

Address by Samuel Bulgin, Hon. Attorney General, at the Opening of the Grand Court for the year 2014

My Lord Chief Justice and Hon. Judges of the Grand Court, Hon. Chief Magistrate, Hon. Magistrates, Madam DPP, Madam Solicitor General, COP, distinguished guests, colleagues at the bar, public and private, ladies and gentlemen.

My Lords, as usual the occasion of the Grand Court opening affords us the opportunity to highlight some of the major legal developments of the past year and to offer a sneak preview into the coming year.

And so as I rise to move the motion for the opening I also crave your Lordships indulgence to offer my customary remarks. If it so pleases you My Lords.

My Lords, the joy of welcoming four new members to the inner bar was tempered by the sadness of the passing of our former colleague Mr. Neville Woodbine Levy.

And so as we again say congratulations to Mrs. Eileen Nervik and Messrs. Ian Paget-Brown, Colin McKie, and Trevor Ward, on their elevation to the rank of Queen's Counsel we must also record our sadness at the passing of Mr. Levy as his memory continues to reside in our thoughts.

My Lords, last November marked the first anniversary of the justiciable Bill of Rights in our modernized Constitution. It also marked the fourth anniversary of the said Constitution.

Although only one year on, our Courts have already made some very important rulings on challenges arising from the Bill of Rights. These rulings addressed the issues of the constitutionality of specific provisions in the Police Law and the Bail Law (both relating to the right to liberty) and the Court's obligation to interpret the impugned legislative provisions, to the extent possible, in a manner that is consistent with the Bill of Rights.

The courts have also had to adjudicate on other legal challenges including to development projects, and the eligibility of a Parliamentary candidate. The challenges and rulings serve as an affirmation that the Constitution is working for those whom it is designed to serve, that is, the people of these Islands. This is a welcome development for any democratic society and should be encouraged. It is also an affirmation that the people of these Islands do embrace and enjoy the inalienable right of access to our Courts to seek redress.

Indeed, the Constitution has demonstrated its efficacy in other areas of governance/or the democratic process, including the resolution of Parliamentary issues and a referendum on matters of public interest. And, on each occasion it has brought about acceptable and binding outcomes which will go a long way in developing not only the jurisprudence in the Cayman Islands but in the wider region.

Of course it has also highlighted some imperfections but this is to be expected in any emerging/burgeoning democracy. I am aware that the Constitutional Commission and other stakeholders are examining these weaknesses with a view to identifying practical solutions.

My Lords, notwithstanding the continuing challenges faced as a result of the inadequate accommodation, the Courts continue to function with the usual efficiency and high quality that we have all come to expect.

Large numbers of judgments of the highest quality were delivered during 2013. These cover areas of Civil, Criminal, Financial Services, Constitutional and other public law areas as well as family matters.

There were also reforms by way of Grand Court Rules and Practice Directions undertaken by the various committees with a view to further enhance the efficiency of the administration of Justice. It is also the hope this year that with a fully functional website the businesses of the Courts will be even more modernized.

My Lords, we note that with the increasing work load in the criminal courts, the long standing issue of the need for more court room space is even more pressing and we applaud the efforts of the Hon. Chief Justice, the Court Administrator and Staff who continue to try to find creative interim solutions to this issue. Thus over the past year the Town Hall was again pressed into service and Judges and Magistrates continued to use Chambers as Open Court where this was necessary because of lack of court room space.

We also note My Lords, efforts in the Summary Court to tackle the backlog in a number of areas by continuing to obtain the assistance of Acting Magistrates Donalds and Nervik, in respect of Coroners cases, the Civil and Maintenance court and in summary trial cases, we also note as well the addition of a Panel of Acting Magistrates.

On the Prosecution side the Director of Public Prosecutions would wish me to report that the Government through the Office of the Deputy Governor has approved the hiring of an additional Crown Counsel in the Office of the DPP. This together with the re-

arrangement of Portfolios in that Office will make two Crown Counsel available for a project to tackle the backlog in some of these areas. The Director has raised the matter with the Court Administrator and the details are to be worked out in short order.

On the legislative front, My Lords, it is the intention of the Government to undertake a number of legislative reforms that will also help to further enhance the administration of Justice. Legislative reforms to be pursued include amendments to the Criminal Procedure Code to improve the facility which allows for certain hearings to be conducted via video-link, including mentions and remands of persons incarcerated..

