-fit and rights statement, publish consultations, and allow a minimum scrutiny period.

Risk: incomplete register mistaken for the law. State its legal effect carefully; label verification status; maintain corrections and historic versions.

Risk: donor-cycle failure. Fund a modest permanent function in the national budget and use external assistance for surge capacity and knowledge transfer.

Risk: doctrinal nationalism. Keep later English, Quebec, Caribbean, and other reasoning available as persuasive sources; choose rules by evidence and principle, not origin alone.

16. What must be researched next

This paper establishes a framework and legal baseline. It does not supply missing Saint Lucian empirical evidence. A serious reform process should commission the following.

16.1 The Article 917A ledger

Build a reproducible database of every reported Saint Lucian decision invoking Article 917A or related clauses. Record:

- date, court, subject, and outcome;
- English statute or case invoked and its version;
- whether the source was accepted, rejected, or adapted;
- local provisions considered;

- when the underlying English change occurred;
- whether parties disputed notice, scope, temporality, or conflict; and
- estimated research and litigation burden where recoverable.

This would test whether *Hilaire* is exceptional or representative.

16.2 The detection-lag study

For each identifiable English change later invoked in Saint Lucia, measure the intervals from UK enactment or judgment to:

1. availability in an authoritative source;
2. first citation by a Saint Lucian practitioner;
3. first judicial consideration;
4. any local legislative response; and
5. addition to an official public explanation.

The result would turn the heuristic of effective control into observable institutional performance.

16.3 The accessibility test

Give trained researchers and non-specialist users realistic legal questions and measure whether, using free public sources, they can identify the operative rule, version, local adaptation, and leading case. Compare the present system with a prototype register. Record time, error, and cost rather than relying on impressions.

16.4 The distribution and business study

Select major imported developments in defamation, negligence, damages, contract, and trusts. Ask who gained, who bore new duties or liability, whether insurance or contracting practices changed, and whether UK alignment produced demonstrable transaction-cost benefits. Include small businesses and ordinary litigants, not only institutional users.

16.5 The professional-infrastructure study

Code a sample of judgments and curricula by source: Saint Lucia, other Eastern Caribbean states, England and Wales, Quebec/Canada, Louisiana, other civil-law jurisdictions, and scholarship. Survey database access and practitioner research habits. This would test Anthony's claim that training and convenience are agents of anglicization.

16.6 The transition simulation

Before enactment, run representative disputes through alternative rules: unchanged Article 917A, a fixed baseline, scheduled legislation, controlled reception, and a draft Code module. Identify gaps, conflicting authorities, administrative workload, and reliance losses. Reform should be stress-tested before commencement.

16.7 A transparent monitoring dashboard

Report measures separately rather than hiding trade-offs in a single score:

- percentage of reception clauses inventoried and legally verified;
- percentage of known imported enactments with archived operative versions;
- median detection and review time for source changes;
- percentage of adoption instruments with published rights, distribution, and local-fit analysis;
- public access uptime and unresolved correction requests;
- cases disputing source, version, conflict, or transition;
- modules completed, trained users, and post-legislative issues; and
- annual cost of the maintenance function compared with avoidable litigation or external research costs where estimable.

17. Conclusion: who makes Saint Lucia's law?

The shortest precise answer is this: **Saint Lucian law supplies the switch; English institutions often supply the default content; Saint Lucian courts classify and adapt it; and Parliament retains the power to override or redesign the system.** The fuller answer has two levels.

At the level of legal validity, Saint Lucian law makes the choice. Article 917A is the domestic rule that gives specified English law effect. *Hilaire* holds that, within the clause's subject matter, it reaches the relevant English common law and provisions of Acts in force when the matter is tried, subject to adaptation and express local enactments. The United Kingdom has no general post-independence jurisdiction to legislate for Saint Lucia, and Parliament remains capable of changing the rule.

At the level of practical authorship, the answer is shared and unequal. English institutions choose many first moves. Saint Lucian courts determine scope, conflict, and adaptation. Litigants often force the system to identify the operative rule. Parliament holds the final corrective power but may face information, coordination, reliance, and agenda costs. Citizens may experience legal change without a domestic legislative event that announces and explains it.

Anthony's language of abdicated sovereignty is therefore too absolute as doctrine but powerful as institutional criticism. It calls attention to responsibility. His deeper contribution is not a demand to purge English influence. It is the proposition that an independent people should understand, maintain, and consciously shape the law by which they live.

