

ADDRESS OF THE PRESIDENT OF THE BAR ASSOCIATION OF BELIZE

ON THE OPENING OF THE LEGAL YEAR 2011

I thank you My Lord for affording the Bar Association the opportunity to address the Court at its opening. To the best of my recollection we have not always been afforded the opportunity to speak on this important occasion, but I do think it fitting because the Bar Association is an important and essential part of the legal system of this country.

With the few minutes that I have, I wish to speak on the current status of our legal system. I like many persons seated in this court room today, am aware that at present, the opinion and perception of a significant portion of the public is that our legal system is broken. We have heard some call for vigilantism. I was dismayed to read in one newspaper that a senior counsel had expressed the view that the system was broken. Neither I nor most of the members of the Bar Association subscribe to this view. The system is not broken, but we are willing to concede that the system is currently under great stress and facing some of its greatest challenges yet. In 2010 we experienced an alarming increase in the crime rate and the filing of an ever increasing number of civil claims. This unfortunate state of affairs was set up against an embattled police force, a court system operating without its full complement of judges and magistrates, an office of public prosecutions with its own unique problems and a judicial system with a budget allocation severely curtailed by economic recession.

Unfortunately for us, the start of 2011 in some ways promises to be much of the same. We can always hope and pray that things will improve, but I submit that we can ALL do better than hope and pray. We are at that critical point where if we do not do something, the system can break. It is not infallible. It is time for each and every one of us to make a personal commitment to the improvement, strengthening and protection of our legal system for the good of our

nation. The goal of this exercise must be the deliverance of justice and the maintenance of public confidence in the justice system as a fair and democratic system, so that people and governments routinely accept and comply with judicial decisions.

We thank the Judiciary for the hard work performed in 2010. As we look to 2010, we respectfully request that you do your very best with the resources allotted this year. Look carefully for ways to maximize the efficiency of the judicial system, which do not necessarily involve lots of money.

- A commitment to give 100% to your chosen field and to improve the operations of the Supreme Court Registry, so that our court rooms are actively and efficiently disposing of cases throughout the course of an entire work day can make a perceptible difference.
- Ensuring that decisions are delivered within 3 months of the conclusion of any hearing and that those decisions are rendered fairly and impartially in accordance with the judicial oath will definitely improve the faith of our people in our judicial system.
- We think it important that you take special care in the way that you choose to interface with Government concerning your conditions of service. In some countries the judiciary has a person or a body akin to the CEO of a ministry, which will address financial issues for the judiciary or its judges. That is a luxury we cannot afford at this time and so our judges must sometimes directly treat with our Government. We are asking that you do your best to ensure that consultations are effected in a proper and transparent manner. A judge who seeks out specifically for himself a benefit not approved for the benefit of his brother or sister judges, whether it be a special type of vehicle or otherwise, must expect that persons will speculate as to how and why he was able to secure this added benefit. Thereafter follows a very slippery slope downhill, because every decision and action taken by that judge, will be looked at through a coloured lens, even though nothing may be amiss.

We thank the Prime Minister for affording us the opportunity to serve on the Committee that will advise him with respect to the next Chief Justice. With respect to the Government of Belize, we ask that:

- The independence of the judiciary be respected and upheld through enhanced security of tenure for our Court of Appeal judges. A report from USAID called "Guidance For Promoting Judicial Independence and Impartiality published in January, 2002 said ,

"As judges near the tenure of their offices they become more vulnerable to the influence of those who may affect their employment prospects. Additionally, Judges looking ahead to their next jobs may shape their opinions accordingly, even absent overt external pressure." [p.21]

The Report advocates that terms must be long enough to reduce the vulnerability of judges. We are requesting that a mandatory retirement age be instituted for our Court of Appeal judges by way of a Constitutional amendment or a fixed term that will enhance their tenure.

- We also request that the independence of the judiciary be further enhanced by the allocation of a fair and adequate budget that does not reduce our judges to seeking out what may be perceived to be "favours", when they seek only to be equipped with that which is deserving of the quality and life experience of a judge. Things such as decent court rooms, reference materials, clerks of court and opportunities for continued judicial training. In the future we may well need to examine the concept of a judiciary which is a separate branch of government with the same degree of self government and budgetary control as the Executive, but that is a long term exercise.

- We think it important My Lord that there be increased dialogue between the Government and both the Bench and the Bar concerning legislation that will impact the system and delivery of justice, before this legislation is laid before the National Assembly.

For my colleagues at the Bar, we can certainly pledge to do better than we did in 2010.

- Perhaps one of the most important things that we can do is to refrain from requesting adjournments unless the same is required for reasons that were not foreseeable at the time matters were set down for hearing and otherwise preventable. Adjournments granted to counsel when a court is ready and willing to go is a waste of valuable judicial time and resources. They are a burden on the efficiency of the system.

We should not take on a matter unless we are prepared to do the work and communicate on a regular basis with the client. Should any of us take on a matter and find that we cannot give our client the quality of service that he or she deserves, pass it on to a colleague who can, without issuing a hefty bill to a client who has received no discernible benefit. The inability of counsel to get the work done efficiently will often result in requests for adjournment.

- The Second thing that we can do is to uphold the code of ethics of the profession, particularly in the area of billing. It is not always easy to balance a fair fee against the high administrative costs required to run a law firm and the need to earn a decent living, but when billing we must keep in mind that Belize is an economy in recession and times are hard for our people. One of the accepted tests of a good legal system is affordability. If people cannot afford to access the system, they may decide to take justice into their own hands.

- The third thing that we can do is to commit to performing at least two Legal Aid matters a year. Some of us already do this for friends or family. Some of us also provide some form of legal aid to others in need, but it is not enough. More is required and so it is important that each and every one of us conscientiously commits to the performance of some form of legal aid this year. The Attorney General has agreed to work with the Association to formulate a plan to better address the issue of legal aid, but in the interim we can alleviate some of the burden on the system if we each voluntarily do a little.
- Lastly, we can encourage our clients to settle their differences amicably and when possible through other means of dispute resolution. It may well be time for us to consider a formal system of alternative dispute resolution, with a view to reducing the burden on our court system.

Milord, I am by no means submitting that the above requests will fix every aspect of our legal system, but I do submit that there are things that we can all commit to, right this very minute, that will have an immediate and positive impact on the state of the system. It is time for all of us collectively and individually to review and evaluate our performances and to think of ways in which we can make an improved contribution to our legal system for the good of our country.

I thank you My Lord.