

SPEAKING NOTES
OF
SENATOR ALLYSON MAYNARD GIBSON
AT THE
OPENING OF THE LEGAL YEAR
9TH JANUARY 2013
SUPREME COURT
NASSAU, THE BAHAMAS

May it please Your Lordship, this year The Commonwealth of The Bahamas is celebrating the 40th Anniversary of her independence. As we move into a new era of our national life, we acknowledge and recognize the concepts of justice and the Rule of Law, are central to our democracy.

The Attorney General is established in our Constitution.

Article 78 states the **purpose** of the Attorney General. The purpose is to:

- (a) *institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of The Bahamas;*
- (b) take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) discontinue, at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by himself or any other person or authority.

My Team at OAG helps with the institution and undertaking of criminal proceedings.

The power to take over, continue and discontinue proceedings at any stage before judgment is vested in the Attorney General alone to the exclusion of any other person.

In the exercise of the powers conferred upon me by the Constitution, I, as Attorney-General am not subject to the direction or control of any other person or authority.

The Attorney General is also the government's chief legal advisor and is also responsible for relations with the:

- Judiciary
- Industrial Relations Tribunal
- The Magistracy

In short, the Attorney General is critical to the efficient administration of justice.

My Vision as Attorney General **is for The Bahamas to have the most efficient justice system in the Region.** I believe that if my team and I are able to realize this Vision this during my tenure, the next Attorney General can, if he wishes, aim for The Bahamas to have the most efficient justice system in the world.

I see a justice system where:

- the police and the OAG work so effectively together that matters are routinely brought before the Courts within a reasonable period, without avoidable adjournments
- Trials take place within a reasonable period
- Appeals are heard expeditiously
- Our specialist Courts are considered the best equipped in the Region
- The administrators in our Courts are considered the best in the Region
- Judges get their transcripts in agreed time
- Accuseds can swiftly assert innocence
- Victims feel that their rights are acknowledged and can swiftly bring closure to crime and tragedy
- Families of victims feel that the system serves them.
- Citizens can follow on line matters
 - Cases
 - VBIs
 - Bails
 - Convictions
 - Acquittals
 - Why matters did not proceed
- The backlog is under control and systematically decreasing

- The Family Court is implemented and operational
- Community Courts operate and function as a part of Urban Renewal
- Judges are appropriately remunerated so as to have no concern about their independence
- Magistrates, Registrars and all in the Judicial and Legal Services salary scales are appropriately remunerated.

The achievement of these goals however, will be linked in part to having our Departments adequately resourced, inclusive of properly trained staff, state of the art equipment and reasonable funding.

OAG has created a division, led by the former Solicitor General and the former OC of Prosecutions, whose sole responsibility is the **administration** of criminal cases. Its audit of matters in OAG from 2002 to date reveals that the number of matters outstanding in OAG is such that if 12 judges of the Supreme Court sat hearing only criminal matters for all of 2013 the backlog of cases would not be cleared by the end of 2013. I ask you to note that this audit does not include matters before 2002. This is cause for grave concern. As an important step in addressing this matter all members of the prosecution team have been mobilized to trials.

The DPP and her Deputies will lead the Team. It is our intention to aggressively move matters to trial so that backlog is at a manageable and acceptable level as soon as possible.

My Lord, I am deeply grateful to you for the close working relationship that we have established through our weekly meetings, that enable us to be aware of the concerns of the stakeholders for whom we each have responsibility, to address concerns as soon as possible and to work appropriately together to improve the administration of justice – a common goal of the Judiciary and of the Executive.

May I have your leave to speak about plans to address concerns about the backlog and to become the most efficient justice system in the Region?

Swift Justice has been re-implemented. A renewed collaboration between stakeholders is resulting for the most part in VBIs being presented when scheduled and fewer trials being vacated from the Court calendar for matters within the control of the State. We are committed to working closely with the Court so that as soon as one case is finished, another will be ready to start. Judges sit every day, ready, willing and able to hear matters and we are making every

effort to ensure that valuable judicial time is not wasted. We are working towards routinely presenting VBIs within 30 days of a person being charged with an offence. This will in turn maximize the possibility of serious matters being tried within a reasonable period. I thank all of the Swift Justice Team for their commitment and for the significant progress that has been made to date. Thank you also to the Commissioner of Police who has promoted and enabled the close collaboration necessary between my Office and the Police that so significantly impacts the success of Swift Justice.

Integrated Justice Software has been acquired and consultation will commence this month with the Courts, OAG and the Police so that the entire system will be integrated, giving access, as is appropriate to stakeholders. We have asked the vendor, to also consult the Bar Association. It is my hope that by this time next year [January 2014], it will be possible at arraignment for the Judge to see all Judges Calendars and to ascertain at the click of a mouse whether there are any scheduling conflicts with any counsel. My Lord, I take this opportunity to invite Bar Council to educate Counsel to the importance of not taking briefs that they cannot fulfill and releasing briefs when there are conflicts? It is also my hope that in implementation of the Case Management

Rules, Judges will not be reticent in insisting that briefs be passed on where Counsel are members of a law firm and where there is a possible scheduling conflict.

