

Address of Stephen Watler

President of the Caymanian Bar Association

Grand Court Opening

17 January 2018

1) Salutations

My Lord Chief Justice, Honourable Judges of the Grand Court, Honourable Chief Magistrate, Honourable Magistrates, Honourable Attorney General, Madam Deputy of Public Prosecutions, Madam Acting Solicitor General, my colleagues at the Bar, our Special and Distinguished Guests, Ladies and Gentleman.

If it may please my Lord.

2) Introduction and Welcome

I am privileged to rise on behalf of the Caymanian Bar Association to second the motion of the Honourable Attorney General to open the Grand Court for 2018.

I too wish to extend a warm welcome to all legal and judicial appointments referenced earlier by the Honourable Attorney General in his remarks and for those that are retiring, a heartfelt thank you for your service to these Islands and best wishes in your retirement.

3) 2017 Obituaries

I also wish to take a moment to remember the passing of several members of our legal community during the past year:

I echo the sentiments made by Mr. Robertson on the passing of Julian Black and Richard De Lacy QC as well as those to be made by Mr. McKie on the passing of Kipling Douglas and extend my deepest condolences to their family and friends.

I also wish to recognise the passing of Mrs. Julene Banks. Mrs. Banks was a member of the Caymanian Bar Association and served most of her professional life in

public service. She started as an articled clerk with this Grand Court in 1991, then as Crown Counsel in the Attorney General Chambers from 1991-1997. She also served on various boards and commissions over the years including the Cayman Islands Monetary Authority Board and more recently the Constitutional Commission. She was instrumental in launching various social initiatives which focused on protecting children at risk, ranging from the enactment of the Children's Law in 1995, setting up and acting as the first Chairperson of the National Drug Council as well as serving as an elder and Sunday school teacher at the John Gray Memorial Church. In 2010, in recognition of her public service, she was awarded the Cayman Islands Certificate and Badge of Honour. I wish to extend my deepest condolences to her extended family and friends as she will be deeply missed.

4) Caymanian Bar Association in 2017

With your indulgence, I would like to highlight some of our initiatives over the past year as well as some of the key issues facing the legal profession in 2018.

(i) 30th year/Admissions/Membership

Now entering its 30th year, the Caymanian Bar Association has grown, together with the legal profession, from a handful of Caymanian attorneys to over 250. Our Student Members, representing Caymanian law students and articulated clerks, have seen significant growth over the year, now surpassing 130.

(ii) Student Chapter

- a. We anticipate that this year will also be an exciting year for the Student Chapter. It recently organised a Christmas social geared towards junior attorneys, articulated clerks and law students.
- b. The Student Chapter is also in the process of setting up a number of subcommittees to encourage greater involvement, participation and awareness of the many initiatives and events planned throughout the year.
- c. We also aim to provide continuous contact and support for our student members throughout their legal education, entry into articles and career development as attorneys.

(ii) Training programs

a. Judicial Clerkship

i. The Caymanian Bar Association, together with the Judicial Education Committee, launched the Judicial Clerkship programme in July of last year. It has proved hugely successful for the participants. However, we are sorry to report that the take up has not been as widespread as expected. This may be due, in part, to a lack of awareness or knowledge of the programme by firms and articled clerks alike. However, we are determined to increase participation in this worthwhile scheme. The Student Chapter is in the process of organising an informal meeting with all student members to highlight the key aspects of the Scheme and provide interaction with former Clerks to share their experience and feedback. We will also continue to work with the Law Society and their member firms to provide information on

these and other programmes and encourage their support and participation in them.

b. Seminars

i. The Seminar Series is entering its third year.

We have been fortunate to have had real excellence and expertise in our presenters, which include representatives from a wide spread of law firms as well as regulatory bodies such as the Cayman Islands Monetary Authority. We are very grateful for the time and effort given by our speakers and to the law firms that have so generously supported the programme. I would also like to thank fellow Council Member and Secretary, Neil Timms QC and the other members of the Seminar Series Committee for all of their hard work, which has allowed this programme to cover such a wide range of topics.

ii. Last year, the Seminar Series addressed subjects ranging from the new administrative

finances and beneficial ownership regimes, to human rights, to taking security in the Islands. The 2018 program will commence on the 24th of January with a seminar on the Prevention and Detection of Money Laundering and Terrorist Financing. It will be given at Walkers by Sandra Edun-Watler, the President of the Cayman Islands Compliance Association. The Caribbean Financial Action Task Force's Mutual Evaluation, as outlined by the Honourable Attorney General, also emphasized the need for this, in particular for sole practitioners and representatives of smaller firms. This will be followed two weeks later by a seminar on the hugely topical issue of Crypto-currencies.

iii. Business Development Course

1. In May, we intend to launch a business development course. This will be in a different format, comprised of 3 hands on sessions, with each lasting for one

and a half hours. It will be held on Saturday mornings and led by Adam Johnson of Solomon Harris. If it proves successful there may be follow up sessions on other soft skills like negotiation techniques. We hope such a course will prove invaluable for all attorneys.

(iii) Financial Services Division (FSD)

a. We have also been active on the Financial Services Division's Users Committee, which represents the Judiciary, Court Administration, the Attorney General Chambers and interested bodies and associations. This Committee has been a success story but improvement is a continuing work in progress. This year, amongst other things, it is involved in the e-filing project and we are represented on the sub Committee charged with monitoring the pilot project.

