

Your Excellency, Sir Colville Young, Governor-General of Belize
My Ladies, Madam Justices Arana and Hafiz-Bertram
My Lords Justices Gonzalez, Lucas, Lord, Legall, Hanomansingh and Abel
Hon. Attorney General and Minister of Foreign Affairs, Hon. Wilfred Elrington
Your Excellencies Members of the Diplomatic Corps
Your Worships, the Chief Magistrate and Magistrates
Madam Director of the Family Court
Madam Solicitor-General
Madam Director of Public Prosecutions
Madam Registrar-General of the Supreme Court
President of the Bar Association of Belize, Mr. Andrew Marshalleck, SC
Learned Senior Counsel of the Inner Bar
Learned Attorneys-at-Law of the Outer Bar
Ombudsman – Mr. Lionel Arzu
Acting Commissioner of Police, Mr. Allen Whyllie
Other Diplomatic and Consular Representatives
Members of the Clergy
Commissioners of the Supreme Court
Members of the Media – print, radio and television
Distinguished Invitees
Ladies and Gentlemen:

ADDRESS DELIVERED AT THE FORMAL OPENING OF THE COURT COMMENCING THE 2013 LEGAL YEAR OF THE SUPREME COURT OF BELIZE ON MONDAY JANUARY 14, 2013

The year 2012 was an Election Year with General and Municipal Elections being held on March 9, 2012. The election events were attended by mature behaviour with no recorded incidents of violence and a smooth balloting process, the results of which have been by and large respected.

As is customary, the opening of the Legal Year of the Supreme Court is today being marked on the Monday closest to the end of the Court's vacation on January 11. It is worthy of note, and it bears repeating, that Belize has sensibly departed from the opening of Court's calendar at the commencement of the Michaelmas Term. That tradition had its roots in British history. Over the last decade, the opening of the Legal Year has been established on the basis of a calendar year which makes for more facile reporting.

This occasion affords an opportunity for the Judicial arm of the State – comprised of the Court of Appeal, the Supreme Court and the Magistracy – to render an account to the people of Belize of its achievements and challenges. It also presents an occasion for the future direction of the Judiciary for the ensuing year and beyond to be rolled out to the public. This accounting does not and is not intended to supplant the reporting to Parliament which is the obligation of the Honourable Attorney-General whose mandate and Ministerial portfolio encompasses reports to the electorate on matters relating to the judicial system.

BUDGETARY ALLOCATION

The reality has been and will always continue to be that any discussion of the functioning of the Supreme Court must begin with a discussion as to the availability of financial resources. The ability of the Judiciary to fulfil its constitutional mandate in an ever-changing social, economic and political landscape is directly affected by the quantum of financial and other resources allocated for its use. While I continue to plead for a greater slice of the financial pie, one must be ever mindful of other

competing and important demands impacting human and economic development and growth of the nation as a whole. Not to be taken lightly, are the debt obligations which have assumed national prominence at the present time.

Be that as it may, the Judiciary must never shirk from its obligation to uphold the rule of law and administer justice as mandated by the supreme law of Belize,

As it stands, for the fiscal year 2012 – 2013, the allocation to the Judiciary inclusive of the Magistracy, was budgeted at \$8,193,546.00 being 1.05 % of the National Budget of \$777,733,617.00.

The percentage generally hovers around what has been the norm in recent years, but then so has been the complaint in recent years of projected demands calling for a larger allocation.

JUDICIAL APPOINTMENTS AND ASSIGNMENTS

In March 2012, Hon. Mr, Justice Samuel Awich attained the constitutional age of retirement and embarked on the exercise of bringing outstanding work to completion. In May 2012, Mr. Justice Awich was appointed as a Justice of Appeal of the Court of Appeal of Belize. His retirement from the Supreme Court was the culmination of his service since appointment on April 2, 2001, which service included his acting appointment as Chief Justice from August 2010 to September 14, 2011 after which yours truly assumed the post. This native of Uganda came to Belize having served as a Judge of the High Court in the Solomon Islands. The existing Bench of the Supreme Court thanks Justice Awich for his service to the Bench and we congratulate him on his elevation with best wishes for a fruitful stint on the Court of Appeal.

