

Opening of the Legal Year 10 January 2007

Remarks by the Chief Justice

The Honourable Sir Burton Hall

My Lords, My Ladies
Madam Attorney
etc,

As Head of the Judiciary, I welcome you and I thank each of you for showing us the courtesy of taking the time to share this occasion.

I thank the Very Reverend Patrick Adderley, Dean of Christ Church Cathedral, for allowing use of the Cathedral for our annual official service. The Dean's sermon was a timely reminder to those of us charged with the administration of justice that we are in the service of the Lord – the ultimate Judge.

On Sunday past, the Judiciary and the Bar accepted the invitation of His Grace, the Most Reverend Patrick Pinder, Archbishop of the Catholic Archdiocese of Nassau, to attend the traditional "Red Mass", invoking the guidance of the Holy Spirit on the work of the courts. The Archbishop's call for a "robust moral culture", which follows upon his plea of a year earlier to uphold civility and good manners (an entreaty which appears to have been disregarded during the past year) echoes the warning articulated by Lord Justice Moulton three quarters of a century earlier that the true measure of a civilized society is "obedience to the unenforceable", that area of life between the poles of coercive law and personal preference, that is, "all cases of doing right where there is no one to make you do it but yourself".

Enactment and enforcement of "tougher penalties", as the popular cry goes, serve no purpose if a substantial proportion of the citizenry is intent on a course of destructive behaviour and this society appears yet unable to accept the connection between violent acts on the streets and the general casual disregard for social norms.

I shall return to this as I conclude my remarks.

I thank the Commissioner of Police, who is also the Provost Marshal of this Court, for the usual excellent presentation of the guard of honour by the Internal Security Division of the Royal Bahamas Police Force accompanied by the Force Band, a traditional feature of these ceremonies. The discipline – individual and organisational – that such presentations require is a conspicuous reminder of what we as a people are capable of producing and gives the lie to the oft voiced despair as to what we have become. I also thank the Traffic Division of the Force for facilitating our procession to and from Christ Church Cathedral today.

Today is the sixth occasion for me, as Chief Justice, to report on the work of the Supreme Court and the subordinate courts over the preceding year and, as with the previous two years, because we have been able to produce a written report, I commend that Report to you for the particularised data.

It will be observed that the Justices of the Supreme Court today inaugurate a new ceremonial garb and I invite your attention to the explanatory article that appears in the Report. It is disappointing that the ceremonial attire for the Industrial Tribunal, which is also described in the article, could not be completed by the suppliers in time for today's ceremony.

Before I proceed to highlight certain specific aspects of the work of the courts during the past year, despite the strong preference to do otherwise, I feel obliged to make some passing comment on the controversy that has engaged the public over the last two months.

I have previously expressed the view, to which I still firmly adhere, that, especially for something as complex as the legal system, when public controversy arises from time to time, as is inevitable in a maturing society, those who have benefited from training in the discipline of the law have a duty to use those events as opportunities to educate the wider community as to the purpose the system was intended to serve and the expectations that the citizens are entitled to entertain about the system and the limitations of the law as a cure for societal ills. On these occasions it is revealing, when one views or listens to the media, print and electronic, to learn of the misunderstanding which large portions of the populace have about the role of the courts in society.

It is regrettable that, on these occasions, too many persons – both within and without the legal system – succumb to the temptation to the smug self-satisfaction and cheap popularity of rhetorical onanism, abandoning that commitment to the intellectual and communal fecundity toward which their education, training and experience should impel them. It is as much a fact of social order as it is a fact of biology that, except for the simplest life forms, productive growth is an involved, deliberate process and seeds planted today do not bear fruit tomorrow.

While current events have served the useful purpose of extending the debate about the “independence of the judiciary” beyond the usual arid confines inhabited by students of constitutional law, the rhetorical excesses have, I fear, obscured the fundamental fact that the ideal was evolved for the protection of each member of society and is not a construct of judges to inflate their sense of self-importance.

The “independence of the judiciary” operates at several levels which mutually support each other and may be viewed analogously as concentric circles, of adjudicative independence, administrative independence and institutional independence, the boundaries of which overlap and shade into each other.

