

**SPEECH AT THE OPENING OF THE
2011 COURT YEAR OF
THE SUPREME COURT OF BELIZE**

BY

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ACTING CHIEF JUSTICE**

Tuesday 18th January 2011

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- Excellency the Governor General, Sir Colville Young
- My Lords, the President and Judges of the Court of Appeal of Belize
- My Lords, Justices Gonzalez, Lucas, Lord, Legall and Hanomansingh,
and Madam Justice Hafiz-Bertram
- Hon. Attorney General, Bernard Q. Pitts SC
- Your Excellencies Members of diplomatic Corp in Belize
- The Solicitor General
- Madam DPP
- Worship Magistrates
- The Commissioner of Police
- Religious Leaders
- President of the Bar Association of Belize
- Senior Counsel and Attorneys
- Commissioners of the Supreme Court
- The Staff of the Judiciary
- Ladies and Gentlemen

1. At the beginning of the third week of January every year, the Supreme Court of Belize convenes a special sitting to mark the opening of the Court year – the Legal Year. This year 2011, the responsibility and honour to convene the special sitting of the Court has fallen on me. I accept the privilege with much humility.

2. Ladies and gentlemen, an unusual large number of occurrences that were significant to the Judiciary of Belize took place in the year 2010. The most important were, the enactment by the National Assembly of Belize, of the Belize Constitution (Seventh Amendment) Act, No. 4 of 2010, and the enactment of the Caribbean Court of Justice Act, No. 5 of 2010. The latter Act came into force on 1.6.2010 when the Prime Minister issued Statutory Instrument No. 42 of 2010, appointing that date as the commencement date of the Act. It has been said before, but it is worth repeating, that the Caribbean Court of Justice Act completed the divestment of the Privy Council in the United Kingdom, of the jurisdiction of final appeal over Belize cases.

3. The historic process commenced with an agreement styled, “An Agreement Establishing the Caribbean Court of Justice”, signed by “member states of “the Caribbean Community”, on 14.2.2001, at Bridgetown, Barbados. Pursuant to the agreement, the House of Representatives and the Senate of Belize this year, amended the Constitution of Belize by removing the Privy Council from the apex of the rank of courts in Belize, and replaced it with the Caribbean Court of

Justice, the CCJ. The details of the wish of the National Assembly, set out in the Act amending the Constitution, were then spelt out in the Caribbean Court of Justice Act.

4. On the ground, the CCJ became a reality for Belize when on 29.11.2010, the Court heard the first final appeal case from Belize, the case of **Florencio Marin and Jose Coye v Attorney General of Belize, CCJ Appeal Case No. CV 5 of 2010**. The CCJ reserved its judgment to be delivered on a later date. Two applications seeking appeal to the CCJ have since been filed. At that rate it is not a wild guess that by the end of the year 2011, the number of appeals from Belize alone will have doubled the number of appeals from the other Caribbean countries combined.

5. Ladies and gentlemen, it is my guess that there are those who even now would prefer to go to the Privy Council. They must be a tiny minority. I think their wish is a matter of nostalgia for the past, rather than logic and good sense. I learnt that to instruct a barrister in England to take up overseas appeal to the Privy Council cost equivalence of BZ \$250,000.00 to \$300,000.00 deposit, and that was not the full fee. At that cost it was obvious that appellants from Belize in civil cases to the Privy Council were merely a handful. It was a little different in regard to appeals in criminal cases. They were usually in homicide cases – manslaughter and murder. Usually some human

right organization paid the bill; or the appellant never retained counsel, and the appeal was heard in England in his absence.

6. Let me mention here that, by the year 2007, the desire to end the appellate jurisdiction of the Privy Council over cases from Belize had become mutual between Belize and the Privy Council. In that year, the Lord Chancellor in England, made it known to the Commonwealth Caribbean nations that appeals from the Caribbean took too much of the time of Privy Council judges, and without the Caribbean Nations paying for. One might say that Belize departed from the Privy Council before being forced to leave.
7. There are certainly tangible and practical advantages in Belize joining the CCJ. The main and immediate one is of course that, costs of final appeal cases will be much lower, and appellants will be able to attend court at the hearing of their final appeals right here in Belize City, or in Port of Spain, Trinidad.
8. A less tangible advantage is that in the long term, case law will develop in the Caribbean, based on local Caribbean circumstances. The Bridgetown agreement refers to this advantage as, “development of Caribbean jurisprudence through judicial process”. A current obvious example of this is the fact that today a great number of people in Belize do not believe that punishments for crime of violence reflects the general view in Belize. The Supreme Court, of course, had to follow

guideline directed by the Privy Council. On the other hand, it was and is still common good sense that courts should take into account local circumstances when deciding punishments for crimes. Punishment must fit the offence and the accused, as viewed in the local circumstances.