(iv) Litigation Funding/Legal Aid

a. However, one of the issues that requires urgent attention is Litigation Funding. It is a complex topic with many competing interests. Not least is the imperative of maintaining a profession that is not influenced by economic interest in the advancement of its client's cases. Of paramount importance is the protection of the most vulnerable, particularly those involved in domestic litigation. Equally important is the need to address the impact on smaller firms and practitioners, who are overwhelmingly Caymanian, and many of whom lack the liquidity or resources to compete in supporting success fees.

b. We note that Ms. Stacy Parke has been appointed as the Legal Aid Director to address some of these issues, which includes the establishment of a Legal Aid Clinic. Whilst the Legal Aid Clinic is still in its early stages of development, we fully support their plan to launch a volunteer clinic. We look forward to working

with Ms. Parke and the Clinic to provide law students and articulated clerks with opportunities to shadow actual legal aid cases with local legal aid attorneys.

(v) Legal Practitioners Law

a. Moving onto the Legal Practitioners Law, most of us are aware of the recent proposals, discussions and debates surrounding this legislation and I do not intend to rehash them here.

b. However, in full transparency, we wish to outline the key requirements that any such law should contain.

1) Self Regulating Governing Body

i. First, a practical, efficient, funded, representative and democratically elected, self regulating governing body, free from political or Governmental interference (and its perception) and from political or Government appointees.

2) Disciplinary Process

i. Second, a practical, efficient, transparent and cost effective disciplinary process allowing for timely dealing with minor and major infractions with appropriate confidentiality.

3) Mandatory Code of Conduct

i. Third, a modernized and mandatory Code of Conduct.

4) Training and Development

i. Fourth, provisions for articles of clerkship, post-qualification training for associates, and mandatory Continuing Professional Development (CPD).

5) Limited and General Admission

i. Fifth, provisions for limited and general admission consistent with and subject to public policy, in particular the promotion of the legal profession and advocacy in the Islands, its sustainability, competence and advancement.

6) Regulated Practice Outside of the Islands

- i. Sixth, provisions that permit the practice of Cayman Islands Law outside the Islands subject to clear and enforceable regulations appropriate for the protection of Caymanians and the locally resident profession.

7) Qualified Law Firm Test

- i. Seventh, provisions to require licensed law firms to include at least one Caymanian equity partner and for the majority of voting and economic interests in the firms to be held by Caymanians and attorneys ordinarily resident in the Cayman Islands.

8) Limits on Foreign Offices

- i. Eight, provisions to prevent licensed firms from expanding overseas offices at the expense of offices in the Islands (including by reference to substantial presence in the Islands and minimum locally employed staff).

9) Business Staffing Plans

- i. Ninth, provisions for Business Staffing Plans for firms wishing to apply for a work permit or

for an overseas practicing certificate that give Caymanians access to the legal profession, including training, development, and equitable progression.

10) Mandatory PQE

i. Tenth, subject to sensible grandfathering, provisions by reference to post-qualification experience to ensure an overseas attorney meets the same criteria for general admission as a locally admitted attorney.

11) Scope of the Law

i. And finally, the Content of the Law should be limited to admission, practicing certificates and discipline.

(ii) We look forward to working with Government, the Law Society and other stakeholders on this important piece of legislation which, as Mr. Robertson said, is long overdue and urgently needed for the future development and continued success of this profession.

5) Youthquake

- a. However, achieving this will also require involvement and participation from those that will be the most impacted by it in the future, our youth.
- b. It is fitting that the Oxford dictionary word of the year for 2017 is "Youthquake".
- c. Youthquake is defined as "a significant, cultural, political, or social change arising from the actions or influence of young people".
- d. We have seen it over the past year in many instances all over the world. We saw it in the UK with the snap election by Prime Minister Theresa May. Although the Labour Party lost seats in the June election last year, it drew the greatest surge of young voters to the polls in 25 years. We also saw it with the election of New Zealand's new Prime Minister, Jacinda Ardern, who is the world's youngest head of state, having taken office at the age of 37. In the Caribbean, we have seen it in the election of David Burt as Bermuda's youngest ever Premier. In Cayman,

we have seen it with the election and re-election of various young Members of the Legislative Assembly.

- e. During the course of 2018, I would like to see it take place in the legal profession. From our perspective, law students and articled clerks becoming more involved in the various Student Chapter initiatives and events. For junior and senior attorneys, seeking leadership positions on the legal associations as well as volunteering to serve on various committees and bodies.
- f. Speaking for myself, as one of the youngest Presidents of the Caymanian Bar Association, I have served as a member for over 10 years, on Council for several years and participated in many committees, initiatives and events. It has truly been a rewarding experience for me, not only in what it has taught me professionally but the opportunity to give back and allow others to participate and succeed in this great profession. I hope and encourage young members to get

involved and participate in the various initiatives planned for the coming year and years to come.

6) Conclusion

With that, it only remains for me to formally second the Honourable Attorney General's motion to open the Grand Court for 2018 and, on behalf of the Caymanian Bar Association, I would like to take this opportunity to wish all Judges of the Grand Court, all Summary Court Magistrates, all the Court Staff and fellow members of the legal profession a very happy and prosperous 2018.

Stephen Watler
President, Caymanian Bar Association
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