At the core is **adjudicative independence** and, except for the most primitive or totalitarian societies, no one seriously challenges the basal notion that the judicial officer – whether a Law Lord sitting in the Privy Council or a lay magistrate sitting in Mayaguana – should render decisions fairly and without being improperly influenced by any other person or agency whether representing public or private interests.

Administrative independence is, perhaps, the most difficult aspect in practice because this is daily played out in the competing concerns by which public funds are disbursed and personnel on the public payroll are engaged and deployed and the difficulty flows from the fact that the judiciary is dependent on the political directorate for the means by which it is sustained and the political directorate – in the real world, under the guise of that modern “democratic” desideratum of “accountability”, held hostage by the practical need to placate its public supporters and the contending demands for schools, hospitals, law enforcement and so forth — tends to be erratic in its response to the needs of the judiciary. This is a fact of life in every country, even those which have been engaged in the exercise of democratic governance for centuries. The skirmishes inherent in this struggle (which on behalf, of the judiciary is usually carried forward by the Chief Justice) with the political and bureaucratic machinery are ordinarily played out beyond of the public gaze.

It is at the level of **institutional independence** that the public is and ought to be continually engaged in a democratic society. In the quilt that is civil society, the judiciary, as an institution, jostles for space alongside other institutions such as the churches, the press and trade unions and judicial independence, even adjudicative independence, will only survive to the extent that the public at large accepts and supports it and is willing to defend it against attacks from and incursions by the Executive or any other institution, public or private.

In sum, judicial independence will only perdure if two factors persist: the courage and persistence of judges to assert their independence and the willingness of the public at large to support it.

Computerisation

As adumbrated a year ago and as the Report reveals, our website did come into existence during the year.

As for “computerisation”, I welcome the advances that the Honourable Attorney General has, today, informed us that are in train. However, I am obliged to point out that, despite the commitment by the Executive in previous years to provide to the Office of the Judiciary personnel for a dedicated Information Technology (“IT”) department, this has not yet happened with the result that, despite the enormous sums of money that continue to be spent on the BAHAMAS INTEGRATED JUSTICE INFORMATION SYSTEM (BIJIS) project, it is unable to deliver on the promises for the tracking of cases and the consistent record keeping essential to the production of statistics that make sense and the Office of the Judiciary is unable to respond rapidly to the technical problems that perennially plague IT systems.

The Supreme Court

During the past year, we bade farewell to Mr Justice Small, a native of Jamaica, who attained the primary constitutional age of retirement of 65. In December of 2006, Madam Justice Thompson attained the extended constitutionally mandated age of retirement; however, as a result of certain personal setbacks which she experienced earlier in the year, it became necessary for her to seek the agreement of the Prime Minister to extend her time in office, as is provided for by Article 96 (2) of the Constitution, to complete proceedings that were part-heard by her and she will demit office on 31 March of this year. Mr Norris Carroll, a counsel and attorney in private practice in the city of Freeport, has acted as a Justice since 1 October 2005 but, within a matter of days, will be returning to his practice.

We are grateful for the able assistance that each of them gave to us and we wish them well for the future.

The Judicial and Legal Service Commission (“the Commission”) agreed to advise His Excellency, the Governor General, that Mrs Cheryl Albury, formerly Deputy Chief Magistrate, who had acted as a Justice from 1 November 2005, be appointed to the post of Justice with effect from 1 October 2006. His Excellency has also been advised that Mr Damian Gomez, and Mr Peter Maynard, both attorneys in private practice in Nassau, be appointed to the Bench, Mr Maynard, in an acting capacity, for six months. Mr Maynard was sworn in by the Governor General and assumed duties at the beginning of January. Mr Gomez is expected to assume duties on 1 June. I congratulate both of them on their appointments and welcome them to the Bench.