The right response is not isolation. Saint Lucia's mixed legal system gives it access to several of the world's great legal conversations. That plural inheritance can be a comparative advantage if the country governs the interfaces. The task is to convert a passive pipeline into an active learning system.

Sovereign design is not the refusal to borrow. It is the capacity to choose the source, test the fit, publish the rule, authorize its effect, and change course without losing the ability to govern.

Appendices

Appendix A - Article 917A in full and in one sentence

Current text

917A. (1) Subject to the provisions of this article, from and after the coming into operation of this article the law of England for the time being relating to contracts, quasi-contracts and torts shall *mutatis mutandis* extend to Saint Lucia, and the provisions of articles 918 to 989 and 991 to 1132 of this Code shall as far as practicable be construed accordingly; and the said articles shall cease to be construed in accordance with the law of Lower Canada or the “Coutume de Paris”:

Provided, however, as follows: -

(a) the English doctrine of consideration shall not apply to contracts governed by the law of Saint Lucia and the term “consideration” shall have the meaning herein assigned to it;

(b) the term “consideration” when used with respect to contracts shall continue as heretofore to mean the cause or reason of entering into a contract or of incurring an obligation; and consideration may be either onerous or gratuitous;

(c) third persons shall continue to have and exercise such rights with respect to contracts as they heretofore had and enjoyed under article 962 or any other statute.

(2) Paragraph (1) of this article shall not be construed as affecting the provisions of the Ninth Chapter of this Book (which relate to Proof of Obligations), or as affecting the provisions of the Fifth to Sixteenth Books of this Part or of any other statute relating to specific contracts save in so far as the general rules relating to contracts are applicable to such contracts.

(3) Where a conflict exists between the law of England and the express provisions of this Code or of any other statute, the provisions of this Code or of such statute shall prevail. (*Added by Act 34 of 1956.*)

Source: Civil Code, Cap. 4.01, 2023 Revised Laws of Saint Lucia, Article 917A.

One-sentence translation

Subject to Article 917A's exclusions, express local law, necessary adaptation, and any applicable temporal rules, a court must identify the relevant English common law and statutory provisions at the applicable source-selection time and construe the specified Code articles accordingly. *Hilaire* describes that source-selection time as when the matter is tried, but does not settle retroactive effect on earlier conduct or accrued rights.

Seven terms that do the work

"**Law of England**" - *Hilaire* says this includes Acts of the UK Parliament as well as common law. "**For the time being**" - the source moves over time; it is not frozen at 1956. "**Mutatis mutandis**" - necessary local adaptations must be made. "**Express provisions**" - conflicting text in the Code or another Saint Lucian statute prevails. "**Quasi-contract**" - an obligation imposed by law even though the parties did not make a contract, often to prevent unjust enrichment. "**Negative resolution**" - a published instrument takes effect unless Parliament disallows it within a stated period. "**Accrued rights**" - rights already acquired under an earlier rule, which a transition clause may preserve when the law changes.

Appendix B - Anthony's most useful lines

These excerpts are short, attributed, and time-coded for verification. Their value lies in the policy questions they open, not in treating any speaker as infallible.

1. **On certainty:** "You need certainty in the law. People need to know how disputes are going to be resolved." (09:44)
2. **On colonial design:** "The implantation of a legal system is a conscious act by the colonizer." (14:38-15:05)
3. **On institutional power:** "By controlling the procedural law, you then control the courts and its direction." (28:39)
4. **On the scale of change:** "There's room for fundamental reform in our inherited Civil Code." (26:52)
5. **On source incentives:** "The British Parliament [doesn't] care two hoots about Saint Lucia." (44:45-45:13) The point is institutional, not an accusation of malice: UK lawmakers act for a UK constituency.
6. **On practical authorship:** "What we have done as a country is to abdicate our legal sovereignty." (48:24)
7. **On independence:** "The act of independence is really a fundamental act." (52:24)
8. **On legal education:** "Our lawyers ought essentially to be comparative lawyers because our sources of law are diverse." (54:34)
9. **On social value beyond finance:** "There's an equality about family land that is attractive." (1:04:17)
10. **On obsolescence:** "We are applying laws ... enacted ... in 1879 to a society that has evolved dramatically." (1:06:27-1:06:56)
11. **On accountability:** "That was one failure - an agonizing failure." (1:12:04), referring to the unfinished Civil Code reform project.
12. **On the decision test:** Which law "better expresses our sovereignty," is "more compatible" with the life the country seeks, and "better protects our identity"? (1:15:08)

Appendix C - Five common misconceptions

“Every new British law automatically applies in Saint Lucia.”

