

My Lords, My Ladies, other Judicial Officers, Mr. Attorney, President of the Bahamas Bar Association and members of Bar Council, Counsel and Attorneys, guests, and others who are viewing these proceedings by live stream or watching on television – Good afternoon.

As we mark the Opening of the 2021 Legal Year the country is still under a Proclamation of Emergency declared by the Governor General as a result of the scourge which we now identify as Covid 19. That pandemic has literally changed our way of life and the way in which business affairs and activities are conducted around the world. Courts have not escaped the intrusive and disruptive impact of Covid 19 and over the past 10 -11 months we, who are responsible for the administration of justice, have had to adapt and respond to the dynamic and unpredictable environment of the Covid 19 era as national Governments and public health officials have struggled to mitigate and contain the transmission of the virus. Lockdowns, curfews, physical distancing requirements,

sanitizing protocols, quarantines, self-isolation procedures, PCR and antigen tests and travel restrictions have all become a part of the new paradigm. The overall result is that the landscape of the Courts today is massively different than it was a year ago when this Court sat in the Supreme Court building on 8 January, 2020 to mark the Opening of the 2020 Legal Year. At that time we were recovering from the devastation of Hurricane Dorian which had passed through areas of The Bahama in September, 2019 and we were looking forward to better days ahead. Little did we know that Covid 19 was around the corner.

It is to state the obvious that our plans in 2020 for the Courts were severely threatened by the pandemic – but I can report that not only did our Court system survive in 2020, we defied the pessimists by making significant progress in many areas as we remained laser focused on court reform and modernization.

Undoubtedly, 2020 was the most difficult and challenging year in modern history. The turbulent events associated with Covid 19

delayed my timeline for the implementation of certain projects but we nevertheless moved forward with major initiatives in the Courts. Indeed, for us in the Judiciary, the real takeaway from 2020 is best described in the well-known adage that “***necessity is the mother of invention.***” By the second quarter of last year it became evident to all in the Court system that in the Covid 19 era, change and innovation were no longer merely strategies for progress and modernization but were imperatives for survival. That mindset was perfectly compatible with our pre pandemic objectives and mitigated the resistance to widespread reform intended to overhaul the machinery of justice in The Bahamas. The result is that notwithstanding Covid 19, 2020 was a productive and busy year for the Courts as we continued throughout the pandemic to fulfil our constitutional mandate and advance the components of the Court Modernization and Reform Initiative – COMRIN.

This is the second time that I have the great honour and privilege of addressing you as Chief Justice at the ceremony to commemorate the Opening of the Legal Year. It is a humbling experience and I continue to be grateful for this opportunity to serve my country. I pledge to do my very best to discharge my duties for as long as I am in this office. I am mindful of the fact that I am here for only a season and my overreaching legal fidelity is to the Constitution of The Bahamas. I acknowledge God in all matters and seek His continued guidance in my life as I serve as the Head of the Judiciary.

My plan for the Court system in 2021 can be simply and succinctly expressed in three words – **Reform and Modernization**. As we move into a new year, we intend to consolidate our achievements in 2020 and continue to implement the components of the reform programme with vigour, focus, discipline and hard work in order to implement sweeping and sustainable changes throughout the Court system. The ultimate

objective is to provide the people in The Bahamas with a Court system which is commensurate with the standing and high calling of The Bahamas in the international community. They deserve nothing less in a 21st century Bahamas.

I express on behalf of all my colleagues our appreciation to all who have taken time to join us today, either in person or virtually, to mark the Opening of the 2021 Legal Year. I trust that the proceedings today will give you a better understanding of the workings of the Court. I deeply regret that because of public health protocols we have not been able to accommodate at this ceremony many more members of the Court staff, lawyers and the general public. I trust that you all understand the limitations which necessarily applied to this event and that you are watching these proceedings by live stream or television.