With these new appointments, the Supreme Court Bench will, with the demission of Madam Justice Thompson, be functioning one member short of its complement (and two fewer than the statutory maximum). The Commission has acceded to a suggestion, conveyed through the Attorney General and supported – generally but not unanimously – by the political directorate (Government and Opposition) and the Bar, that efforts should be made to fill this post from the ranks of practitioners with appropriate commercial experience from a major Commonwealth country who would meet the statutory qualifications prescribed by section 4 (b) of the Supreme Court Act.

Consistent with the announcement that I made in 2005 that:

[As] a step in the direction of making particular provision for the hearing of commercial matters as is required for The Bahamas as a financial centre . . . representatives of the Bar in Nassau and Freeport have been apprised of the intention that, as soon as administrative convenience allows, all major commercial matters which involve a large number of counsel from abroad . . . will be heard in the Supreme Court at Freeport. The Court will, therefore, have a choice of facilities – in Nassau or Freeport – dedicated to its “Commercial Division”.

which followed my explanation in 2002:

For the benefit of the wider public beyond the legal profession . . . I begin by re-affirming two bedrock principles. First, the Bench in The Bahamas is too small for there to be specialist judges. While, as in any other area of life, individual judges may have particular preferences or greater skills in specific areas of the law, each judge must be a generalist and able to take the bench in any division of the Court. Secondly, the principle of equal access to the courts means that no aspect of the court’s work can ever be seen as less important than any other area: those accused of criminal offences, those involved in contractual disputes, parties in divorce actions, those with claims in land law, etc., all have a legitimate expectation for the timely resolution of their matters. However, that having been affirmed, the practicality is that, The Bahamas having chosen the provision of financial services as one of the pillars of its economy (and, consequently, a source of revenue necessary to fund other court services), the commercial business of the court is work which affects parties from every corner of the planet and, as we are then participants on a stage not confined by our national borders, international litigants who fail to obtain access to our courts for the fair, efficient and speedy resolution of their disputes, have the ability disproportionate to their numbers as litigants to ruin our reputation around the globe.

I added at that time:

I feel obliged to address briefly the vexed topic of Bahamianisation of the Bench. The proposition that the work of judging should be performed principally by nationals whose roots are in the community and who, with their families, must live under the regime constructed incrementally by their judicial decisions needs no arguments to support it; this can be regarded as a Jeffersonian “self-evident” truth. . .

Unlike most other countries . . . an indigenous judiciary is relatively new to The Bahamas. Does this process mean that the Bench should be exclusively Bahamian? As a native Bahamian, I am not persuaded to this view. My reasons are twofold: first, all judicial officers must be live to the appearance of bias in their presiding over matters before the courts . . . and, consequent upon our limitations of size, where we all live, work, worship and play cheek by jowl with litigants and potential litigants, there arise from time to time cases where it is preferable that the presiding judge be chosen from among those whose roots are not as deep in this community as those of a native or long time resident. Secondly, that tired cliché, “globalisation”, means that The Bahamas is no longer an isolated fishing village whose lawyers had to meet the undemanding needs of an unsophisticated populace. Especially, but not exclusively, in the areas of financial services and shipping, the courts of The Bahamas are required to relate to and interact with courts and lawyers from around the world and this Bench should take the benefit of judges whose broader experiences enliven and enrich its talent pool . . . I favour the use of the term “cross-fertilisation” to describe this process, though I am chastened by the observation which a senior practitioner made to me a few weeks ago that, unfortunately, to date, it appears that The Bahamas has always been the egg in the fertilisation process. I believe the view of most persons is that, while the Bench should be overwhelmingly manned by Bahamians, it need not be exclusively Bahamian and there will always be a public debate as to the appropriate ratio.

Despite the enthusiasm with which the idea of identifying a suitable Commonwealth candidate has been advanced, it was discovered months before the current controversy related to judicial salaries burst into the public sphere, that the search would be difficult because, contrary to what is naively assumed in certain quarters, there is no queue of such persons anxious to serve in The Bahamas which, in terms of the “package” of benefits it offers to judges, is no longer competitive with similar jurisdictions who are seeking to recruit from the same small pool of talent.

Accordingly, the Commission has through me, its Chairman, informed the Attorney General that if this endeavor has not produced a candidate by July of 2007, the Commission, in exercise of its paramount responsibility to ensure that the Bench is functioning at its full complement, will seek to fill the vacancy from the local Bar.