The ensuing vacancy on the Supreme Court has been filled by the Hon. Mr. Justice Courtney Abel. From October 22, 2012, Justice Abel has joined the complement of Judges of the Civil Division having enjoyed a long and distinguished career in practice in the United Kingdom and the Eastern Caribbean based in Anguilla. This native of Guyana, belonger of Anguilla and subject of Great Britain

and Northern Ireland has practiced law since 1981; firstly in the United Kingdom and more recently in the overseas territory of Anguilla where he was, prior to assuming office, the Managing Partner of a private firm of Attorneys-at-Law. In the Eastern Caribbean, Justice Abel, as he is now styled, is well renowned for his devotion to the Anguilla Bar Association, OECS Bar Association and the Organisation of Commonwealth Caribbean Bar Association, of which institutions he has been the President. We welcome Justice Abel and pray that he will find Belize attractive enough to remain until retirement.

As a consequence, the Judicial complement remains at nine Judges inclusive of the Chief Justice.

At the end of the Long Vacation in 2012, the assignment of Judges of the Criminal Division to the various Judicial Districts was adjusted. Hon. Mr. Justice Troadio Gonzalez now sits in Belize City in the Central District and his former assignment to Belmopan in the Central District and Southern District of Dangriga and Punta Gorda has been taken up by Hon. Mr. Justice Denis Hanomansingh. Hon. Mr. Justice Herbert Lord now sits in the Northern District.

In the year 2012, as Chief Justice, I have exercised my stated prerogative to sit in the Criminal Division presiding over two trials including the first trial by Judge sitting without a Jury. For 2013, it is my intention to continue to assist in the Criminal Division where the exigencies of the case-load so allow.

REGISTRY STAFFING

In the course of 2012, Ms. Carolyn Baptist, the Finance Officer, was plucked from the Supreme Court Registry at short notice. She was replaced by Ms. Erlinda Leiva and subsequently by Ms. Alia Gillett. Ms. Leiva is no stranger to the Department and will continue to supervise Ms. Gillett whom we welcome to the General Registry.

In October 2012, Ms. Nancy Naj was appointed and took up duties as Court Administrator. Her tasks are to support and strengthen the functioning of the General Registry in its role of the Court Office and to aid in case flow management.

Also joining the Registry is Ms. Karen Parham, a first class clerk and a recent graduate of the diploma programme of UWI Open Campus in Public Sector Management. We welcome both Ms. Naj and Ms. Parham to the ranks of the General Registry.

In September 2012, the Head Stenographer Ms. Audrey Grinage, and Ms. Melissa Rowley, Trainee Stenographer, embarked upon courses of study in the law. We wish them both well in their endeavours.

REGISTRY REFORM

In January 2012, the Supreme Court Registry was fortunate to have been afforded the services of a consultant, Mr. David Beling. This assignment was made possible by an ongoing relationship with the Commonwealth Fund for Technical Cooperation of the Commonwealth Secretariat aimed at providing critical reform and strengthening the capacity of the Supreme Court Registry and staff. To this end, Mr. Beling visited in January, April and August of 2012 implementing new processes for the efficient functioning of the Registry and building the capability of personnel in the Registry.

Arising from this attachment, various recommendations are being implemented and Mr. Beling is expected to make a final visit in February 2013.

INFORMATION TECHNOLOGY

One of the main recommendations by the CFTC consultant, Mr. Beling, was that there be in place a software solution for the management of cases in an efficient manner. Consequently, a database was created to capture the cases and events of the Civil Division in the short term together with a business plan as the foundation for a long term solution.