Earlier in these proceedings I conveyed my gratitude to His Grace, the Most Reverend Patrick Pinder, Bishop the Reverend

Dr. Delton Fernander and Reverend Canon Norman Lightbourne for their prayers and words of wisdom which they shared with us in their pre-recorded messages. I also wish to thank the Commissioner of Police and Supt. Curtis for their generous assistance in organizing this event and arranging for the Honour Guard and a section of the Royal Bahamas Police Force Band to participate in the ceremony today. As always, they bring a great sense of pomp and pageantry to this annual event which enhances the special nature of this ceremony. Both groups were scaled back this year to facilitate physical distancing requirements but that did not in any way diminish their splendid contribution to these proceedings.

I wish to publicly applaud the extraordinary work of all judicial officers throughout the past twelve months and thank them for their exemplary service. Managing a court system through a pandemic in the midst of a public emergency with limited financial, and human resources operating out of seven different buildings in

various states of disrepair is extremely difficult. We could not have succeeded without the exceptional commitment of the judges, registrars and magistrates. We all had to reinvent our work processes, our long established work habits and our delivery mechanisms in order to discharge our judicial duties and for the most part, we accomplished this. I express my gratitude to all of you for your support, your selfless service, your hard work and your sense of duty in the face of adversity.

Similarly, I pay tribute to the hard working staff of the Judiciary. We have many unsung heroes in the Courts who keep the system running on a daily basis. I thank them for their steadfast and loyal commitment to the work of the Judiciary. Last year produced unprecedented problems which stretched our staff in many ways but they prevailed because of their industry and hard work. It is always dangerous to single out individuals for special recognition when so many have contributed to the work of the Courts. Be that as it may, I must publicly acknowledge the Registrar of the

Supreme Court, Ms. Camille Darville Gomez, for her outstanding work in the Judiciary. I previously observed in another place that she seems to be omnipresent throughout the Court system as she deals with so many different areas of our operations. The Registrar has a commendable work ethic and is result oriented in adeptly carrying out her duties. I thank her for her significant contribution to the Judiciary throughout 2020. I also publicly recognize the stellar work of our recently appointed Senior Court Administrator, Mrs. Constance Delancy. Her capacity for hard work and multi-tasking is impressive and she has greatly strengthened our senior management team in the Courts. Mrs. Delancy, ably supported by Assistant Registrar Renaldo Toote, headed our team who was responsible for organizing today's event. They did an extraordinary amount of work in pulling together the many aspects of the production and I thank them for their sleepless nights and scores of hours of meetings and rehearsals in connection with the Opening of the Legal Year ceremony.

During 2020 two Magistrates retired – Magistrate Gwendolyn Claude and Magistrate Rengin Johnson. They both served in Grand Bahama and I thank them for their many years of able and dedicated service. Each of them made a significant contribution to the administration of justice in The Bahamas.

Justice Keith Thompson was scheduled to retire in December of 2020 but his term of service was extended by the Governor General to 30 April, 2021 under Article 96(2) of the Constitution to allow him to complete his judgments. More will be said about the contributions of Justice Thompson to the administration of justice at a later date nearer to the time when he demits office. However, I want to use this occasion to publicly recognize his commitment and service to the Judiciary since his appointment as a Justice of the Supreme Court in August, 2018. Before that date, Justice Thompson was a member of the Industrial Tribunal for almost

nine years after a long career in Education and then in private practice at the Bar.

I convey my congratulations to Justice of Appeal Carolita Bethell who was a Justice of the Supreme Court for seven years prior to her elevation to the Court of Appeal in August of last year. We will miss her judicial acumen and experience at the level of the Supreme Court and wish her well as she joins the appellate court.

In October of last year the title of Senior Justice was conferred upon Justice Bernard Turner by the Governor General. This was a most deserving recognition for Senior Justice Turner and I convey to him my congratulations.

I wish to thank Acting Justice Tara Cooper-Burnside for agreeing to serve as an Acting Justice of the Supreme Court for the period 23 November, 2020 – 31 March, 2021. She has provided much needed judicial assistance in the Civil and Commercial Divisions

of the Court as she has taken on a full calendar of hearings. I trust that others will follow her example in setting aside a period of time from their private practice for public service.