While the Supreme Court has had physical facilities at Freeport since 1994, it has proved challenging to ensure that a judge is posted to the “Northern Region” on a consistent basis around which parties and practitioners in that cities could arrange their affairs. I am not unmindful of the legitimate complaints which flow from Freeport and I am determined to seek to bring a measure of stability to the Court there in the course of this year.

Questions are often raised in the public as to the manner in which judicial officers, especially Supreme Court judges are appointed. The public has a right to be assured that the process is free from manipulation or abuse but the cry for “transparency” – one of those modern “buzzwords” – is, in my view, misguided as the Constitution and the Regulations made hereunder have deliberately created a “translucent” process which, especially in a small community, is vital to the frank deliberations of the Commission whose conclusions have a direct impact on the personal and professional reputations of the candidates whom it considers and, beyond the ability of persons selected to perform the tasks required, on the public perception of the integrity of the system generally and the effect that has on the broader society. For these reasons, it is seldom appropriate, even where legally possible, to share with the public why particular candidates have been considered or approved, or not, as the case may be.

In The Bahamas, unlike some countries with similar Constitutions, the Judicial and Legal Service Commission is, in addition to advising the Governor-General on the appointment of judicial officers – Justices of the Supreme Court, the President and Vice-Presidents of the Industrial Tribunal, Registrars and Magistrates – also responsible for advising on the appointment of legal public officers in the office of the Attorney General. While the Commission must inform itself on current government policies as to recruitment, promotion, emoluments, and so forth in relation to legal public officers, since they are part of the broader public service, this does not apply to the appointment and promotion of judicial officers – a distinction which the civil service bureaucracy appears to have difficulty grasping. Although the Commission is entitled to, and does, consult informally with the political directorate and the Bar on judicial appointments, it exercises a non-delegable duty under the Constitution to decide on the advice that it tenders to the Governor-General. This is a matter of fundamental importance on which there can be no compromise.

Without gainsaying the right of an informed citizenry to challenge those who have the responsibility to make decisions on their behalf, there are situations where those having the duty to decide can do no other than accept the fact that suspicions and criticisms will persist, whether the critics are motivated by malice or labour under a deficit of relevant information. At the risk of appearing elitist, it seems to me that if the presumption of integrity does not apply to the decisions of the Commission – the membership of which, chaired by the Chief Justice, includes a Justice of Appeal, the Chairman of the Public Service Commission

and two counsel and attorneys who have been in practice for at least ten years – this would be symptomatic that, as a community, we have so serious a fracture in the civil order that the disintegration of the society is just over the horizon.

The Registry

Last year, I reported that, at the end of December of 2005, Mr Justice Strachan (Retired) who had been appointed by the Government as sole Commissioner to consider and make recommendations on how the Registry should be structured for today's Bahamas, had made his report to the Government. While I had expected to be in a position today to reveal such of the Commissioner's recommendations as have been embraced by the Government, I am only able to report that his recommendations are still being considered.

Practitioners may recall the system I initiated several years ago of appointing the registrars, in addition to their judicial duties, as managers of the several divisions of the Court. During the past year Mrs Carol Misiewicz was brought up from the magistracy and appointed a Deputy Registrar. She has been assigned as manager of and Family Division and will assist Mrs Tabitha Cumberbatch in the management of the Probate Division.

The Magistracy

Mrs Carolyn Vogt Evans who was appointed to act as a magistrate In October of 2005 was confirmed in the course of the past year and she was joined by Mr Derrence Rolle who also had previously been in private practice in Nassau. We welcome both of them to the magisterial bench and note the enthusiasm into which they have submerged themselves in their responsibilities.

In November, Mr Vincent Wallace-Whitfield, who had done yeoman service on the Family Island Circuit resigned to assume duties elsewhere in the public sector and, at the end of the year, Mr Franklyn Williams, the industrious and energetic – if sometimes controversial – Deputy Chief Magistrate for the Northern Region, demitted office to return to the Office of the Attorney General whence he had been recruited for the magistracy. I thank both of them for their service as judicial officers and wish them all the best personally and professionally for the future.