In pursuit of the long term objective, the Supreme Court has contractually engaged Sybel Computer Consultants and Software Developers of Belmopan to develop and implement software for case management in both the Civil and Criminal jurisdictions of the Supreme Court. The firm through its principal, Mr. Charles Ewens, is no stranger to the Court system. Indeed, that firm was integral to the case management system that is presently in use in Belize City in the Magistracy Department. Thus far, a project team is in place. Processes are being developed to accommodate the Supreme Court (Civil Procedure) Rules, 2005 and cases for 2011, 2012 and 2013 are being entered. It is expected that by the end of the project during the second half of 2013, the modules in place would have encompassed case management, apostilles, Marriage Licences, the Law Library, Annual Business Registrations, file tracking, receipt of filings and jury management.

No doubt, the success of the project will ultimately depend on the project team under the leadership of the Registrar of the Supreme Court assisted by the Assistant Registrar, Ms. Marcia Mohabir, the Project Manager, Ms. Nancy Naj, the System Administrator, Ms. Avril Bennett and the data entry clerks numbering 3 to date. As the project progresses other Registry personnel will be required to assist in the development and implementation of the modules.

This step is a bold one as Belize has opted to seek a home-grown solution to the demand for reliable statistical data for the overall efficiency of the Registry.

In the meanwhile, the System Administrator has been far from idle. Indeed, there is now in place for the ease of communication between Judges and staff of the General Registry an intranet system. Colleagues and their staff can now communicate on a common digital platform dedicated to the Supreme Court.

In my last address, I expressed dissatisfaction with the existing website which was only partially devoted to the Supreme Court of Belize as well as the lack of timely electronic access to the judgments of the Supreme Court and the Court of Appeal. This has been a source of frustration to members of the Bar and the public at large.

I am pleased to report that as of last Friday, January 11, 2013, there has been launched a new website – www.belizejudiciary.org. This website has operated to delink the Supreme Court from the general website of the Attorney-General's Ministry. It provides information about the court system in Belize encompassing the Supreme Court, the Court of Appeal and the Caribbean Court of Justice. It is a work in progress as judgments are still being uploaded and an appropriate search engine is to be added for the convenience of users.

I wish to congratulate Ms. Avril Bennett, the System Administrator, for coordinating the effort and making the web-site a reality.

As the public has no doubt become aware through the press, the Supreme Court has been equipped with video-conferencing equipment to facilitate the hearing of matters involving the Caribbean Court of Justice. The facility has met this need admirably and will continue to be an indispensable tool given the seat of the CCJ being off-shore in Port-of-Spain, Trinidad.

Over the last year, the video conferencing capability has been utilised by the Supreme Court and a number of hearings have been held involving Counsel, witnesses and parties from the United States and as far away as the Russian Federation. This facet to the litigation process will in the future serve to reduce costs and offer convenience to court users.

In addition, meetings have been held by video-conference for the Caribbean Association of Judicial Officers (CAJO) and other entities. It is hoped that, going forward, the use of the facility would be maximized to justify the innovative investment made possible through the Caribbean Court of Justice.

MEDIATION

The Supreme Court (Civil Procedure) Rules 2005 provides for the Judge in his or her discretion to encourage the parties to a claim to engage in alternative dispute resolution, more particularly, mediation. The pursuit of an appropriate system of court-connected mediation was assigned to Madam Justice Hafiz-Bertram.

Thus far, a multi-sectoral committee has been convened to address the implementation of mediation in the Supreme Court. The committee includes all the Judges of the Civil Division and representatives from the Magistracy, Bar Association, the Belize Chamber of Commerce and Industry, the Belize Trade Union Congress, the Council of Churches, UWI Open Campus and the Attorney-General's Ministry. This Mediation Steering Committee has begun its work in earnest, addressing the issues of a legislative platform for implementation, the criteria for selection and training of mediators, safeguards for the integrity of the process and time-lines for roll-out. These efforts are expected to come to full fruition during the course of 2013 when a facile option will be made available to litigants.

The Committee has recognised the need for public sensitization about mediation in general and the processes of court-connected mediation in particular. Accordingly, when the design and regulatory framework have been finalized, there will be a programme of public outreach to inform and guide the litigating public.

