

Chilcot Manor
No. 9 Brooklyn Road
Nassau, N.P.
The Bahamas
dalqlaw@coralwave.com

FROM THE DESK OF

Damian R. L. Gomez, Esquire

J.P., LL.B. (Hons) LL.M. (Com Law), Barrister-at-Law

Some thoughts on the 2009 appointments of Queens Counsel.

The recent commencement of judicial review proceedings relating to the exclusion of senior negro advocates practicing at the Bahamas bar from admission to the inner bar by Maurice Glington, Esquire raises many issues that have plagued our community for centuries. Discrimination on both the political and racial level ought to be deplored and condemned. Yet, more than 50 years after the death of Alfred Francis Adderley the most renowned Bahamian black advocate and victim of racial discrimination, our Community is confronted by this plague.

A.F. Adderley graduated from the University of Cambridge when many white Bahamians were still illiterate. He returned to the Bahamas and had a distinguished career at the Bar. His advocacy was legendary, an example of preparation, intellect and cunning. He was a lawyer's lawyer, the mentor to numerous other lawyers whom he trained, educated and befriended. Yet for all his brilliance and philanthropy he was denied the honour of being called to the inner bar of the Supreme Court of The Bahamas and a permanent appointment to the Supreme Court on the basis of race. As a black man A.F. Adderley was violated by state sponsored racism. This generous man, a co founder of Saint John's College and other schools, ought to have been rewarded for his outstanding work as an advocate. However, racism plagued his life and our community.

The Legal Professions Act 1992 section 15 provides the statutory framework for the appointment of silks. An attorney applies to the Attorney General for such an appointment. The Attorney General is required to consult the bench (judges) and the Bar (The Bahamas Bar Council). The Attorney General

may accept the application as a worthy one in which case he submits the appointee's name to the Prime Minister for onward transmission to the Governor General. This simple statutory process has seemingly confused successive cabinets of The Bahamas. An extra statutory convention has been imposed upon members of the bar; the Attorney General has arrogated to himself the "prerogative" of determining when an attorney should apply. Additionally, the Bahamas Bar Council has been conscripted to nominate attorneys for appointment to the inner bar. Apparently several lists have been communicated to Attorneys General and at least one Prime Minister.

To compound matters, between 2002 and 2007, then Prime Minister Christie failed or refused to communicate to the Governor General the appointment of any silk. His excuse was a reverence for A.F. Adderley's son, the Honourable Paul Lawrence Adderley who indicated a desire to be called to the inner bar if the legislation was changed so as to permit the recipient of such an appointment to use the title Senior Counsel. The nobility and patriotism of the Adderleys is boundless, and yet, besides the point: there are and were other attorneys worthy of appointment who were being deprived of an entitlement.

Following May, 2002 the Bar pursuant to its statutory obligation continued to lobby for the appointment of silk. The then Attorney General invited the applications of certain lawyers including black senior advocates and a number of white attorneys some of whom are advocates and others not. In 2009, approximately 50 years after A.F. Adderley's death, the Government of The Bahamas publicly announced the list of appointees. The appointees had in common that they were all male attorneys, they all worked for law firms which are predominantly owned by white people (and supporters of the governing party) and at least one of their parents is white or "bright skinned".

It may be surmised that none of the 2009 appointees was required to apply in accordance with The Legal Professions Act, 1992. All black senior advocates were again deprived of an entitlement while suffering the additional professional injury of being demoted in seniority to the white appointees who were hitherto their juniors.

We senior negro lawyers might take solace in being in the hallowed company of A.F. Adderley and say nothing. Alternatively, we can fight for The Bahamas he dreamed of, worked for and invested in: The Bahamas free of racial discrimination, sexism and party political bigotry.

Maurice Glinton's cause is less about a title and more about a community founded on principles of openness, transparency, justice and the Rule of Law. Ultimately, his application is one to protect the inherent power of the Supreme Court to discipline and control its officers. The function of the Courts depends on the existence of an independent Bar with the integrity and courage of that bar to speak to power. That function has been impaired with implications for our current Chief Justice: indeed, he sits there on the back of the past sacrifices of men such as A.F. Adderley. The office of Chief Justice ought not to be abused by politically inspired discrimination!

Ironically one of our current Chief Justice's first tasks, is to have the newly appointed silk sign the roll to the inner bar. The Supreme Court has now been dragged into executive sponsored discrimination! Is this the Bahamian bequest of A.F. Adderley?

Regards,



Damian A. L. Gomez

November 22, 2009

Damian A.L. Gomez, Esquire
Chambers
Nassau, Bahamas