At present there are four vacancies in the magistracy which the Commission must seek to fill. While it intends to advertise locally for candidates, it is anticipated that the recent difficulty in recruiting suitable candidates from the local Bar who were willing to serve (and this despite the large membership of the Bar) would mean that candidates have to be sought from outside The Bahamas.

Again, I thank the members of the private bar who have continued to assist by sitting as acting magistrates. The “Night Court”, which hears traffic and civil matters, could not function without their commitment.

Two years ago, I reported on the hurricane damage sustained by the court at Eight Mile Rock, Grand Bahama, which is housed in the Local Government building and last year I added that the October 2005 hurricane had virtually destroyed the building and I noted the dedication of Ms Debbye Ferguson and her staff in their continuing effort to provide service to that part of Grand Bahama. I am distressed to report that, not only have no improvements in that situation occurred but the Department of Local Government has given the magistrate notice to vacate the premises.

A fact, which is plain and obvious to us, but apparently not readily appreciated by the public generally or the bureaucratic machinery on which the legal system must rely, is that a court – at whatever level – is not merely the presiding judicial officer, whether judge, registrar or magistrate. The judicial officer must have adequate physical facilities in which to sit and from which to work when not presiding and must be supported by the necessary staff to arrange the flow of matters coming on for hearing, to file and record matters which are adjourned or completed, to collect and account for fines and fees, to respond to public queries and to ensure the security of the staff and members of the public.

Insuring that this support machinery is maintained is the major administrative challenge for all courts but especially for the magistracy which, even in New Providence, is not centrally located and which is further spread across the archipelago.

It is the difficulty of effecting these administrative arrangements that has stymied any advance on the “Community Courts” project that I had trumpeted two years ago.

These difficulties are compounded in relation to the Family Islands by the expense and inconvenience of moving from the Capital to another island, movement between islands or major islands and their outlying cays, and transportation and accommodation on particular island. Because of the uneven pace of development in this archipelago, the problem of carrying the system of justice to the Family Islands is, for the foreseeable future, the most intractable of the problems that face us.

I repeat a promise that I made last year, that I will continue to push the recommendation to recast the present Stipendiary and Circuit Magistrates as “District Judges” as a necessary fillip to the magistrates and a clearer indication to the public at large as to how the jurisdiction and responsibility of the modern

Stipendiary and Circuit Magistrate have expanded beyond the duties historically performed by the generic “magistrate”.

The Bar

During 2006, 54 persons were admitted as counsel and attorneys, bringing the membership of the Bar to 832.

In December, after consultation with Bar Council, I issued three practice directions, consolidating the procedures for ceremonial admissions to the Bar, institutionalising commemorative sittings for deceased members of the Bar and clarifying the use of the title “Doctor” by counsel and attorneys in court proceedings.

I would remind practitioners that the Office of the Judiciary’s training days for 2006 are: 23 February, 25 May, 21 September and 7 December and I would, again, invite the Bar to make use of these dates for organised programmes of continuing legal education for its members.

A concern expressed by members of the Bench is the need for the Bar to retrain, especially, its newer members, in the canons of etiquette especially in their language, demeanor and deportment in court.

Civil Procedure Reform

Three years ago, I reported that a committee of judges had prepared a report recommending modest, uncontroversial, necessary changes to the Rules of the Supreme Court by presenting draft rules intended to introduce case management by the court which came into force on 1 July 2004. Those judges had also recommended that the services of a suitably experienced person be retained to advise on comprehensive reform of the Rules. Budgetary provision having been made for such a consultant during the current period I am in discussions with the Attorney General to give effect to this appointment.

The amending rules of 2004 introduced to this jurisdiction Dispute Resolution Conferences, as an aspect of case management by the court, and having been involved in a large number of such conferences since the practice was begun, I am pleased to say that the culture of practitioners is changing (if not as rapidly as some of us would like) to an embrace of the Dispute Resolution Conference as a means of providing acceptable solutions to legal disputes at savings of expense and time to the public whom the system is designed to serve.