The IDB Consultant engaged to advise on the efficiency of **Court Reporting** has submitted an interim report. I am grateful for the cooperation of the Judiciary with the changes that are now being implemented upon the advice of the IDB, which is our partner in the implementation of digital recording. We hope to have career paths set up within the Court Reporting Unit in time for the next budget. An Acting Director of Court Reporting will imminently be appointed and with your support My Lord, she and the Registrar have been given the remit of, among other things, ensuring that Judges and parties receive transcripts in a timely fashion. I have been advised that the backlog in transcripts has been significantly decreased. We hope that by the end of 2014, all of our Courts will be equipped for digital recording. We believe that the most efficient justice system in the Region will require both Court Reporters and digital recording, if we are to remain on the proverbial cutting edge.

The effective use of **videoconferencing** is a critical tool for efficiency and cost saving. This year evidence has been received

by videoconferencing in several cases. Legislation will shortly be brought to Parliament that will enable bails, arraignments, case management and any other application before trial to be conducted by videoconference. By January 2014, we hope that Judges and Magistrates will see fit, save in exceptional cases, to bring from Her Majesty's Prison only persons being tried; all other matters being heard by videoconference from the remand center at the prison.

Integrated Justice, transcripts and video-conferencing are also important to the civil side of the Court. It is my hope that this year we can commence discussions with you on the establishment of a Commercial Court. Your Lordship is aware of our intention to establish an International Arbitration facility in Grand Bahama.

My Lord, we hope that in 2013 more Senior Counsel will follow the example of Mr. Wayne Munroe who agreed to sit as a Judge in the criminal side for 2 months last year. This would enable Your Lordship to give serious consideration to minimizing lost judicial time by appointing Acting Judges, as appropriate, when Judges are on vacation. I thank Justice Munroe for agreeing to sit on the criminal side last year.

Before I turn to the Magistrates Court, I respectfully draw Your Lordship's attention to the concern of litigants before our Courts of the time that it takes to obtain Rulings and Judgments. In this regard, I note that in other jurisdictions, as well as providing Judges with full time Clerks to assist with writing and research, legislative provision is made to define a reasonable period within which a Judgment must be written.

My Lord, we note your concern that the time may have come to revamp the administrative structure of the Supreme Court. We believe that this is necessary if we are to become most efficient justice system in the Region. I have asked Law Reform to research what happens in other jurisdictions. We have real fiscal constraints. However, we believe that becoming the most efficient justice system in the Region, as well as restoring law and order will assist our plans for economic recovery.

My Lord, I now move to the **Magistrates Court**, the frontline of justice for the vast majority of Bahamians. We believe that to become the most efficient justice system in the Region we must revamp the processes and administration of the Court. Thank you My Lord for your support in the appointment of the Family Court Committee, Chaired by Madam Justice Rubie Nottage [Retired]

and thank you to the Committee for their hard work and their well thought out Report, which has been submitted to Cabinet. The time has come for us to demonstrate our belief in the family as the foundation of society by the establishment of a **Family Court**. The full establishment of the Court and its facilities are matters of ongoing discussion between us.

Serious consideration is being given to the establishment of **Community Courts** within the framework of Urban Renewal. Minor matters such as graffiti offences and loitering can and should be dealt with by community elders. These changes would enable Magistrates to deal with more complex legal matters and to have more manageable calendars. I am pleased to advise that we expect that Prosecutors will be posted to serve in the Magistrates' Court next week. My Lord, while the front door of the Magistrates Court has been changed, enabling the security scanner now to work, the building continues to have problems that are being systematically addressed. **I hope that we will be able to permanently locate Prosecutors at the complex this year.**

My Lord, I am asking Bahamians and all friends of The Bahamas to join us in the journey to the most efficient justice system in the Region. I have asked our technical experts to make provisions to

post on the OAG website the activities of the prosecutors and those involved in civil trials. I see the day, before the end of this year, when any person will be able to go onto the OAG website and see which Courts are being served by their OAG. We serve the people and we want to enable Bahamians to join us in the exciting journey to becoming the most efficient justice system in the Region.

My Lord, we are fortunate to have hardworking Judges, who take seriously their critical role in the administration of Justice. On behalf of a grateful nation, I thank the entire Bench for your hard work, courtesy and dedication. Since May, I have had the pleasure of meeting with you weekly My Lord. Your passion for justice and its efficient administration has been at the center of all of our discussions. Thank you for your courtesy and your commitment to efficiency and fairness in the administration of justice.

My Lord, I started with a statement of my purpose. It is also the purpose of the Permanent Secretary, the Director of Legal Affairs and the Director of Public Prosecutions and the entire Team whom I have the pleasure to lead at the Office of the Attorney General. The Team members are intelligent, patriotic, dedicated and hardworking professionals who, as well as being committed to The

Bahamas having the most efficient justice system in the Region are also committed to my vision of the Attorney General's Office being the premier Law Chambers in The Bahamas. On behalf of a grateful nation I thank each one of them.

We are a Christian nation. It is appropriate that we start the legal year in Church. I thank Archbishop Patrick Pinder, Dean Patrick Adderley, Archdeacon James Palacios and the Cathedral Chapter for their courtesies and usual wise counsel.

My Lord, I respectfully submit that there are many reasons why we should work hard to have the best legal system in the Region, the most important reason, in my submission, is that the world will see that from The Bahamas "justice rolls down like waters, and righteousness like an ever-flowing stream".

My Lord, it is my prayer that when the light of history is shone on my tenure as Attorney General that it will be said that I made a difference, left in place a world class system, the best in the Region, that serves the country well and did so with humility and without fear or favour.