RULES REVIEW

The office of the Chief Justice has already invited and obtained the concurrence of the President of the Bar Association, the original members of the ad hoc Rules Committee and other leading Senior Counsel to join the Chief Justice and Judges of the Civil Division to conduct a comprehensive review of the Supreme Court (Civil Procedure) Rules, 2005. This exercise is long overdue as over seven years have elapsed since these Rules came into force on April 4, 2005. To date, a few submissions have been received for the attention of the Committee and shortly another invitation will be issued to the members of the Bar through the Bar Association to identify areas deserving of attention.

For the Rules to be responsive to the underlying ethos of the just disposition of cases by court-driven case management, they must be rendered sufficiently dynamic to build on areas of strength and correct sources of weakness.

Indeed, over and above the review of the Rules, the Committee will be invited to make recommendations as to time-lines for the disposition of cases. This would

effectively provide guidance for Judges and legal practitioners and introduce some measure of comfort for court-users.

CRIMINAL JURISDICTION

The unprecedented number of cases involving violent crime, especially capital offences, continues to be a source of alarm to the public. The reality is that the number of Indictments being filed in the Supreme Court outnumbers the rate of disposition of pending cases. The criminal justice system is in crisis.

As at January 11, 2013, the number of inmates at the Belize Central Prison awaiting trial in the Supreme Court stands at 181 of whom, the overwhelming majority face trial for murder.

The Judges of the Criminal Division have consistently bemoaned the paucity of legal practitioners available to represent accused persons for capital cases. As of today, there are 38 murder accused seeking legal representation. Various strategies have been adopted at the instance of the Judges themselves including a proactive approach to seeking the services of Counsel. To assist the process, the Hon. Attorney General has positively responded to a recommendation for an increase in the honorarium payable to Counsel assigned to capital cases and such honoraria have been substantially increased both as to the per diem refresher as well as to the total amount payable. Hopefully, this will serve to make it more attractive for Counsel to respond to requests to appear.

It is public knowledge and a legitimate source of concern that eye-witnesses and other witnesses have shown a marked unwillingness to provide consistent oral testimony notwithstanding the provision of statements to the Police. To address this matter, the Evidence Act, Chapter 95 of the Revised Laws of Belize 2000 – 2003 had been amended by Act No. 6 of 2012 to provide for the admission of previous inconsistent statements of witnesses for the prosecution as evidence of truth in criminal proceedings. The purport of this amendment has been to alter the common law position which required a Judge summing up to a Jury or a Magistrate or Judge sitting alone to advise that a previous inconsistent statement could not be admitted

for its truth. Therefore, when a prosecution witness who has been proved to have made or who admits to the making of a previous statement that is not consistent with his evidence in court, resiles from that statement, the fact finding tribunal – be it Judge, Magistrate or Jury – can be invited to rely upon the previous inconsistent statement as proof. This is a significant change in the law of evidence and one can only await the results of its efficacy.

In a direct effort to carry out a concerted assault on the mounting backlog of cases, it is expected that an additional Judge will be appointed to serve in the Criminal Division to supplement the two Judges performing yeoman service in Belize City. This initiative requires the necessary physical and other arrangements to be put in place for the holding of jury trials. These matters are being actively addressed as is the matter of identifying a suitable candidate for the position.

The discerning users and observers of the criminal justice system would no doubt share the concern of the Judges that the trial process is attended by long delays attributable to issues of admissibility of evidence. It has become almost the norm that challenges to statements take up several trial days. This phenomenon and other facets of the trial process are urgently in need of attention. Accordingly, I shall be inviting the Director of Public Prosecutions to join with the Judges of the Criminal Division to form the nucleus of a group to revive stalled efforts to formulate and implement delay reduction rules. Emphasis will be laid on the introduction of procedures to streamline issues amenable to pre-trial disposition. This would pave the way for shorter trials and earlier disposal with measurable impact on the rate of disposition.