9. Let me give an example here. We all watch American television; and it is not difficult to see that bail and punishments for crimes there are rightly different from bail and punishments in Belize, or in England. Courts in the USA of course, decide what they consider just according to the law and circumstances in the USA. That should be the case in Belize.
10. Notwithstanding, I shall mention, that leaving the Privy Council, does not end all connections with the English legal system. Those who are nostalgic about the past have something to retain. The practice has developed whereby clients and attorneys in Belize have been able to instruct barristers practising in England to represent them in the courts of Belize even-though there is no reciprocal arrangement for Belizean attorneys not qualified in England to represent clients in courts in England.
11. Ladies and gentlemen, other noticeable occurrences in 2010, took place in the personnel of our superior courts. Several judges departed office. On 31.3.2010, the Hon. Justice Boyd Carey retired at the age of

81 years. On 5.8.2010, the Hon. Chief Justice Abdulai Conteh reached retirement age; he left office two months later on 30.9.2010. Then on 31.12.2010, the Hon. Justice Elliott Mottley, President of the Court of Appeal of Belize, resigned. He was 71 years old. On 30.12.2010, the Hon. Justice Sir John Muria departed Belize at the end of his extended contract with the Commonwealth of Nations. He had been posted to the Judiciary of Belize under a technical assistance arrangement between Belize and the Commonwealth of Nations. We thank the Commonwealth for the assistance provided.

12. You may remember that some members of the Bar Association of Belize and some section of the press made much about the retirement of Chief Justice Conteh. Judges of the Supreme Court did not share their views. Since we were not consulted in private we maintained silence as is the tradition of judiciaries all around the World.

13. The fact was that, it had been confirmed to Chief Justice Conteh about eleven months before his retirement date, that his tenure would not be extended beyond retirement age. There was nothing unconstitutional about that. Chief Justice Conteh himself informed the special sitting of this Court last year on 18.1.2010, seven months earlier, that he would retire on his retirement date. He continued in office for two months after retirement date, but of those two months he took five weeks leave outside Belize. Earlier in March he had taken three weeks leave outside Belize, and much earlier in December 2009, he had taken three

weeks leave outside Belize. It appears there was enough time to arrange work accordingly. About pending ten cases. I know well about eight of them. I suggest that those who complained had not seen those cases. Those who made much noise about the retirement of Chief Justice Conteh might have hurt his purpose rather than helped it.

14. Appointments to the courts of Belize were also made in 2010. On 1.10.2010, I was appointed Acting Chief Justice of Belize. I thank the Governor General, the Prime Minister and the Leader of the Opposition for considering me. On 1.12.2010, Hon. Justice Dennis Stanley Hanomansingh was appointed a Justice of the Supreme Court. He is currently conducting the criminal court session in Corozal. I congratulate Justice Hanomansingh on his appointment. Efforts continue to be made to recruit two Justices of the Supreme Court to fill existing vacancies. In December 2010, Hon. Justice Manuel Sosa was appointed President of the Court of Appeal of Belize, effective from 1.1.2011. On behalf of the Supreme Court, I congratulate Justice Sosa on his appointment. Hon. Justice Brian Alleyne was also appointed Justice of the Court of Appeal effective from 1.1.2011. I congratulate Justice Alleyne. Hon. Justice Dennis Morrison was reappointed a Justice of the Court of Appeal. I congratulate Justice Morrison.

15. In September 2010, the Hon. Madam Justice Michelle Arana went on leave. She will resume duty only in mid-April this year. That has

added to the mounting caseload, and made the need to fill existing vacancies urgent.

16. Other changes in staff were the following. In December 2010, the contract of service of the Registrar, Ms. Velda Flowers, came to an end. She was offered another contract for one year from 23.12.2010. Assistant Registrar who is a retiree was also offered another contract. Recommendation has been made to recruit an understudy officer who should be a qualified attorney.
17. In the Magistrates' Courts, Chief Magistrate Margaret McKenzie who had retired the previous year was offered another contract. Magistrate Kathleen Lewis and Magistrate Hurl Hamilton were granted study leave to pursue studies for attorney's certificate, the C.L.E., at the Manley Law School, Jamaica. They are expected back in the summer of 2012. Magistrate Edd Usher was also granted study leave for one year, to study for the Degree of Master of Laws at the University of the West Indies.
18. On the recruitment side to the Magistracy, two qualified attorneys; Miss Patricia Arana and Mr. Richard Bradley were appointed magistrates late last year. Mr. Dale Cayetano and Mr. Adolph Lucas Jr. who hold Bachelor of Laws Degree, and Mr. Linden Flowers and Ms. Keila Teck were also appointed magistrates.