No. Article 917A is subject-specific, contains exclusions, requires adaptation, and yields to express local legislation. Other reception clauses have their own terms.

“The United Kingdom is still legally sovereign over Saint Lucia.”

No. Under *Hilaire*, British rules have domestic effect because Saint Lucian law selects them. Saint Lucia's Parliament can change the selection rule.

“If Article 917A is constitutional, there is no reform problem.”

No. Validity does not decide notice, democratic participation, local fit, economic performance, temporal fairness, or institutional capacity.

“Repealing Article 917A would restore a complete old Civil Code.”

Not safely. Decades of interaction among imported law, Code provisions, cases, and local statutes make the replacement baseline a research and transition problem.

“Legal sovereignty means using only home-grown ideas.”

No. A sovereign system can borrow extensively. The key is that it controls selection, version, adaptation, authorization, publication, and revision.

Appendix D - Outline for an External Law Application and Review Bill

This is a policy drafting brief, not legislative text.

Part I - Objects and definitions Define external law, source change, incorporated rule, baseline date, adoption instrument, material change, operative version, and the Act's purposes.

Part II - Preserved baseline Continue rules already operating at commencement; establish schedules and a correction process; preserve constitutional supremacy and local Acts.

Part III - External Law Register Assign ownership; require authoritative links, versions, adaptations, decisions, commencement, historical archive, free public access, and correction notices.

Part IV - Future changes End effect solely by ambulatory reference; create risk tiers, impact statements, consultation, notice periods, negative and affirmative resolution routes, and emergency limits.

Part V - Judicial application Clarify persuasive use of later foreign law, reasoning duties, local adaptation, conflict analysis, and the legal status of the register.

Part VI - Time and transition Protect final judgments and accrued rights; govern existing contracts, limitation, pending cases, continuing relationships, and express retroactivity.

Part VII - Institutional duties Establish the Unit, independence and conflict rules, OECS cooperation, annual reporting, legislative committee review, data collection, and public education.

Part VIII - Review and expiry Three-year implementation review, five-year periodic review, expiry of delegated Tier 1 authority, and power to narrow reception as Code modules commence.

Appendix E - Research propositions capable of being falsified

The following claims should be treated as hypotheses, not slogans:

1. automatic English-law reception materially reduces Saint Lucia's total legal-maintenance cost;
2. English alignment lowers financing, insurance, or contracting costs for local firms;
3. practitioners systematically detect imported changes before disputes arise;
4. *mutatis mutandis* adaptation produces predictable local fit;
5. Article 917A disproportionately benefits repeat institutional litigants with superior research access;
6. common-law-centered training suppresses use of relevant Quebec, regional, or mixed-system authority;
7. a public register materially reduces research time and error;
8. a controlled adoption gate can operate within deadlines that avoid serious fossilization; and
9. shared OECS monitoring is cheaper and more reliable than separate national systems.

Publishing negative as well as positive results would keep reform evidence-led.

Appendix F - Bounded inventory of other English-law references

This inventory uses the 2023 Revised Laws and historically authoritative commentary. It demonstrates that the design problem is wider than Article 917A; it is not certified as exhaustive.

Provision	Function	Temporal status
Article 216	English law on custody, guardianship, and tutors applies with adaptations.	Expressly “for the time being.”
Article 310	A Saint Lucian judge receives powers of an English “Judge in Lunacy.”	Expressly “for the time being”; terminology is institutionally archaic.