It must be recognised that the criminal justice process is comprised of multiple stakeholders integral to its efficient functioning. Consequently, the need for dialogue is crucial to the resolution of problems. To address a deficiency in the communication process, the office of the Chief Justice will assume the role of Convener for an ad hoc Board to tackle the dysfunctional aspects of the criminal justice system. This move has been telegraphed to the Chief Magistrate and the previous officer in charge of the Eastern Formation of the Belize Police Department. Then Assistant Commissioner, now Deputy Commissioner Elodio Aragon has

expressed his support with enthusiasm. Hopefully his successor will answer my call in equal measure as will the DPP, the Ministry of Human Services, the Kolbe Foundation and the Bar. The purpose of this Board shall be problem-solving in its mandate while de-emphasizing the negative effects of assigning culpability.

It is hoped that the foregoing initiatives could contribute to improving the contribution of the criminal justice system to the scourge of criminal conduct permeating certain sectors of our community and to assisting in the delivery of the expectations of justice plaintively being demanded by victim and accused alike.

MAGISTRACY

2012 saw the return of Magistrates Dale Cayetano, Kathleen Lewis and Aretha Ford from study leave. Throughout the year, the Magistrates' Court and Magistracy Department continued to fulfil its mandate to provide the community with equal and impartial access to judicial service in accordance with its mission statement.

The challenges of accommodation in Orange Walk and Corozal when the Supreme Court is sitting remain unresolved. In this regard, the Attorney General's Ministry is actively engaging other agencies to secure additional accommodation but so far, success has been elusive.

The conditions of the Municipal Court continue to be a cause for concern. Magistrates assigned to the City Centre Courts sit in less than satisfactory surroundings. However, the newly elected Mayor has assured the Chief Magistrate that dialogue will be opened to address these matters.

The greatest source of embarrassment remains the court building in Punta Gorda which is in urgent need of attention. Having regard to tentative expressions of understanding, the Magistracy is hopeful that, in the next budgetary cycle, the construction of a new Magistrate's Court in Punta Gorda would become a reality.

On June 8, 2012, the doors of a new Magistrate's Court were officially opened. The Court is housed above the Independence Police Station and the Magistracy Department is most grateful to the Belize Police Department for refurbishing the space. A loud expression of gratitude must be given to the Embassy of the United States of America in Belize for providing the furniture for the courtroom and court offices. I am pleased to report that on Monday next, January 21, 2013, a newly appointed Magistrate, Ms. Americia de Moya, will be sworn in and assigned to Stann Creek specifically to sit at Independence.

In 2012, the entire staff of the Magistracy Department held its first Staff Retreat under the kind auspices of the British High Commission and the Rule of Law Initiative of the American Bar Association. The retreat was held at scenic Chaa Creek Resort in San Ignacio and presenters included the Chief Justice, Justice Adolph Lucas, Mr. Denys Barrow, SC, Mr. Dan Suter, Criminal Justice Advisor of the British High Commission to Barbados and the Eastern Caribbean, Ms. Antoinette Moore, SC and a motivational consultant, Mr. Paul Lecky.

In October 2012, Ms. Lovette Nunez, a graduate of the University of Belize, was appointed Court Administrator. Also, Ms. Lucretia Diego an Administrative Cadet has been appointed to function as Finance Officer. Mr. Phillip Gentle has been seconded to Belize City as Second Class Clerk. With effect from November 1, 2012, Magistrate Sherigne Rodriguez has been assigned to the San Pedro Magistrate's Court which has been strengthened by two new members of staff, Susely Blanco and Marleney Andrews.

Magistrate Aretha Ford has been assigned to the Belmopan Magistrate's Court and Magistrate Kathleen Lewis has joined Magistrate Stephanie Gillett at the Civil Court in Belize City.

DRUG REHABILITATION COURT

From May 29 to June 1, 2012, the Chief Magistrate attended a conference and training in Nashville, Tennessee, USA. There followed meetings in Belize to explore the possibility of setting up a Drug Rehabilitation Court in Belize with the

assistance and support of NDACC. Preliminary discussions have been held with the OAS and a committee has been set up to guide and inform the process. The committee is presently examining the legal framework for similar courts in Jamaica and the Cayman Islands.