19. Emphasis is now being laid on appointing qualified attorneys even if the candidates may not have any work experience. If qualified attorneys will not be available, next for consideration will be holders of degrees in law and law related studies. Only thereafter, will persons who hold diplomas and certificates in the study of Law be considered. The Judicial and Legal Services Commission encourages magistrates who are not qualified attorneys to pursue studies leading to qualification.

20. The Judiciary suggests that a clear career path be developed which provides progression and therefore incentive in the Magistracy. It will then be possible to retain some qualified personnel in the Judiciary. We should not forget that the last three Chief Magistrates became Justices of the Supreme Court. At present there are only two senior posts in the Magistracy – that of a Chief Magistrate, and that of a senior magistrate.

21. There is need to have about two posts of principle magistrates below that of Chief Magistrate post, and three posts of senior magistrates. That may be the way to retain qualified persons in the Magistracy for some reasonable time, and to develop the necessary experience required for elevation to the higher bench. The long term plan should be to eventually have a professionally qualified magistrate of the Senior Magistrate level as the resident magistrate in charge of a magisterial district. It will be good for self confidence and quality of work. This

proposal could be implemented year by year to the extent that funds will allow. A detailed proposal will be made for discussion with the Executive, who of course, has the final say about funds.

22. In regard to the Court of Appeal support staff, the President of the Court of Appeal and I have agreed that the time has come to establish core staff to carry out the administrative and operations work of the Court of Appeal of Belize, and of the Caribbean Court of Justice. There are already available two members of staff whose work is mainly appeal cases work; they could simply be assigned to the appeal courts. It will be necessary to create only one post, that of the Registrar of Appeal Courts (or Deputy Registrar with that function). Again a proposal will be made.
23. For some time it was the view of judges that the work system in the Registry and case flow needed to be improved. A suggestion was made to the authorities to obtain someone from the Commonwealth who would come and examine the Registry and make recommendations for improvement. In November last year, the Commonwealth sent Mr. Peter Seccombe, a retired Registrar of the Federal Court in Australia. He completed his survey in December. We hope to receive his report soon; and will put into practice those recommendations that we will consider suitable for our circumstances and will be within our means. We thank the Government for the

arrangement made with the Commonwealth, and we thank the commonwealth and Mr. Seccombe.

24. The most worrisome occurrence in 2010 was of a general concern to the Judiciary and the general populace. It was the surge in crimes of violence. Most troubling about it was that the perpetrators of crimes of violence become comfortably daring. Very many times, they attacked and killed in broad daylight in the view of many people. One such killing took place within the precinct of one of the courts. In October, an attorney and his wife were killed in their house which was in a built up area. Earlier in the year a very senior and respected attorney was shot and gravely injured while leaving his office. It is by the grace of God that he has recovered and resumed his duties. We all prayed for him. Many other innocent people were similarly brutalized in 2010. The number of reported homicide in 2010 is 132. That is too high for the population of Belize.
25. Despite the surge in violence, the public kept hope, and the authorities showed determination to bring the surge in crime down. Religious leaders, civic leaders, the business community, school teachers and even school pupils all came out to show their disapproval of criminal activities.
26. The Executive of the Bar Association of Belize was a late comer to the array of people who voiced their disapproval, but better late than never.

The Bar is certainly better suited than many to assist in the fight against crime should they wish. Maybe we will hear from them. They could assist with investigation and prosecution of criminal cases, and with training of personnel. At the moment some attorneys do assist at personal level. They defend *pro bono*, accused persons who face serious charges and cannot afford to pay for the services of attorneys. We in the Judiciary thank those attorneys.

27. Recently the American Bar Association has, through the Embassy of the United States of America, commenced a programme to assist Belize in the area of training investigators and prosecutors. We applaud their help, and will cooperate with them. We thank you, Your Excellency the Ambassador of the United States and we thank the American Bar Association, for the assistance.

28. The reality is that once crime has set in at the level we have experienced, it takes a lot of resolve and hard work by the authorities, and support from the public, to bring it down. We do acknowledge that the Government, the Police and other security agencies have shown resolve to deal with the escalation in crime. Because of that a state of panic has not set in. It seems that lately the Police has been able to make more arrests following reports of homicide. That is a good sign, but it is too early to tell the results of all the efforts that have been made.

