

**ADDRESS OF ALASDAIR ROBERTSON ON THE OCCASION OF THE
OPENING OF THE GRAND COURT ON 17 JANUARY 2018 GIVEN ON
BEHALF OF THE CAYMAN ISLANDS LAW SOCIETY**

My Lord Chief Justice, Hon. Judges of the Grand Court, Hon. Chief Magistrate, Hon. Magistrates, Mr Attorney, Madam DPP, my colleagues at the Bar, our Special and Distinguished Guests, Ladies & Gentlemen

If it may please my Lord

I am very happy to provide this report on the activities of the Law Society. As has often been the case in previous years, much of our efforts last year have been focused on working with Government and stakeholders on proposals for new legislation, and to which I now refer.

Legal Practitioners Bill

My Lord, for many years now the Law Society has used the occasion of the Opening of the Grand Court to voice its strongly held view that the Legal Practitioners Law is unfit for purpose and is long overdue for fundamental reform. The public is entitled to expect that we have modern, fair and proportionate regulation of all lawyers in private practice.

Without its reform our financial services sector will continue to be hindered (with adverse implications for local jobs and prosperity in that critically important sector); local families and businesses who need assistance from lawyers will continue to be disadvantaged; and Caymanian attorneys will continue to lack the opportunity to be admitted in England and Wales and other jurisdictions and thereby greatly expand their opportunities.

I said "long overdue", but it is not commonly known just how long ago the failings of the legislation were recognised and for how long successive governments have failed to remedy them. The Law Society sent a detailed letter to the Attorney General regarding a draft Legal Practitioners Bill dated **20 January 1988 – 30 years ago almost to the day**. Even then the Law Society considered that the Legal Practitioners Law was, and I quote, "*inadequate as a framework given the nature of the current practice of law in the Cayman Islands*" and it endorsed a complete overhaul of the legislation.

The Law Society greatly regrets that a genuine opportunity to enact a modern Legal Practitioners Bill was lost shortly before last year's General Election. We can only appeal to the new Government finally to take forward the draft Bill and to achieve what its predecessors have failed to do.

Financial Services legislation

The Law Society welcomes the enactment of the Foundations Companies Law, 2017 and the Limited Liability Partnership Law, 2017 during the course of last year. They are very innovative products and they will bring new opportunities for the jurisdiction as a leading international financial services centre.

The new proposals for a new regime for beneficial ownership were enacted last year. The Law Society was grateful for the opportunity to work with the Government and other stakeholders to bring in a legal framework in a very short time frame.

Your Lordship may also recall that last year saw the Cayman Islands being evaluated by the Caribbean Financial Action Task Force ("CFATF") that culminated in their visit in December. As you are aware the Law Society has long endorsed the view that having a modern Anti-Money Laundering ("AML") regime is critical to the jurisdiction and had suggested in the draft Legal Practitioners Bill

that we apply the AML regime to lawyers as required by the CFATF recommendations. Several Law Society members spent a significant amount of time last year working with Government on the proposed changes to our AML regime in anticipation of that visit.

It was therefore disappointing and if I may say, concerning, that the Government allowed less than 2 business day's public consultation on regulations to bring lawyers into the AML regime as we had suggested and a version of regulations to introduce a Cayman Islands Monetary Authority administrative fines regime, severely limiting the ability of the financial services sector and the two Law associations to provide meaningful comment.

Other reasonable feedback and proposals on the primary AML regulations and guidance notes were also not included and we received no detailed explanation as to why they were omitted. Given the 3 year lead-in to the CFATF evaluation, with the creation of the AML Unit and the designation of multiple sub-committees to review the AML framework, the last minute rush to introduce this legislation should have been totally avoidable.

This is not the first time that the government has failed to consult properly, and to permit proper public debate, about important forthcoming legislation. Such failures undermine the rule of law. We can only hope therefore that meaningful public/private sector cooperation will be restored in 2018 and that the new AML legislation works as a matter of practice and does in fact achieve the Government's laudable objects.

Other legislation

The enactment of the Data Protection Law will have far-reaching implications for every organisation and business that retains or handles personal information,

whether it be Government; or banks, insurance companies, and other financial organisations; or hotels, supermarkets and shops.

The Non-Profit Organisations Law, 2017 will, for the first time, regulate activities of certain non-profit and charitable organisations.

Truman Bodden Law School

The Law Society welcomes two new developments at the Law School.

Students at the Law School who successfully complete the Legal Practitioners Course will now be able to earn a Post-Graduate Diploma in Legal Practice (Cayman Islands) to be issued by Oxford Brookes University in England. This new Diploma is an internationally recognised as a UK higher education qualification. It will therefore provide significant career opportunities to graduates.

The Law School now offers a new LLM and Post Graduate Diploma in International Finance: Law and Regulation. This will be of great benefit to those students who aspire to a career in the financial services industry. To date, six students have enrolled in the LLM programme.

Bereavements

I should also make mention some of prominent members of the legal fraternity who passed away last year.

Julian Black. Julian was a well-known figure in the structured finance market both in Cayman and globally, he was a strong advocate of the jurisdiction in this global sector and made a major contribution to the Cayman Islands success as the leading issuer jurisdiction for structured finance vehicles. Julian was known to me on a very personal level as we had shared an office at Clifford Chance in London

back in the 90's. Julian then moved from Freshfields to Walkers in Cayman in 2000 before becoming a partner at Appleby and then subsequently as Group Director of Estera.

Julene Banks. I would also second the remarks to be made by Mr. Watler on the passing of Julene, who was a talented and devoted public servant.

Richard De Lacy QC. Richard, who died at the relatively young age of 62, was not only a highly regarded litigator he was also an accomplished musician and actor.

Finally, Kipling Douglas. In his speech Mr McKie will note Kipling's many achievements, and I endorse his remarks.

Each of them will be greatly missed, and we give our condolences to their families and their many friends and colleagues.

Officers of the Society. As is traditional, I would also like to take this opportunity to thank specifically the Vice Presidents of the Law Society, namely: Antonia Hardy, James Bagnall and Kevin Butler, and also Huw Moses in his role as Secretary, for their valuable contribution to the Law Society.

Administration of Justice. I have had the opportunity to read a draft of Mr McKie's remarks and would in the interests of time simply endorse his words of thanks to all of those individuals who have contributed to the smooth running of our Court system over the past year.

Now it remains only for me formally to second the Honourable Attorney General's motion to open the Grand Court for the year 2018 on behalf of the Cayman Islands Law Society, and also to take this opportunity to wish Your Lordship, Judges, court staff and fellow members of the legal profession a very happy and prosperous New Year.

Alasdair Robertson

President

Cayman Islands Law Society