This initiative is aimed at offering an alternative to punishment for drug offences and a long term solution to addiction issues. From the perspective of the court system, the benefits of a possible reduction in recidivism and offences driven by drug abuse are patent. This process is in its embryonic stages of development and it would be precipitous to indicate timelines for implementation.

JUDICIAL EDUCATION

In May 2012, both the Magistracy and the Supreme Court benefitted from seminars on human trafficking mounted by the International Organization for Migration (IOM) based in Belmopan.

During this year, in collaboration with UNWomen based in Barbados, both the higher and lower Judiciary will be the recipients of training in gender sensitization.

In order to formalise its approach to judicial education, an indispensable tool of the judicial arsenal, Mde. Justice Arana has initiated steps towards the establishment of a Judicial Education Institute of Belize. This would provide the requisite support system for the delivery of judicial education modules for Judges and Magistrates and of training for court staff.

JUDICIAL CONTACT

Arising from an approach made by Ms. Nancy Anderson, Senior Tutor of the Norman Manley Law School, in March 2013, Mde. Justice Arana will be attending at the said Law School to interact with students and to preside over moot trials involving Belizean students. In this regard, a Judge from Belize will be joining the practice by Judges of other Caribbean jurisdictions of affording our students contact

with a member of the Judiciary before completing their course of study. Financial resources permitting, this is expected to be an annual event.

BENCH-BAR RELATIONS AND CONTINUING EDUCATION

In the past year, both Bench and Bar attended an exercise in continuing education when a paper was presented by Mr. Norman Davis, Tutor of the Norman Manley Law School.

This presented an opportunity for interaction and intellectual exchange.

Mr. President, I trust that this can act as the catalyst to rejuvenate the supportive relationship of Bar to Bench in 2013 and beyond.

CONCLUSION

In sum, the Supreme Court in its civil jurisdiction has received filings of 679 claims and 219 Divorce actions and has disposed of 696 Claims and 207 divorces. It is the fervent hope that by the next Law Year, these matters will be amenable to electronic computation.

The Annual Report is scheduled to be published imminently and I commend it to you for the statistical data in detailed categories.

I wish to thank all those who contributed to the work of the Supreme Court and the Supreme Court Registry during 2013, not least of all the Registrar General, Deputy Registrars, Assistant Registrar, Court Administrator, Librarian, System Administrator, Secretaries/Stenographers, Marshalls and other support staff, especially the care-taker, Mr. Alvarez.

The Judiciary is grateful to the Police personnel, and other security personnel who make it safe for the performance of the judicial function and by extension to the Commissioner of Police and the Ministry of National Security.

The Assistant Registrar has worked hard to make today's proceedings a success with her attention to detail. We thank her.

I wish to commend Insp. Gerald Joseph and the detachment from the Special Patrol Group in Belmopan for an excellent guard-of-honour and parade.

We are indebted to His Lordship the Most Rev. Bishop Dorrick Wright and the members of the Clergy from the Belize Council of Churches for the inspirational service setting us on the correct path for the Legal Year 2013 by invoking God's blessing.

How can we forget the sweet voices of the Standards 4 and 5 students of Holy Redeemer Primary School and the sweet rendition of 'Be Still My Soul'.

On behalf of the Chief Magistrate and Magistrates, gratitude is deserving for the staff of the Magistrates' Court throughout all the Judiciary Districts as well to the Police Prosecutors and other support personnel.

My work would be impossible to accomplish without the aid of Ms. Julie Staine, Senior Secretary and I daresay, supernumerary Chief Justice. I thank her for her continued assistance.

Without further ado, I now declare the Legal Year 2013 open.

Mr. E. Andrew Marshalleck, SC, I invite you to address the gathering in your capacity as President of the Bar Association of Belize.