While persons of means have always enjoyed the flexibility of having their disputes referred to arbitration as a means of avoiding the hazards of extended litigation, the Dispute Resolution Conference is intended both to relieve the pressure on the system of disposing of the ever expanding volume of claims filed

only after a full-blown trial, but also of making these alternate means of resolution available to all litigants. The Bahamas comes late to this process and elsewhere, including in several states in our region, there exist institutes of mediators to whom the courts can refer parties. While a number of Bahamians have undergone formal mediation training, the courts can only refer parties to them if they are prepared to pay the fees which these mediators would charge for their services. This would prove an undue burden for parties who would have already borne the expense of hiring attorneys to bring their claims to court and such persons are entitled to question why the courts, an arm of state power, should require them to incur the additional costs of being referred to a mediator when their taxes already support the established state system of ultimate authority for the resolution of disputes, namely, the courts.

Whereas, at some point in the future, the government of The Bahamas will be expected to provide publicly funded mediation as a necessary adjunct to other legal services for the benefit of persons unable to meet the fees of mediators in private practice, I am not prepared to advance that at this time. After all, The Bahamas has yet to provide state funded legal aid to persons unable to instruct attorneys from their own resources!

Training

Having become convinced of the inestimable value of mediation at all levels in the courts, I have decided that each judicial officer – judge, registrar or magistrate – will be afforded the opportunity for training in mediation and during the year just ended several of us have benefited from training outside of The Bahamas and within the Bahamas as provided by trainers who have been brought in.

While there are challenges to judicial officers acting alternately as adjudicators and mediators, it is the ability to do so has become an indispensable aspect of the judicial services afforded by the state to persons who have disputes that they are unable to resolve themselves. Accordingly, training in dispute resolution will continue alongside our general training exercises.

Our programmes of continuing training now grouped under the title “JudiTrain Bahamas” are primarily intended for judicial officers and support staff. Judicial officers, especially those who are “Fellows” of the Commonwealth Judicial Education Institute, constitute the “faculty” of JudiTrain Bahamas and I am pleased to report that Mr Vincent Wallace-Whitfield, who has brought both innovation and enthusiasm to the task, has agreed to continue as part of the team, notwithstanding his departure from the magistracy.

In addition to their primary responsibility to the Office of the Judiciary, I have proposed that the faculty of JudiTrain Bahamas make themselves available for what I consider the vital exercise in public civic education in the work of the

courts. While judicial officers have consistently responded to invitations from various civic groups, such as trade union and churches, to address them and although the courts have hosted visits from schools from time to time, I am suggesting that we take the initiative of going into the schools, at the sixth, eleventh and twelfth grade levels on a regular basis as the schedule of individual judicial officers permits. The Registrar has agreed to coordinate this with the Ministry of Education in respect of government schools and will contact the relevant authorities in the private schools to make them aware of this initiative and invite their participation. (The Registrar has already informed me that I will be directed to a public school on Friday 26 January for the early start of this programme).

It is hoped that the Judiciary, by taking this assertive role in continuing civic education, will afford meaningful assistance to the generation coming into maturity in a participatory democracy by exposing them to the Constitution and the machinery of justice.

Other Matters

Last year, having noted the difficulties faced by myself and Madam Justice Thompson, constituted as an Election Court following the general election of 2002, I said:

As another general election nears, I again, respectfully, invite Parliament to address [the] question [of providing greater assistance to the Court in specifying rules for the amorphous concept of “ordinarily resident” in the peculiar context of The Bahamas.] In the history of the modern Bahamas, elections have, not unusually, been followed by claims necessitating the appointment of an Election Court . . .

Without gainsaying the right of persons to appropriately file petitions to an election court Parliament ought not, by inadvertence, to allow the Election Court to become a means of paralysis to the ordinary work of the court.

I am disappointed that our 2002 plea, repeated in 2006, has yielded no response whatever and, if the imminent elections spawn the number of petitions that were filed in 1987 or 1992 I will be forced to make certain decisions as to judicial assignments, the adverse effects of which on the administration of justice will have been, in my view, wholly preventable.

