

PRESIDENT OF THE CAYMAN ISLANDS LAW SOCIETY – ADDRESS

15 January 2014

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

I have had an opportunity to read Mr. Crowley's speech in advance and confirm that I agree with all he has to say.

In undertaking the Presidency, I informed the Court last year that I intended to characterise it with a theme of “constructive engagement”. What do I mean by that? In essence, to me it means that we remain open and willing to engage in dialogue with all stakeholders with a view to promoting this honourable profession within the Islands and, in so doing, the interests of the jurisdiction as a whole. I hope that as you will see, the Society has very much sought to do that.

Legislation. One of the key roles of the Law Society over the years has been to provide input and constructive comments on draft legislation proposed by the Cayman Islands Government, including commenting on reports from the Law Reform Commission. As the number of new laws and revisions has continued to increase over the years and thanks to the excellent working relationship that the Law Society has with the Caymanian Bar Association; we have either formed joint committees or have, by convention, focused more on

legislation that has a cross border element or that affects the financial services industry.

During the course of the year, members of the Law Society have spent countless pro bono hours on the follows topics.

Cayman Islands Public Consultation on Beneficial Ownership. A committee headed by Martin Livingston with the assistance of James Bagnall, Richard Finlay, Rob Duggan, Barbara Padega, Simone Procter and Alistair Walters has been hard at work providing input and feedback to the Cayman Islands Government on this very important issue which arose out of the G8 Summit last year. The Committee will finalise its report by the end of the month and I fully expect from conversations with members for their report to provide the Government with reasoned, balanced and sensible responses to the request for consultation which will be in the jurisdiction's long term interests.

Enforcement of Foreign Judgments. The Law Reform Commission has now issued 2 reports and an issues paper on this very important but technically difficult area. A joint committee of the Law Society and the Caymanian Bar Association was formed comprising Nigel Meeson QC, Neil Timms QC, Matthew Crawford, Peter Hayden, Tony Heaver-Wren and Rachael Reynolds. They have provided detailed responses to the Law Reform Commission on each occasion. I am afraid that the profession have a somewhat different view from the Law Reform Commission as to how this area should be addressed. It is not an understatement to say that a sensible agreed path forward is critical for the jurisdiction.

Data Protection. A joint Law Society Bar Association committee has probably put more hours into this one piece of legislation than any other. The Committee headed by Olivaire Watler and comprising Gaela Fitzgibbons, Martin Livingston, Simone Procter, Chris Russell and Nick Dunne have spent countless hours doing a line by line review of the new legislation which, if introduced, would have a major effect on many aspects of life in the Cayman Islands. Whilst we remain sceptical that there is any real international pressure to enact such a law, it nonetheless remains a duty for us to point out to the policy makers and drafters the potential consequences of such legislation and its specific provisions.

Private Sector Consultation on Revenue Measures Report. Numerous members provided invaluable input to me as President to present a very comprehensive report to the Ministry of Financial Services to help them form an informed view in relation to the budget this year.

We were very encouraged to hear the Government's commitment not to introduce any new revenue proposals this year especially in light of the very large increases across the board the previous year which had seriously affected the profession's and the jurisdiction's ability to be competitive. With the Far East and other new emerging markets being the new frontier for us to expand into, costs are going to be an increasing factor in choice of jurisdiction and thus our ability to provide legal services in the financial sector which forms the largest component of attorneys employed.

It was interesting to hear this year, not unsurprisingly, that the financial services sector is the single biggest contributor to the economy of the Cayman

Islands and represents 49% of the GDP. The industry further generates 55% of the revenue of Government.

Consultation Paper and draft Statement of Guidance for Regulated Mutual Funds – Corporate Governance. This committee is comprised of Nick Rogers, James Bagnall, Phil Millward, Richard Addlestone and James Bagnall. A very high quality piece of feedback was gratefully received by CIMA. Several members including practitioners from Appleby and Stuarts Walker Hersant, also provided direct feedback.

Strata Titles Reform. The Law Society through a committee headed by George Loutas and comprising Neil Timms QC, Neil Kandelaars, Ian Jamieson, Stuart Rowe and James Kennedy, responded to the Law Reform Commission's report issued in January 2013. This is a critical area of law for many property owners in the Cayman Islands and we hope that the committee's recommendations, coming from leading practitioners in this area, are adopted.

I should however mention that the LRC's report did not relate to the provisions that constituted the Strata Titles Registration (Amendment) Law, 2012 on which we were not separately asked to comment or review.