Provision	Function	Temporal status
Article 916A(2)-(4)	English law supplies circumstances for implied/resulting trusts, current trustee duties, and equitable beneficiary rights.	Subarticle (3) expressly ambulatory; (2) and (4) are open references.
Article 917A	English law of contract, quasi-contract, and tort.	Expressly ambulatory under <i>Hilaire</i> .
Article 2143(a)	Authorized trustee investments track those permitted for English trustees.	Expressly “for the time being.”
Article 160A	English matrimonial-law meanings of adultery, cruelty, and desertion.	No express temporal phrase; ambulatory status not established here.
Article 920(2)	English law informs contractual capacity for specified persons with mental impairment.	Open reference within Article 917A's range.
Article 944	Relief for lesion where English law would grant relief.	Open reference within Article 917A's range.
Article 974A	Quasi-contract action where English law would maintain one.	Open reference within Article 917A's subject.
Article 1127A	Set-off wherever English law permits it.	Open reference within Article 917A's range.
Article 1137	Residual English evidence rules where the Code or another statute does not answer.	No “for the time being”; local Evidence Act controls covered matters.
Article 1479(3)	“Thing in action” carries its English-law meaning.	Definitional reference; temporal status unclear.

Historical lead, not treated here as verified current law. Floissac's 1983 article quotes Article 1608A as referring agency questions to the law of England “for the time being.” The official 2023 site pages examined for this paper did not expose that provision through the relevant navigation path. It is therefore excluded from the current-law table above and should not be relied upon without checking an authenticated consolidation (Floissac 1983).

The transcript's apparent reference to “articles 145 to 168A” is almost certainly an automated-transcription error for **Articles 145(2) and 160A**, which appear in Sir Vincent Floissac's historical list. Former Article 145(2) referred separation agreements to English law, but Article 145 was wholly substituted in 1989 and the current text no longer contains that reference.

An external audit should also cover other legislation. For example, section 11 of the Eastern Caribbean Supreme Court (Saint Lucia) Act refers residually to jurisdiction administered “for the time being” in the English High Court; settled authority limits that provision to procedure rather than wholesale substantive reception (Eastern Caribbean Supreme Court (Saint Lucia) Act, s 11; *FirstCaribbean International Bank v Sunset Village*, Court of Appeal, 2018).

Appendix G - The case line before and through *Hilaire*

2004 - *Attorney General and Dariah v Isidore*. The Court of Appeal treated the English *ex turpi causa* defence as entering Saint Lucian tort law through Article 917A, while approaching the English source at the 1956 baseline.

2008 - *Mathurin v Augustin*. The Court of Appeal held that the UK Administration of Justice Act 1982 could not remove “lost years” damages because express Civil Code Article 609 prevailed. It left the full ambulatory issue open.

2012 - *Devaux v Johnson and Bergasse*. The High Court proceeded on the footing that contemporary UK trustee-law standards, including standards associated with the Trustee Act 2000, were relevant through Article 916A, while disposing of the pleaded issue on evidential and procedural grounds (*Devaux*, paras 13-19, 30-37). The decision is suggestive evidence that dynamic reference questions are not confined to Article 917A; it is not a definitive holding on every element of statutory reception.

2014 - *Nelson v FirstCaribbean International Bank*. The Privy Council used a common-law-only formulation but expressly declined to resolve statutory reception because the point was not fully argued. *Hilaire* later treated the statement as narrow obiter.

2018 - *FirstCaribbean International Bank v Sunset Village*. The Court of Appeal repeated a common-law-only formulation in a dispute outside Article 917A's named fields; *Hilaire* later treated it as obiter.

2018 - *Hilaire*, High Court. Smith J held that the Defamation Act 2013 was not imported and foregrounded accessibility and coherence.

2020 - *Chastanet v Hilaire*, Court of Appeal. The Court held Article 917A valid and ambulatory, including statutes, and adapted the Defamation Act to local prescription law.

2023 - *Hilaire v Chastanet*, Privy Council. The Board affirmed the Court of Appeal and supplied the present authoritative resolution of validity, reception of statute law, ambulatory source-selection, local conflict, and adaptation; it did not resolve retroactivity or accrued-rights questions.

This line shows doctrinal uncertainty rather than a single uncontested rule operating transparently since 1957. A reception regime can lower legislative maintenance costs while shifting some of those costs into adjudication.

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Interview and Saint Lucian legal scholarship

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Author's note

This is the first paper in Saint Lucia Policy Analysis's series, **Saint Lucia Is Independent. So Why Can British Laws Still Become Saint Lucian Law?** It is a research and policy paper, not legal advice. The recommendations should be tested through consultation with the Attorney General's Chambers, judiciary, Bar, Parliament, UWI, affected sectors, and the wider public. The paper's central discipline is to distinguish what the current law is, what the evidence suggests, and what policy should become.