Government is also considering further amendments to the Firearms Law, and the Police Law, to mention a few. We are also hoping (holding our collective breath here) to enact a Legal Aid Law as well as a law to establish something similar to the Office of an Administrator General or Public Trustee in order to address some of the ongoing issues relating to small estates of certain deceased persons, as well as persons under a mental and/or physical disability, and in other instances where there is no fit and proper person to represent certain interests.

The hope is that in order to make this as cost effective as possible the Office may be combined with the Office/post of Legal Aid Administrator or another relevant public office. We are also hoping to have legislation dealing with the award of Interim Relief, Reciprocal Enforcement of Judgments, and to address some obvious weaknesses in the valuable services provided by Justices of the Peace. Other legislation being considered include a modified witness protection law as well as a DNA Law and a Parole Law, to address the issue of parole eligibility, including that for prisoners serving life sentences.

It is further hoped that we will be able to enact a bespoke Charities Law, a revamped Exempted Limited Partnership Law, A Standard in Public Life Law, Public Authorities Law, as well as other legislation that will enhance our financial services industry. These initiatives mark a continuation of the active legislative programme that was pursued last year which saw major legislation such as the National Conservation Law, the Immigration Amendment Law as well as others enacted by the Legislative Assembly.

I would therefore understandably wish, with your leave to publicly recognize the excellent efforts of all our legislators, our public and private sector legislative committees and all my Legislative Drafters.

There is every indication that we will be very engaged this year in ongoing initiatives as it relates to Cayman's international obligations of mutual co-operation in the area of exchange of information, including tax information and criminal conduct generally. In this regard we are also hoping, in co-operation with HMG to have in place a more contemporary and robust extradition framework.

My Lords we can be justly proud of the jurisdictions' ongoing strong compliance culture as evidenced by the public recognition from the UK's Prime Minister as well as the excellent ratings achieved following our OECD/Global Forum Phase II Peer Review exercise where Cayman was rated as overall largely compliant. Added to this is the Financial Stability Board's (FSB's) recognition of Cayman's position as a jurisdiction that has a sufficiently strong adherence to internationally agreed information exchange and co-operation standards in the area of Insurance, Securities regulation and of course Banking.

My Lords, along the same line, there is a new unit within the Chambers of the Attorney General, the Anti-Money Laundering Unit with primary responsibility for co-ordinating a national AML/CFT Risk Assessment. This Unit, with the support of all relevant stakeholders, will spearhead the efforts that are necessary to ensure that the jurisdiction is in a state of readiness for its fourth round mutual evaluation in 2016. Much has been achieved, but there is still work to be done, and the Government is committed to the cause of maintaining an internationally recognised well regulated jurisdiction, in which our Courts, by the quality of the judgments continue to be a vital link while maintaining its unquestionable independence.

And having mentioned the Judiciary My Lord, please allow me to publicly welcome the most recent additions to our Court of Appeal, welcome to Justices of Appeal Sir George Newman, Sir Bernard Rix, and Mr. John Martin QC and our thanks and appreciation to retiring Justice of Appeal Conteh for his service to the Cayman Islands.

My Lords, allow me to also observe that Justice Sir Peter Cresswell will be saying goodbye to us sometime this year after a period of very distinguished service on the Grand Court.

Justice Cresswell has delivered some landmark rulings during his tenure and we would wish to publicly thank him for his excellent and dedicated service and wish for him a long and enjoyable retirement.

On the related issue of Law and Order, allow me My Lords to observe that as a jurisdiction we continue to have our share of challenges with crime and anti-social behaviour caused by a handful of persons within our midst. We can also confidently observe that our police service under the able leadership of our Commissioner continues to stay on top of the situation and we are ever grateful for their dedication, commitment and professionalism. On a personal note - permit me also to offer congratulations to COP Baines on his recent award of OBE.

My Lords we look forward to this New Year as it unfolds, pledging as a Government to continue to support the Courts and the justice system in these Islands. We also place on record the continued commitment of the Chambers of the Attorney General, the Office of the Director of Public Prosecutions and other agencies to continue to work hard in support of the proper and efficient Administration of Justice in these Islands.

And as I move the motion for the opening of the Court for 2014, may I wish for your Lordships, Magistrates, Court Staff, all Colleagues at the bar, and all others involved in the administration of justice a prosperous and productive 2014.

And with your leave, My Lords I now formally move the motion for the opening of the Grand Court for the year 2014. May it so please you My Lords.