

Welcome Address by the

Attorney General

Hon. Samuel Bulgin, KC

At the Opening of the Sitting of the

Judicial Committee of the Privy Council

Grand Court I, Tuesday, 15 November 2022

My Lords,

It gives me immense pleasure to rise to offer welcoming remarks to His Majesty's Privy Council sitting in the Cayman Islands.

This is a significant first – it being the first time, I think, that the Court will be sitting in a British Overseas Territory.

The importance of this decision, and indeed of this occasion, cannot be overstated. It is of immense satisfaction that the Court has chosen to single out the Cayman Islands for this stellar honour – we are at once delighted and humbled by your choice.

I therefore speak on behalf of the Government and the people of these Islands in extending our thanks to you My Lord President and the entire court in graciously acceding to the invitation from our Judiciary and our Government to sit in this jurisdiction.

Like your judgments, the Court's presence in the territory will assist enormously in enhancing public awareness of the Court generally, its connectivity to the UK Judicial system, its significant role in the delivery of justice and the Court's impact over the decades to matters such as our constitutional development and the international financial services industry.

The cases from the Cayman Islands adjudicated on by the Privy Council over the last two decades have covered a broad range of legal issues across constitutional law, financial, commercial and insolvency matters, employment law, criminal matters, insurance disputes – amongst others. These have all been matters of general public importance.

And if I might be permitted to be a bit more granular, appeals over the years have involved complex and often novel questions of law concerning matters such as the scope of the constitutional right to marry; the redemption of shares and related payments under companies legislation; unlawful termination in the context of a government employee and the compensation payable in such event; the jurisdiction of the local Grand Court to grant applications by liquidators for security for costs, reflective loss and other high net worth cross-border commercial disputes; age discrimination within the public service; and the scope of the closely related torts of abuse of process and malicious prosecution in civil proceedings—just to highlight a few of the appeals before the Court.

The Court's decisions in those and other matters from the Cayman Islands have been applied in other jurisdictions far beyond the shores of our beautiful Islands.

My Lords, the significance of this sitting can be further understood when the history of the Privy Council's

jurisdiction for appeals from the Cayman Islands is put into its proper context.

Quite apposite, in this regard, would be a quote from one R.M. Jackson in his treatise "**The Machinery of Justice in England**", a 1979 publication cited by Elizabeth Davies in her text "**The Legal System of Cayman**". In discussing the Privy Council as the ultimate appellate court, he observed:

"...as one of the major problems of our legal system is to ensure that people can make use of it, irrespective of their capacity to pay costs, one cannot help but wonder how accessible the judicial committee really is for a poor aggrieved inhabitant in a distant place..."

Ms. Davies, in her own work pointed out that until 1979, only one appeal from the Cayman Islands had been determined by the Privy Council in the previous 60 years. Contrast that, if you will, with the last 20 years – not only has the number of appeals more than quadrupled, but the

nature of the matters before the Court has changed significantly.

We now see a much wider cross-section, and greater number of cases before the Court - approximately 25 cases in recent years - although financial services matters have dominated in the last 5 years.

That aside, the more significant point here is that whilst there might still be some concerns about accessing the Court because of what might be considered the prohibitive costs, the sitting of the Court in the Cayman Islands, as it had previously done in Bahamas, demonstrates its willingness and efforts to mitigate concerns about accessibility.

This historic decision, coupled with the technical advances which My Lord Hodge describes as providing **“an opportunity to rationalise the location of our courts”** and which will **“...render the proceedings more accessible and allow court users to participate more**

flexibly” – is, some might say, a giant step for mankind, and more particularly, of course, for litigants!

These next 4 days represent a unique opportunity for legal and judicial practitioners, and the residents of the Cayman Islands to attend and witness the Court in operation locally. As My Lord President Reed correctly observed, the Court strongly believes that **“the experience of attending a court hearing in person should not be limited to those able to get to London”** and that **“The JCPC is committed to being one of the most open and accessible courts in the world”**.

It is just left to me My Lords, to highlight one other important aspect of the Privy Council’s sitting here in the Cayman Islands. By sheer circumstance of My Lords visiting our beloved Islands, you will have the opportunity to meet face-to-face our people – our most valued natural asset - to interact with them and to understand first-hand our people’s innate friendliness, genuine warmth, hospitality, natural laid-back yet sunny attitude and above

all, their ambassadorial talent for the unique concept of CaymanKind.

A warm Cayman welcome again to you My Lords.

Your Excellency the Governor, Mr. Martyn Roper, OBE,
Acting Premier, Hon. Christopher Saunders,
Chief Justice of the Grand Court, Hon. Margaret Ramsay-Hale,
The Acting Speaker of Parliament, Hon. Katherine Ebanks-Wilks,
Deputy Governor, Hon. Franz Manderson, MBE,
Cabinet Ministers,
Parliamentary Secretaries,
Leader of the Opposition, Hon. Roy McTaggart,
Members of Parliament,
Grand Court Justices,
Senior Government Officials,
Members of the legal fraternity

