



Presentation by

Senator the Honourable Mark  
Golding  
Minister of Justice

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***4th Biennial Caribbean Association of Judicial  
Officers (CAJO) Conference***

***Thursday September 24, 2015  
Hilton Rose Hall,  
Montego Bay***

## Salutations/Protocol

- Madam Chair, The Hon. Mrs. Justice Hilary Phillips, Judge of the Court of Appeal, Jamaica
- The Hon. Mrs. Justice Zaila McCalla, OJ, Chief Justice of Jamaica
- The Hon. Mr. Justice Dennis Morrison, CD, Acting President of the Court of Appeal, Jamaica
- The Hon. Sir Dennis Byron, President of the Caribbean Court of Justice
- The Hon. Mr. Justice Adrian Saunders, Justice of the Caribbean Court of Justice
- Professor Richard Drayton, Rhodes Professor of Imperial History, King's College London
- Other distinguished Judges of the Court of Appeal and Judges of the Supreme Court
- Resident Magistrates
- Members of the Media
- Ladies and Gentlemen

Good evening.

On behalf of the Government of Jamaica, I am honoured to welcome this year's distinguished Judicial Officers to this the 4<sup>th</sup> Biennial Conference of the Caribbean Association of Judicial Officers. For those visiting from the neighbouring islands, I trust that you will enjoy the warmth and hospitality of our country while you are with us.

As Small Island Developing States, we face many similar opportunities and challenges, and therefore our mutual cooperation and assistance is both necessary and prudent as we pursue our development goals. The biennial Conferences of the Caribbean Association of Judicial Officers, of which this is the fourth (and the first to be held in Jamaica, is becoming well established as an avenue by which this is put into action, in the critical areas of jurisprudence and judicial practice.

I note the range of topics that will be discussed over the course of the Conference, including Writing of Judgments, Court Reporting, Separation of Powers, and Ethics and Judicial Conduct. These are relevant and useful subjects, and will benefit from the wealth of knowledge and experience brought to the discussions by the many eminent facilitators and participants in attendance here. I therefore trust this Conference will, as it has on the past three occasions, provide an open forum for you to learn, share and inspire, and to develop both professionally and personally as you focus on issues facing the system of justice in our region.

All who are present here today are, I imagine, acutely aware that Jamaica is approaching a crucial juncture in our history, when in October the Senate will debate the three Bills that seek to amend our Constitution to entrench

the Caribbean Court of Justice as our final appellate court in lieu of the United Kingdom's Judicial Committee of the Privy Council.

Adopting the approach derived from dicta of the Privy Council itself in the *Syringa Marshall Burnett* case, the Bills seek to entrench the Caribbean Court of Justice in our Constitution in the same manner as the Supreme Court and the Court of Appeal, requiring not less than two-thirds majority support in both Houses of Parliament.

The three Bills were debated and passed earlier this year in the House of Representatives, where the Government has the two-thirds majority needed to pass the bills. Unfortunately, the Opposition did not support the Bills in the Lower House, but the Upper House will debate the three bills in mid October, and we remain hopeful that the Opposition will keep its position under review and not prevent Jamaica from achieving this significant step forward when it comes to the vote in the Senate.

There are many compelling reasons why, more than 50 years after our independence, these three Bills should be passed by our Parliament with the required majorities. While I will not use this occasion to rehearse, once again, the salient arguments in this regard, I wish to make it clear that we have no reason to be bashful in making a strident call for the adoption of the CCJ as our highest court. To the contrary, we do so with a sense of pride and urgency.

We regard our present systemic arrangements, in place since the 1830's, as constituting important unfinished business that derogates from Jamaica's otherwise proud credentials as an independent nation, and as an

affront to the fundamental democratic objective of securing access to justice for our people.

Furthermore, the CCJ has built an excellent jurisprudential record over the first decade of its existence. Dr. Lloyd Barnett, perhaps Jamaica's most eminent constitutional scholar, made this point eloquently in a paper delivered at a conference this year, when he said:

*“I have been obliged to make a careful study of the CCJ judgments, particularly in the appellate jurisdiction. In my view they are thorough and analytically sound, socially relevant without being insular, learned without being pedantic, progressive while being appreciative of precedent, culturally sensitive while appreciative of Commonwealth and international learning.”*

So while we admire and respect the eminent Judges of the UK Supreme Court who de facto also comprise the Privy Council, we say without hesitation that the Judges of the CCJ are at least as erudite and, are better suited to our needs and aspirations as a people.

I therefore wish to use this opportunity to make the call for political consensus between the Government and Opposition in fulfilling this most critical element of our national independence.

I say today to Jamaica's eight Opposition Senators, that they should not etch their names forever on the wrong side of history. The Court of Appeal has, in the case arising out of the Opposition Leader's use of pre-signed resignation letters, reiterated the constitutional requirement for Senators to exercise independent judgement on matters that come before them. This

is, *a fortiori*, true when it comes to a matter as far-reaching as independent Jamaica's final court. There can be no escaping it - the "super eight" Opposition Senators must dig deep and do the right thing, and thereby ensure that, on this fundamental matter, the Bills pass with bipartisan support.

Ladies and gentlemen, that is the singular message that I wish to share with you this morning. I will therefore simply close by wishing you a most successful and enjoyable conference here in our lovely island of Jamaica.

Thank you.