



The Swearing in Ceremony of the Honourable Mr Justice Winston Anderson

The Honourable Mr Justice Winston
Anderson, Judge of the Caribbean Court
of Justice

The Swearing in Ceremony of Mr Justice Anderson as Judge to the Caribbean Court of Justice

Kings House
Jamaica
15 June 2010

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 Right Honourable Mr Justice Michael de la Bastide. 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. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). 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.

Remarks
of
The Honourable Mr Justice Winston Anderson, Judge of the Caribbean Court of Justice,
on the occasion of
The Swearing-in Ceremony as Judge of the Caribbean Court of Justice
15 June 2010

Your Excellency, Sir Patrick Allen, Governor-General of Jamaica

Honourable Mr. Bruce Golding, Prime Minister of Jamaica

Most Honourable Mrs. Portia Simpson-Miller, Leader of the Opposition

Members of Parliament

President of the Senate, Honourable Mr. Oswald Harding

Speaker of the House of Representatives, Honourable Mr. Delroy Chuck

Rt. Honourable Michael de la Bastide, President of the Caribbean Court of Justice

Members of the Judiciary of Jamaica

His Excellency, Edwin Carrington, Secretary-General of CARICOM

Members of the Diplomatic Corp

Members of the Bar

Members of the Regional Judicial and Legal Services Commission

Distinguished Guests

Ladies and Gentlemen

It is evidently with great pleasure that I stand before you here today. I can think of no greater honour, nor greater responsibility, than to sit as a judge on this region's highest judicial body, the Caribbean Court of Justice.

I wish to thank the President of the Court, The Rt. Hon. Michael de la Bastide, for agreeing to support my request that this ceremony be held here in my native Jamaica. I am thrilled that the Prime Minister and Government of Jamaica found it possible to accede to this request. This has permitted the attendance of my relatives and friends in such large numbers. I thank all of you, most sincerely, for attending.

From the austerity of a rustic upbringing in a rural community in the 1960s in St. Ann; to secondary education in a school surrounded by depressed inner city communities in Kingston; to a home in August Town, St. Andrew; and throughout diverse sojourns around the world: my journey to this moment has been made possible only by the love and support of many who held lamps to my feet so I would not walk in darkness. Some of these persons feared I might get into trouble today for swearing in the presence of the Governor-General. They are the same persons I have encountered in Barbados and in Guyana, where I have resided; and in every single country in this great Caribbean of ours, where I have traveled. They are the salt of the earth. And they are the true spirit of a Caribbean whose sunshine warmth, spontaneity, and generosity knows no limit or limitation.

I wish to thank the many friends and family who have helped me and who have enriched my life so much over the years, many of whom are here today. Professor Ralph Carnegie, my teacher, mentor, colleague, and friend has traveled two continents in 3 days to share this day with me and

I thank him. I am also pleased to see some of my former students, now at the Norman Manley Law School, in the audience.

To the members of my family who have come from as far as Georgia and Florida in the United States, and as near as Richings Crescent in Barbican, I thank you all for your unfailing support. My mother (Lillieth) has been there from the beginning. Aunts Gladys and Lucille have been inspirations. I have tried to make my immediate family (my wife Sandra and our three children - Anessa, Aleisha and Anquan), a top priority but they have had to put up with some rather odd working conditions. I hope office hours are about to improve. I am sorry Edward and Larrone Simmonds, my grandparents of blessed memory, could not be physically here today, but in other ways, I am certain that they are.

I am a product of three narratives that are still being written by this region in the ink of its commitment to juridical self-realization.

The first narrative is about assuming political and legislative responsibilities for our societies. When I was born in 1960, ten British colonies (including Jamaica) formed the ill-fated West Indian Federation, and the final adjudicative body for Caribbean cases was the Privy Council in England. By the time I graduated from the Faculty of Law of the University of the West Indies in 1983 there were 12 fully independent, sovereign Caribbean states, all proud members of the United Nations, and our Parliaments were making good on their power to make laws for the peace, order and good government of our countries.

What has happened in Caribbean law since the first of us achieved independence in 1962 represents significant progress. Each of our constitutions has a bill of rights which recognizes the fundamental rights and freedoms of citizens, including the rights to life, liberty and protection of private

property. Beginning in the 1970s, Parliaments have enacted reforms of family law that reduced the gap between legal form and social reality, especially by extending protection to children born outside of wedlock and to women in common-law unions. From the 1990s, legislation has been adopted to protect the environment and to ensure sustainable use of natural resources. And in more recent times, proceeds of crime statutes provide for the forfeiture of property and accumulated wealth that cannot be explained by legitimate activity, thereby discouraging the scourge of organized crime.

These advances, notwithstanding, there remains much to be done by our policymakers in order to secure and enhance our societies. The parliamentary agenda of several of our governments is quite packed. Some measures have been put on the “fast-track”; a phrase possibly in need of rebranding in light of the achievements of our world conquering athletes.

The second unfinished narrative concerns the ongoing efforts to build an ever more perfect Caribbean integration from the ashes of the West Indian Federation. After twenty-eight years of operation, the original Treaty of Chaguaramas of 1973 was found to be inadequate and in 2001 the region adopted the Revised Treaty of Chaguaramas which fused the political and economic dimensions of the Community and improved its efficiency in policy-making. As we are assembled here today, the Inter-Governmental Task Force is being reactivated to consider and make recommendations for reforming and refining the Revised Treaty.

Sometimes, in our discussions of CARICOM, an essential legal fact, of crucial significance to our Caribbean people, is often overlooked. The Caribbean Community, including the CARICOM Single Market and Economy, was not established *outside* its constituent Member States. Instead, the Community exists *within and through* Member States by creating a single, liberalized, regional market. Member States retain the sovereignty gained at independence but have consented to pool

that sovereignty in limited areas clearly specified by our policymakers. Thus is created a community that is greater than the sum of its parts.

And this leads me to the third and final unfinished manuscript and the reason that we are here this morning: the Caribbean Court of Justice.

The establishment of the CCJ as the final court of appeal for consenting Caribbean countries was a supreme act of self-realization, and the completion of the edifice of sovereignty left unfinished at the time of political independence. In the exercise of its office as the final arbiter of Caribbean constitutions and laws, the CCJ has the vital role to play of vindicating the rights, and therefore the worth and dignity, of the Caribbean people. In the exercise of its jurisdiction to interpret and apply the Revised Treaty of Chaguaramas, the Court is invested with the responsibility to ensure that CARICOM and the CSME function in accordance with laws laid down by our policy-makers whether in treaties, or protocols, or other legal instruments of community-making.

It is to this high office, of collaborating in the authorship of a people's individual and collective legal identity, that I have the great privilege to be called today.

I look forward to making a contribution to this region's jurisprudence in concert with my distinguished colleagues under the outstanding leadership of the esteemed President of the Court.

There are not many places in this world of ours that a journey such as mine is possible. I shall be forever humbled by the faith of the Caribbean people in affording me this opportunity to serve.

I believe that faith will also guide their hand in the completion of the separate strands of their own juridical story which, ultimately, is but one narrative about confidence, community, and justice.

I am proud to be a national of the Caribbean Community.

May God Bless the Caribbean and May God Bless the People of the Caribbean Community.