



Presidential Swearing in Ceremony of Mr Justice Adrian Saunders

The Honourable Mr Justice Adrian
Saunders, President of the Caribbean Court
of Justice

The Presidential Swearing in Ceremony of Mr Justice Adrian Saunders to the Caribbean Court of Justice

St Vincent and the Grenadines
20 July 2018

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana.

Presidential Address

By

The Honourable Mr Justice Adrian Saunders, President of the Caribbean Court of Justice,

on the occasion of

The Presidential Swearing in ceremony of the Honourable Mr Justice Adrian Saunders

20 July 2018

Today's sitting is described as a special sitting of the Caribbean Court of Justice. It is special for so many reasons. In the first case, it is special because it is the first time the CCJ has convened in this country. As you know, the court normally sits in Port of Spain, but we have also sat in Barbados, Guyana, Jamaica, Belize and Antigua. This sitting, albeit ceremonial, adds this country to that list. It provides an opportunity for the people of St Vincent and the Grenadines to see and meet with the judges of the CCJ. And, naturally, it gives the judges, only one of whom is Vincentian, the opportunity to experience the flavour and nuances of the rich diversity of the Caribbean and SVG in particular.

The sitting is also special because we, the judges of the CCJ, have this afternoon been joined on the bench by the Chief Justice of the Eastern Caribbean Supreme Court, the Hon Dame Janice Pereira and the Hon Chief Justice of Jamaica. It may well be the first time, Chief Justice Sykes, that a Chief Justice from Jamaica has sat in St Vincent and the Grenadines. So, this is also a special occasion as well for you and for Jamaica.

But most of all this sitting is special because of the occasion. The outpouring of support, congratulations and well wishes I have received, since my appointment as President of the CCJ, has been overwhelming. I have tried, as best I could, to acknowledge the many letters, email

messages, flowers, gifts and other expressions of congratulations. But if I did not, I seek your forgiveness. I truly appreciate every single one of these gestures. Each has served to encourage and to inspire me; to bring home to me that there are many who have invested their hopes and expectations in my success and that of the CCJ. I will not disappoint you. We shall not disappoint you.

The CCJ is no longer just an idea, an idea that could be a good or bad one. It is a living court that has been dispensing justice for just over 13 years. The court has been very active during that time. It has heard many cases. These have all been posted on our website and all our sittings, including this one, are live streamed to the world from our website.

Whether in defending the rights of Caribbean people under the CARICOM Single Market and Economy; or in advancing basic human rights; or in safeguarding democratic values, the CCJ is already a fundamental pillar of our civilisation, touching the lives and helping to shape the future of Caribbean people. There is scope for us to do even more.

The CCJ has no desire to be involved in the political decision making of any country. But we do have a responsibility to expand access to justice; and to explain our work methods; to inform our stakeholders about our processes; to provide facts and figures that would clarify mis-perceptions about the court; to make ourselves available to stakeholders who seek information about the court. Within our means, we endeavour to discharge that responsibility and we fully intend to continue doing so.

I am extremely proud of this court. We have a fine complement of judges. The court's judgments can withstand the closest scrutiny. Indeed, our stakeholders consistently credit the court with a high quality of reasoning in our judgments. Our court staff are hard working and efficient. The court has no backlog. Our electronic filing system is the envy of courts in the western hemisphere.

The people of the region can truly be proud of this court, of its independence and the integrity of its court processes. But there is a lot more to do. Over the next several years, our aim is to continue to strive for excellence in all respects and to reach the common man, woman, boy and girl so that they can get a better appreciation of what the court is doing and can do for them.

All the speakers who preceded me have spoken of the great elephant in the room; the fact that to date, there are several states in the region that have not altered their Constitutions so as to sever that final link in the colonial chain.