Concluding Observations

The Bahamas is at present, passing through one of those cycles where everyone is exercised about “crime”, with the predictable calls for the courts, the police the Government to “do something”.

Early in my remarks, I referred to Archbishop Pinder's homily at the Red Mass of the necessity for the society to have a "robust moral culture".

Eight years ago, as Chairman of the National Crime Commission, I authored the Report which observed:

Crime is, always has been, and always will be, a fact of life in every society although, of course, the levels vary as do the types of crimes. The public at large is especially concerned that they be kept safe from violent crimes against the person or the more serious property offences. These are "crimes" only in the narrowest sense of the term and are but the most extreme examples of the many negative social activities which society has proscribed as crimes. Commissioners are satisfied that, to employ the East African equivalent of the iceberg analogy, these crimes which so disturb and alarm the public are no more than "the ears of the hippopotamus". **We are convinced that Bahamian society is more threatened by a pervasive culture of dishonesty, greed and a casual disregard for social norms and formal regulation, than it is by crimes in the narrow sense previously described.** Measures cannot over any long period be successfully directed at, for example, armed robberies on the street, while ignoring, say, stealing by customers from shops. The destructive social consequences of such selective attempts are, we think, self-evident. Policies of prevention and prosecution must meet all facets of the general problem of crime and the goal must be that all reasonable steps are taken to minimise the incidence of all crimes and their effect on residents of and visitors to this country.

When I presided at these opening ceremonies in 2004, I began by quoting Mr Frank Field, Labour MP for Birkenhead, writing in the Christmas 2003 edition of the *New Statesman*:

Moral codes survive only if they are constantly taught and practiced. Rules are kept by convention, habit and self-interest, and, to a large extent, because other people keep them. Self-interest works for the common good. Operating a code of behaviour is like a pyramid sales operation. As long as it continues, its working guarantees its future. Once a significant number of people start to breach the code with any frequency, self-interest becomes self-centredness and the whole system falters. People behave badly; other people then behave badly because they have lost trust. They do not have the confidence to follow what their consciences often prompt them to do. Disorder becomes its own recruiting sergeant.

And I commented:

When persons seek to lay responsibility for what they lament to be the breakdown of the social order on inefficiencies and incompetence in the legal system (or other state agency such as the police), they should pause and reflect on whether their own behaviour builds up or breaks down the common good. As with every other society, the legal system of The Bahamas is incapable of delivering justice according to law if it's several operators, and the public at large, fail to cooperate and, in the worse case, seek to sabotage it.

In March of 2005, having been invited to participate in the lectureship series on the occasion of the 165th Anniversary Celebrations of the Royal Bahamas Police Force, I returned to this theme that:

[T]he police can do precious little to “prevent” crime in the absence of a broad community consensus of behaviour which it simply will not tolerate.

I posed the question:

Why, for example, is the prevailing social attitude that the police should spend their time chasing burglars and armed robbers rather than “otherwise law abiding” traffic offenders. Apart from the fact that persons who abuse their spouses and children are also “otherwise law abiding”, the truth of the matter is that an illegally parked car may itself lead to an accident and accidents, especially those in which speeding is a factor, kill and maim more people than do burglars and armed robbers.

and I continued:

I am of opinion that the curtailment of crime requires us both to form and refine in each member of the society that necessary obligation to acceptable behaviour and that the society as a whole adopt measures which make criminal behaviour socially and economically unattractive. It is generally agreed that, in The Bahamas of today, firearms, illegal drugs and dishonesty in the workplace account for the vast majority of our present crime statistics. I suggest that . . . it is only intolerance by the community at large which will cause persons to notify the police as to the whereabouts of the guns and the drugs and to become “whistle-blowers” in the business environment.

In sum, while courts might impose punishment upon conviction achieved after due process, no court or any other state agency will curtail objectionable behaviour in which a large measure of the population insist in engaging.

Conclusion

I now formally declare the legal year 2007 opened and I invite you to repair to the Eastern courtroom where the Director of Court Services will be your host until the Justices and Registrars are able to become less ostentatiously accoutred

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