I am also grateful to Mr. Dawson Malone who agreed to serve as an Acting Assistant Registrar in Grand Bahama for a period of approximately four months. He has greatly assisted in reducing the backlog of interlocutory applications in civil cases which can be heard by a Registrar. Again, he has set a sterling example for others to emulate in giving back to the country.

I commend to you the 2020 Annual Report which covers the work of the Courts during the past year. I do not propose to inundate you with statistics as you can study them in the Report. You will find that the Covid 19 restrictions impacted the volume of work before the Supreme Court during the second quarter of 2020 but that trend changed as we migrated to the use of our remote platform for court hearings during the second half of the year.

Productivity in the Magistrates Court was significantly interrupted by the pandemic as in person court hearings and trials were suspended for long periods of time. I can say at this point that we do not expect this state of affairs to continue beyond the middle of February, 2021. I urge you to read the Annual Report as it contains important information about the work and operations of the Courts. Like last year, we have hard copies of the 2020 Report and also wallet size USB flash drives containing the Report. These will be circulated to interested persons later this week and can be obtained from the Office of the Senior Court Administrator.

Since my address last year we have made major progress on many fronts through the execution of the Court Modernization and Reform Initiative. Our mission is to continue the process of reform in 2021 at an increased pace to recover some of the time lost as a result of Covid 19 in order to deliver on my commitment to overhaul the Court system in The Bahamas. Time restraints

dictate that I share with you today only a brief update on some of the major initiatives:

- 1. The Integrated Case Management System.** This will be the backbone of the new ICT platform for the Judiciary and will allow the Courts to deliver a wide range of E Services including E filing, E scheduling, E Payments, E Notices, E Probate and other customized subject matter applications. The procurement process has now been completed and in December, 2020 **the contract was signed with the Anchor Group for the design and implementation of the ICMS.** Under the contract the ICMS is to be completed and installed within twelve months and there is an additional six month post implementation period for follow up work. The Anchor representatives have already commenced work and they will be on the ground in Nassau by the end of this week. Through the ICMS we will implement an electronic filing feature via a secure web portal for authorized users. The

initial launch of this service is scheduled for late July/early August of this year and it will literally transform the way in which cases are commenced and conducted in all Divisions of the Court. The E filing portal will be introduced in the Magistrates Court, the Supreme Court and the Court of Appeal.

Other benefits of the ICMS will include better management by court officers of all aspects in the life cycle of a case via an electronic scheduling feature, the roll out of e-Notifications and messaging, the ability to pay online, fees and process payments through the ICMS and access to the digital recording and transcript software through the ICMS;

2. The Digitization Project – in December, 2020 **the contract was signed with ZCom**, the successful vendor in the procurement exercise. Members of their team are already in Nassau to commence work. I have established a new Digitization Unit in the Judiciary which is headed by Mrs,

Grace Bostwick. We have secured premises for the ZCom team and the members of the new Digitization Unit in Charlotte House and they are expected to move into the newly renovated and customized office space by the end of the first quarter of this year. ZCom will be responsible for digitizing court records covering the last 30 years and the in house Digitization Unit will deal with documents and records going forward. This project is closely aligned to the ICMS and will ultimately facilitate the migration from a heavy dependence on paper to a reliance on data where we are managing information as opposed to tracking paper. Court documents and dockets will be digitized and input into the ICMS to provide real time access to court files.

- 3. The Digital Recording System** - significant progress was made on this project in 2020 and we now expect to formally launch it by the end of the first quarter, 2021. This project will include the Court of Appeal, the Supreme Court and the Magistrates Court.

4. **The automated Bail Management System** is finalized and the initial pilot programme was launched in December of last year. Its utilization by members of the Bar is minimal at this time but this will change as we move to its mandatory use by the end of February.
5. **The Court Automated Payment System – “CAPS” – the contract with CaribPay (Bahamas) Ltd. trading as ‘Kanoo’ was finalized in December, 2020.** Kanoo was the successful vendor in the public procurement exercise which involved a published Initial Expression of Interest and subsequently a Request For Proposal involving a number of bidders. CAPS is an electronic payment management solution for the Family Magistrates Court which will allow court users to make and receive payments pursuant to court orders for maintenance, child support and related matters using their mobile devices.
6. **The Listing Office** – the entire procedure for obtaining court hearing dates has now been automated.