I get emotional when I think about this puzzle, this paradox. Since the attainment of independence, we are content to elect our leaders and our legislators. We rightly expect that it is our own governments, and not the Foreign Office of the United Kingdom, that should administer the annual budget of billions of our taxpayers' dollars. We rightly expect that it is the representatives we put into parliament who must make laws to keep us safe and propel our society forward. No one yearns for a return to crown colony government where all these kinds of decisions were made in London, without our consent and too often at variance with our own wishes and expectations. Today we take for granted the fact that we should administer and govern ourselves; that we should make our own laws.

Equally, isn't it only natural that we should also have the final say in the interpretation of those laws? Today, an ambitious political activist can aspire to be Prime Minister of SVG. But a serious, dedicated judge cannot aspire to be a judge of her apex court. That is a role we have chosen to reserve for British judges.

Before 2005 such thinking could be rationalised. We did not have a regional final court of appeal. Today, any such rationalisations are perverse. Every losing litigant has a song of woe about the court before whom he lost. But what is the reality? The Eastern Caribbean Court of Appeal is, *per*

capita, one of the busier courts of appeal in the region. In St Vincent and the Grenadines alone that court sits three times per year handling approximately 60 cases each year. Over the last 30 years Chief Justice Pereira's court would have decided roughly 1800 cases. How many of these 1800 cases from St Vincent and the Grenadines were appealed further? Twenty-one. Over the last 30 years, this country has had 21 appeals determined by the Judicial Committee of the Privy Council. Of the 21 Vincentian appeals that reached the JCPC, 9 of them were death penalty appeals. So, if we set aside those death penalty cases, all paid for either by the State or international human rights bodies; cases like Trimmingham and Cardinal Williams and Lovelace and the like; if we didn't count those, only 12 Vincentian litigants were able to access the JCPC over the last 30 years. Why would only 12 litigants appeal? The main reason is the massive costs involved in accessing a court sited in London. The reality is that, unless you commit murder, when the state and/or human rights bodies are likely to provide legal aid, an ordinary Vincentian who is dis-satisfied with a decision of the court of appeal is simply unable to access further justice. Only the State or the well-off can do so.

There is another statistic that is startling. Of those 12 cases that did manage to reach the final court, how often did the Privy Council disagree with the decisions of the Eastern Caribbean Court of Appeal? How often was the Court of Appeal reversed? Four times. It turns out that only on 4 occasions the JCPC disagreed with the Court of Appeal; but on 8 occasions the judgment of the Court of Appeal was endorsed. This is an extraordinarily high approval ratio. It attests to the overall quality of the ECSC Court of Appeal's decision making. Likewise, in other Caribbean States, the extent to which the local courts of appeal are reversed is less than that of the English Court of Appeal by the UK Supreme Court.

It pains me to say more on this issue except to state that it is my fervent hope that, in the months ahead, we in St Vincent and the Grenadines will reflect on this issue of the continued retention of a British institution to hear our final appeals. It is my further hope that, as we do so, light would prevail over heat; cold fact over deep sentiment and sober reality over political partisanship. As far as I am concerned, what is at stake here is not a political question. This is not a constitutional dilemma. This is not a competency issue. It is a social issue of profound importance. This is a matter that has to do with social equality. One can put any spin one wishes on it. At the end of the day we must see it for what it is. It is an issue of affording to the ordinary man and woman the same level of access to the highest level of justice as is currently enjoyed by those who are well-off.

It only remains for me now to express my deepest gratitude to my wife, Marilyn and all the members of my family and indeed to all Vincentians who have been with me or supported me through this continuing journey that has brought me to this point or who have helped to make this occasion such a special one. It is unfair to begin singling out persons because it is not possible to list everyone. But I feel I must thank my former partner, Stephen Huggins and the staff of Saunders & Huggins (Kathy, I remembered it's your birthday today, have a great one); and Keith Boyea who unfortunately could not be here today. I wish also to thank my colleagues on the Bench, the members of the RJLSC and all the staff of the CCJ for your encouragement. The Registry staff and the management and staff of the Beachcombers hotel have been very gracious to us over the last few days and I thank you all. Finally, I wish to thank His Excellency Sir Frederick Ballantyne and the Government of St Vincent and the Grenadines for all the courtesies extended.