29. Ladies and gentlemen, I shall conclude this address by reporting on the work of our courts in the year that ended.
30. In the few months after joining the full jurisdiction of the CCJ, we have already had one appeal case heard by the CCJ. Two others are in the process.
31. In 2010 in the Court of Appeal, 21 criminal case appeals and 44 civil case appeals were registered. 25 criminal case appeals and 60 civil case appeals were concluded. The number of cases concluded included cases registered in previous years. Completed appeal cases compared to registered appeal cases were 85.7% and 96.6% respectively. These are very high rates of completion.
32. In the Supreme Court in 2010, the records for civil cases show as follows:
- 32.1 Civil claims filed were 982. Civil claims concluded were 789. The cases concluded included cases registered in previous years. Completed civil cases compared to registered cases were 78%.
- 32.2 The number of divorce and adoption cases filed was 299. The number concluded was 252 which was 84.3%.
- 32.3 The number of civil cases completed on average per judge was 260 in the year 2010. That was a very high number.

- 32.4 The number of appeals from Magistrates Courts was 120.
The number concluded has not been ascertained.
33. The records for criminal cases in the Supreme Court show the following:
- 33.1 156 criminal cases were registered in 2010. 45 were murder cases; 30 were attempted murder cases; 3 were manslaughter cases; 1 was a robbery case; 38 were rape and carnal knowledge cases and 39 were other criminal cases.
- 33.2 The Court completed 191 trials. Most were cases brought in previous years. Completed cases in 2010 exceeded the number registered in the year by 35. On average a judge completed 48 criminal trials, a very high number indeed.
34. The records for criminal cases in the general magistrates' courts show 13,655 criminal cases registered and 11,350 concluded. Completed criminal cases compared to registered criminal cases were 83.2%. Again a very high rate.
35. 6,114 civil cases were registered, and 4,620 were concluded in the General Magistrates' Courts. Completed civil cases compared to registered cases were 75.6%.

36. In the Family and Juvenile courts, 245 criminal cases were registered. The number concluded is not available. Civil cases, that is, maintenance cases, parental responsibility cases, protection and restraining order cases and related cases, numbered 1,841. Concluded cases were 2,086. They included cases from previous years. Concluded civil cases in Family Court exceeded civil cases registered by 245.
37. In all our courts, the rates of cases concluded last year compared to the number registered, were very high. To maintain the rates of completion, it is important to keep vacancies on the Supreme Court bench and in the Magistracy, filled.
38. Regarding court buildings, I shall only mention that I have not found any plan on a file. There may be no physical development plan. The Judiciary will need to discuss that with the Attorney General. A standard magistrates' courts building could be adopted for all magisterial districts. We could look at some of the ways court buildings have been financed in some jurisdictions. I have sometimes seen international agencies attend conferences of judges and magistrates and explain assistance they could provide. We could start by requesting the Department of Lands to allocate a plot of land in each town to the Judiciary for long term plan to build proper court building.

39. Ladies and gentlemen, the Judiciary in carrying out its duties benefited from help and cooperation of many public officials and departments. We thank the Government for providing financial and human resources. We thank the Attorney General for conveying our many requests for financial resources to the Government, and for many areas of cooperation during the year 2010. Recently hurricane Richard damaged equipment and buildings in Belize City. We have already received money for replacement and repair. We thank the Attorney General for his instant coffee-like response this time.
40. We thank the Ministers for Police and for National Security, and the Commissioner of Police and his staff, in particular, those assigned to court duties. We thank the Commander and officers who mounted the guard of honour this morning. We thank the CEO of Kolbe Foundation for the prison services they provide. We also thank Anchor Security for providing security guard services on court premises. We thank the spiritual leaders who led us in prayer service this morning and who we know do pray for us out of their good hearts everyday. We thank Commissioners of the Supreme Court who do their job conscientiously. We thank attorneys who provide much needed assistance to court and the public. We thank the Department of Human Resources for providing social workers who compile reports on accused persons, families and children, for use by courts. We thank medical practitioners and all the other professionals who have assisted courts in the year 2010. We do thank members of the public who cooperated with the

staff and court. We request continued cooperation. Personally I must thank all the judges, magistrates and all the staff of the Judiciary for cooperating with me, and with one another, in our duties.

41. Finally, I take this opportunity to mention that last year some attorneys and some section of the press took to making unbecoming statements about judgments of courts and about some judges and magistrates. It is nothing new to judges and magistrates that when some people lose cases they say unpleasant things about the judge or magistrate; and on the other hand when they win their cases they sing praises of the same judge or magistrate. But normally that is not done in an orchestrated manner. We do not expect that from attorneys though. Some of the things said bordered on contempt of court, that is, bringing court into disrepute. That judges and magistrates have not taken action should not be interpreted to mean that courts will not cite authors of offensive publication for contempt of court. There will be personal risk.

God Bless.

Dated January 2011

SAM LUNGOLE AWICH
Acting Chief Justice