7. **A new Technology Platform** has now been launched throughout the Judiciary. All judges, registrars and magistrates were issued new laptop computers with specifications designed to be compatible with the ICMS and DRS. Later this month, they will each receive new monitors and a work station for scanning, copying and printing together with accessories. These devices will be the initial roll out of a 'technology kit' which will now be issued to all judicial officers.

Additionally, with funding from the IDB Loan Facility, all Court buildings are undergoing infrastructural upgrades to support computerization and an enhanced LAN/WAN environment for Cloud Computing to modernize operations and administrative procedures. Also, we are repairing and/or upgrading the current electrical distribution equipment within certain court buildings for higher efficiency, cost effectiveness, easier maintenance and enhanced security to support the implementation of the ICMS.

8. **The Bahamas Judicial Education Institute** – is now the principal arm of the Judiciary for all judicial and ongoing professional training. We have engaged an Administrator for the BJEI and it is expected that the new customized Training and Conference Centre will be ready for use by the end of the first quarter of this year. The Institute provided numerous virtual training webinars/seminars last year and hosted a remote Seminar for judicial officers yesterday dealing with Judicial Ethics and the Bangalore Principles, Effective Case Management, Sentencing in Criminal cases and Judging in a Digital Age.
9. **The Probate Registry** – Work processes have been changed and now all compliant applications are being processed within 90 days.
10. **The Family Court** – This is now operating through a specialized Division and we will be updating the Matrimonial Rules in early 2021 to reflect the changes in the procedures.

11. **The Commercial Court** - this is now functioning through a specialized Division. We will be promulgating new Rules in the first quarter of this year to govern the procedure in this specialty Division.
12. **Reduction of Backlog** – A specific Judicial Unit will be established to target the backlog with a view to expediting trial dates and reducing the disposition cycle for cases in the court system.
13. **Reform of Juvenile Court** – I intend to focus my attention on the Juvenile Court during the first quarter of 2021 to address systemic, administrative and procedural problems which are impeding the optimal performance of that Court and causing unacceptable delays contributing to the backlog. We must do better in this area in 2021. I will be consulting with the Chief Magistrate and the presiding Magistrate in the Juvenile Court with regard to this state of affairs. The solution must embrace an holistic approach involving Social Services and other stakeholders.

14. **Judicial Research Counsel** – we now have 9 Judicial Research Counsel working with the judges of the Supreme Court. This additional resource will significantly assist the judges in the preparation of their judgments and in reviewing submissions and cases in connection with court hearings.
15. **Court Administrators** – We have now appointed (i) **Mrs. Constance Delancy** as the Senior Court Administrator. She has oversight of all court operations with day to day responsibility for the Supreme Court; and (ii) **Mrs. Alphanette Grant** as the Court Administrator for the Magistrates Courts with responsibility for all non-judicial functions and services in those courts.

Also appointed was **Mr. Darmeeke Isaacs as the Director of Information and Communications Technology.**
16. ***New Supreme Court Complex*** - This remains a high priority for the Judiciary as we cannot continue indefinitely to operate out of the existing court buildings. This project requires a substantial capital investment and the funding arrangements were

compromised by the economic fallout of Covid 19. I have been working with a group of local specialists to recast the financial model for this project to test its viability in the short term. In his national address last evening the Prime Minister reiterated that the site of the old Post Office (which is currently being demolished) is reserved for a Supreme Court Complex and we continue to work on this project. While the current financial climate is challenging, we remain committed to advancing this project as expeditiously as is consistent with its viability. Certainly, the essential importance of a new Court Complex cannot be reasonably doubted as until that occurs, we continue to spend money on substandard buildings to make them barely habitable which were never designed or intended in the first place to be court rooms and which are not suitable for a modern Court system. It is a false economy to continue this ad hoc approach to providing the physical infrastructure for the Courts. We are cognizant of the serious and grave financial restraints on public spending caused by the pandemic but our expectation is that a

substantial amount of the funding for the new Court Complex can be raised outside the public purse through the capital markets.

