

PRESIDENT OF THE CAYMAN ISLANDS LAW SOCIETY – ADDRESS

14 January 2015

May it please your Lordship, Hon. Justices Henderson, Quin, Foster, Williams, and Mangatel, Hon. Chief Magistrate, Hon. Magistrates, my colleagues at the Bar, our Special Guests, Ladies & Gentlemen.

I have had an opportunity to read Mr. Thoppil's speech in advance and confirm that I agree with all that he will say. I would also like to extend a very warm welcome to all judicial appointments referenced earlier by the Honourable Attorney General and also note his remarks with regards to the retirements of Justices Cresswell, Henderson and Foster and adopt them wholeheartedly. We wish them the very best in their well-earned retirement. I also note the Attorney General's remarks in relation to the death of Sir Richard Ground and former Justice Levers and would likewise offer our condolences to their families.

Your Lordships may remember that one of the themes of my speech last year on behalf of the Cayman Islands Law Society was "constructive engagement". I am very glad to report that throughout last year, the Law Society held high to that theme as I shall shortly demonstrate. Having met with my executive council at the beginning of the month, we have determined that the focus this year is going to be on "engaging with the membership" and again I will highlight what I mean by that shortly.

Legislation. This year as now seems to be the norm has been a particularly busy year for the many members of the society who as always on a pro bono basis, have provided input into various elements of legislation being considered in the jurisdiction. This remains a very important role that we continue to do so. The principal sources for providing comments are draft legislation prepared by various Government department; reports prepared by the Law Reform Commission, guidance notes and consultation papers prepared by the Cayman Islands Monetary Authority and lastly but in some ways the most important, the work of the Financial Services Legislative Committee. I hope your Lordships will indulge me whilst I summarise a few of the more critical and formal consultations and reviews that have gone on over the past year.

Cayman Islands Public Consultation on Beneficial Ownership. In February, the Law Society prepared a detailed report to the Government during the consultation period highlighting in particular the value of our current licenced service provider scheme in meeting the objectives set out by Mr Cameron. We were accordingly pleased to note that the recently issued Cayman Islands Government Beneficial Ownership report that was released on the 30th of December had taken in to account many of the various submissions by the Law Society and many other stakeholders such as Cayman Finance.

Data Protection. The Law Society has continued to provide input into the proposal to bring in Data Protection laws into the Cayman Islands. While we appreciate that an enormous amount of work has gone into this by the Data

Protection Working Group and by the various members of our sub-committee, we still struggle to understand the necessity to bring in any form of Data Protection legislation to our jurisdiction in any form, which does not lead to added regulation, bureaucracy and material cost to the people of the Cayman Islands in a time where Government is trying to tighten its belt. Data Protection in the EU with a population of over 500 million people and a very large and diverse economy is one thing, the Cayman Islands with a population of around 60,000 and a much narrower economic focus is quite clearly another. We will however continue to work constructively in relation to any such proposals.

Strata Titles Reform. Our property practitioners continue to provide input to the on-going report by the Law Reform Commission. With condos being such an important element of our tourism product, achieving a new modern law which makes investment attractive to potential owners both within and outside of Cayman is critical.

Law of Contempt. The Law Society in April submitted detailed comments to the Law Reform Commission in relation to a report prepared by them in January 2014 and we await further developments from the Law Reform Commission in that regard.

Directors Duties. In response to a request for comments from the Law Reform Commission on an issues paper entitled "Directors Duties – Is statutory codification needed?", the Law Society in March submitted detailed comments on what has become a relatively hot topic in recent years. The essential conclusion was that such duties are well established; clearly articulated, easily understood and capable of development by the courts and

that this Court has taken and will no doubt continue to take a leading role in developing that jurisprudence if required.

Without wishing to take up too much time, I will briefly list other reports and policy papers that have been commented on during the course of the year. These include comments on the Protection of Whistleblowers and Protected Disclosure Bills, Standard and Public Life Law and the Disability Policy Public Consultation, the Director Registration and Licensing Bill, the Mutual Funds (Annual Returns) Amendment Regulations and various statements of guidance issued by CIMA.

Slightly more varied and in the view of some, slightly more interesting, was the consultation on Daylight Savings Time. The view of many was that we should adopt Daylight Savings Time for many good reasons but if for nothing else to avoid the now numerous conference calls that get missed due to the confusion over daylight savings and that fact that Microsoft Outlook in particular does not seem to be able to handle the time change very well. We do of course now live in a very technologic and interconnected world.

The Work of the Financial Services Legislative Committee. I am pleased to say that the Law Society has also been instrumental in assisting the work of the Financial Services Legislative Committee in bringing in legislation that is focused at generating new products and revenue for the islands. The flagship this past year as noted by the Honourable Attorney General was the substantial revision to the Exempted Limited Partnership Law as well as the introduction of the Third Parties Rights Law. We note that there is a substantial number of draft legislation prepared by the FSLC, including amendments to the

Trust Law, a law introducing limited liability companies or LLCs as well as limited liability partnerships and further enhancements to the Companies Law that are in process and we very much hope to see enacted during the course of this year.

Engaging the Membership The Law Society has grown to over 425 members and while the focus of the Executive Committee has been on coordinating reviews to legislation and the Legal Practitioners Law over the past couple of years, we think it is important that that we provide more value to members (albeit our fee which is maintained at CI\$50 per annum still remains one of the best value of any professional organisation!); in particular recognising the fact that over the past 10 years there are many more smaller law firms in the Cayman Islands. Accordingly, at our AGM scheduled for March, a proposal will be put forward to establish three committees. Firstly a social committee, secondly a membership and continuing legal education committee and lastly a publications committee. The objective will be for the social committee to ensure that we have more interaction between members of the profession as well as the judiciary. We hope to work together with the Caymanian Bar Association in relation to both the social element as well as through the membership and continuing legal education committee. The objective of the membership committee will be to co-ordinate and liaise with the bigger law firms to offer some of the training sessions that are carried out by large firms to other interested members and where appropriate non-members. The focus of the publication committee will be looking to prepare a semi-annual newsletter which will give the members in particular those in the smaller firms more information on a variety of legal matters. It goes without saying of course, that

in order to do this we need members to volunteer and hopefully at the AGM that will happen.

Officers of the Society. I would also like to take this opportunity to specifically thank 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 contribution to the Law Society.

Administration of Justice. I have had the opportunity to read 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.

I would like to finish by mentioning briefly two very much "look forward" matters of great importance to the profession.

New Courts Like the CBA and the Honourable Attorney General, we are very encouraged by the recent announcement that the Government is actively pursuing the construction of new court facilities and very much hope that progress continues on what has become an important issue for the profession and the Islands as a whole.

Legal Practitioners Bill. As Mr Thoppil will eloquently expand upon, it remains as a mystery to us that we continually fail to be able to modernise our legal regulatory regime. In light of the way that the modern legal profession has developed globally, this failing remains in my mind as the single biggest threat to our continued existence as one of the leading offshore jurisdictions and to the opportunities it brings to Caymanians in and outside the profession. If I am

allowed one wish for the year it would be that we could bring forward a modern and balanced law that addresses each of the matters that Mr Thoppil has expanded upon.

Now it remains only for me to formally second the Honourable Attorney General's motion to open the Grand Court for the year 2015 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