Law of Contempt. We have just received the report from the Law Reform Commission on this area and will be looking to form a committee or joint committee shortly to look into this area in detail.

Work of the Financial Services Legislative Committee ("FSLC"). Although not part of the Law Society, many of our members also spent a large amount

of time working on the committee and the various sub-committees of the FSLC. As the FSLC's proposals and amendments are designed to enhance the jurisdiction, and thus indirectly increase revenue for the Government, we wholeheartedly support the work of the FSLC on amendments to the Exempted Limited Partnerships Law; a new law to introduce Third Party Rights in contracts; a new law to introduce limited liability companies or LLC, as they are commonly known; and a separate law to introduce limited liability partnerships. These new laws will add additional "strings" to Cayman's "bow" and very much much hope these initiatives are added to the statute book this year thus further enhancing the Cayman Islands as a leading financial services jurisdiction.

Legal Practitioners Bill. As this bill seems to have been mentioned in many previous Grand Court opening speeches and in the hope of avoiding repetition of the same points, I will keep my comments brief. The profession worked hard to try and get a solution last year and despite falling short before the general election, we are still very much of the view that a modern balanced law is essential for the jurisdiction, the profession and the public.

The law itself should be simple and focused. It should be about the regulation of the profession, who can be admitted, who can practise and how to instil confidence in the public that questions of malpractice and professional discipline are dealt with fairly and transparently. As much as I hope that all 657 of the attorneys on the Roll today will behave to the high standards of our honourable profession, there needs to be a modern system in place to allow clients to have their grievances fairly resolved. A conversation with a former

President of the Chamber of Commerce after Christmas reminds me that our duty is not to look after our own but to look after the Profession as a whole and all that it stands for.

Education and Training. As Mr Crowley has noted education and training in particular of newer members of the profession and those seeking to be admitted are very important. I endorse the words of Mr Crowley and though the Legal Advisory Council, I hope that we can continue to develop this area.

As with the Bar Association, several members of the Society spend numerous pro bono hours teaching at the Law School and for that I would like to publically thank them.

Officers of the Society. I would also like to take this opportunity to specifically thank the Vice Presidents 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. This last year has witnessed the usual business of the Courts being conducted in both the criminal and civil lists. As always, your Lordship and Honourable Justices and Magistrates are to be commended for so diligently and efficiently disposing of the lists week in and week out and, in particular, for ensuring that the majority of cases were dealt with in a timely manner. This is clearly important both in respect of local litigation, which affects the lives of the people in the community, and also with regard to the international work which is so vital to maintaining Cayman's position as a leading financial centre. Once again, there have been key cases to resolve,

and the continued demonstration of the effectiveness of the jurisdiction as an open forum for dispute resolution is maintained.

As always, we are grateful to all those who are responsible for the administration of the Court system and particular thanks goes to the Court Administrator, the Clerk and Deputy Clerks of the Court, the Listing Officer and the Registrar of the Court of Appeal and all those who work with them.

We welcome Sir Bernard Rix, Sir George Newman, and Mr John Martin QC as new members of our Court of Appeal, each of whom has had a highly distinguished legal career. We also welcome Tomica Daley as our new Registrar and deputy Clerk of the Court. 2013 marked the retirement of Justice of Appeal Mottley. We thank him for his long years of service and wish him well in his retirement.

I would also like to take this opportunity on behalf of the profession to wish Mr Justice Cresswell all the very best as I understand he retires this year and to express our gratitude for his valuable contribution not only in sitting in the Grand Court but for his work to promote Cayman as a venue for arbitration.

I would also like to second the AG's and Mr Crowley's words of congratulations in relation to the admission of Ms Nervik, Mr Ward, Mr Paget-Brown and Mr McKie as Queen's Counsel.

The Law Society also acknowledges the important work of those who produce the Cayman Islands Law Reports which are in daily use here and are increasingly referred to and cited in other jurisdictions as well. Our thanks once again go out to Dr. Milner and his team and also Ramon Alberga QC and

Colin McKie QC for their continued excellent publishing of our Cayman Islands Law Reports.

With the passing of each year however comes the passing of some of our honourable colleagues as mentioned by Mr Crowley and it would be remiss for me to not mention in particular Charles Adams OBE, JP. Mr Charles Adams was a former President of the Law Society and the founder of one of our leading firms Charles Adams Ritchie Duckworth.

Now it remains only for me to formally second the Honourable Attorney General's motion to open the Grand Court of the year 2014 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