In all of this it must be accepted that delivering justice comes at a cost. As a former Master of the Rolls in England stated – ***“The price we pay for justice is the price we pay for a civil society.”***

I repeat what I said last year. The Judiciary stands ready to lead this project as a part of our Court Modernization and Reform Initiative and work with all stakeholders if we are provided with the resources. The Courts deserve to be properly resourced and located in specially customized buildings which are fit for our purpose in order to carry out its vital functions in our democracy.

17. Court Services Bill

I am very pleased to report that the Court Services Bill was tabled in the House of Assembly in the fourth quarter of last year. I express my appreciation to the Attorney General and to his Cabinet colleagues for taking this important step to further deepen the independence of the Judiciary. This Bill is transformative and

will deliver to the Courts a higher level of financial, administrative and operational autonomy over the affairs of the Judiciary while at the same time preserving the constitutional role of the Minister of Finance over the public finances of the country. The Bill also provides for full accountability by the Judiciary in respect of its use of public funds.

I urge the Government to pass this legislation at the earliest opportunity and not let it become captive to other interests. This matter is too important to the institutional independence of the Judiciary for it to be delayed while other issues are pursued.

The Chief Justice of Kenya astutely expressed the point well when he said that:

“The necessary judicial independence of the judiciary cannot be achieved if the court finances are determined and dictated by the political organs of the Executive and the legislatures over whom the court should exercise judicial control.”

.....The performance of the judiciary in its administrative matters depends directly upon financial autonomy of the court because efficient administration requires resources to support the remuneration of necessary staff and acquisition of equipment and facilities. In the interest of the independence of the judiciary, it is important that the administration of the

judiciary be carried out by the judiciary itself or/by a professional agency under the superintendence of the judiciary.”

The Court Services Bill is landmark legislation in institutionalizing the high constitutional principle of the independence of the Judiciary which is one of the pillars of the Rule of Law.

In a lecture by Lord Browne-Wilkinson, a former Vice-Chancellor in England, he recognized the Judiciary “...**as a separate branch of government.**” The Chief Justice of Kenya endorsed this principle when stating that:

“The judiciary should not be treated as if it is another administrative department in the Ministry of Justice for it is not. It is an institution under Constitution which qualifies as an independent institution; whose accountability and responsibility should go hand in hand. Judicial independence without administrative and financial autonomy may turn out to be meaningless. Autonomy implies control of resources both human and material and without this autonomy there can be no accountability to speak about. The needs of the judiciary and its concerns can only be addressed if and only if the judiciary can itself assess and determine these needs and concerns. Delivery of justice depends on many factors such as numerical strengths of the judicial personnel, their competency and training; the judiciary must be assisted by an

administrative staff with adequate equipment supervised by a diligent court administration.”

The Court Services Bill addresses many of these issues and its passage will place the Bahamas as a leader in the global community on the subject of real, substantive and sustainable institutional judicial independence.

18. Supreme Court Rules

It is source of regret for me that my time line for the new Civil Procedure Rules has been significantly delayed by external factors. The new CPR is a critical part of the reform process for the conduct of civil and commercial litigation. I have given timelines in the past which have not been met. Nevertheless, given the state of the current draft of the CPR, I expect to circulate a working draft to the Committee members by the end of January. On that basis we should be able to release the working draft to the Bar in February for consultation. I appreciate that there may be skeptics amongst us based on past promises.

However, they will see that the new CPR will be promulgated before Easter of this year.

19. The Magistrates Court

This Court has the highest level of contact with the public.

The top priority at this time is to resume all trials in the Magistrates Court. We are ready to do so as soon as the plexi glass barriers are installed and I expect that this will occur by the end of this month.

Conclusion

I remain irreversibly committed to the modernization of our Court system. There are many moving parts on the journey to that destination and I invite all stakeholders in the administration of justice to join us as we seek to deliver to all in the Bahamas a 21st century Court system.

I declare the 2021 Legal year open.

Chief Justice
13 January, 2021