

## **Remarks on the forthcoming retirement of Justice of Appeal Mottley Q.C.**

It is only right that we take a few moments to reflect on the long and distinguished legal career at the bar (private and public) and on the bench of the Honourable Justice of Appeal Mottley.

In November 1961, after completing his studies, Mr Elliott Mottley (as he then was) was called to the bar of England and Wales by Middle Temple. Shortly thereafter he was admitted to the bar in Barbados and commenced his practice there. His practice thrived, and he developed an expertise in, among others, criminal matters, defamation, insurance, and land disputes.

In those early years, and in addition to establishing and maintaining a busy and successful practice, he found the time to pursue a political career in Barbados and thereby followed in the footsteps of his father, and which in due course would be followed by his daughter Mia. In 1969 his efforts in that regard were rewarded when he was elected as MP for the City of Bridgetown. He served as that City's MP for the next 7 years. When asked why he left politics he always replied that as a politician, lawyer and family man, one of those three would be neglected so he chose family and law over politics. The law has been much enriched by his decision.

Elliott Mottley's skills as an advocate were recognised in 1980 when he was appointed QC. He became much in demand in Barbados and, not infrequently, elsewhere in the Eastern Caribbean. Despite (or perhaps because) of his success at the bar, his legal career took a different turn in January 1995 when he was appointed as Attorney General of Bermuda, a post he held until November 1998.

Despite the burdens of that high office, Elliott Mottley continued to represent the interests of the Crown in difficult cases in all courts. Most famously, he appeared in the Privy Council in the well-known case *Barber v Minister of the Environment*.<sup>1</sup>

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<sup>1</sup> [1997] 51 WIR 64.

Shortly after demitting office in Bermuda, Elliott Mottley was appointed to the first of several judicial appointments – the Court of Appeal of Belize. His aptitude to appellate matters was readily recognised around the Caribbean and in 2002 he was appointed to the Court of Appeal of T&CI, and in April 2006 he was appointed to our Court of Appeal. In the meantime, he was elevated to President of the Court of Appeal in Belize in 2004, a post he held until he resigned at the end of December 2010.

In the short time allotted to me it is not possible to give as full as tribute to Justice of Appeal Mottley's contributions to the development of law across all of the Caribbean jurisdictions with which he has been associated. I shall, however, take the opportunity to address his contribution to the development of law in these Islands.

Over the last nine years, Justice of Appeal Mottley has sat on over 80 appeals dealing with almost every facet of our laws. He has delivered many important judgments in particular matters on of criminal law and procedure, but also on many diverse matters of civil law. I might just pick out a few examples:

*Goldbourne v R* (2008), *AG v Miller* (2009), *R v Liberal* (2009), *McField v R* (2012) and *Brown v R* (2013) – are leading cases on criminal law and procedure<sup>2</sup>

*R v Ebanks* (2007) - a decision on the application of the ECHR to our Islands<sup>3</sup>;

*Brasil Telecom S.A. v Opportunity Fund* (2008)<sup>4</sup> - conflict of laws rules and forum non conveniens;

*Panton v Joe's Downtown Limited* (2008)<sup>5</sup> – distress and landlord and tenant law.

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<sup>2</sup> [2008] CILR 144, [2009] CILR 468, [2012] (1) CILR 207, [2013] (2) CILR 306

<sup>3</sup> [2007] CILR 403

<sup>4</sup> [2008] CILR 211

<sup>5</sup> [2008] CILR 363

We are truly grateful for Justice of Appeal Mottley's nine years of service on the Cayman Islands Court of Appeal, for his insight, erudition and wisdom. Advocates will remember his good humour and patience.

Although we are marking Justice of Appeal Mottley's retirement as one of our justices of appeal, I understand that he will continue to be actively involved in the law. Thus he remains a justice of appeal of the T&CI and senior partner of the Barbadian firm that bears his name. Although in retirement he may be spending less time on the law – one of his three great loves – he will have more time to spend on the other two: his family and cooking.

On behalf of the Cayman Islands Law Society and Caymanian Bar Association, I wish Justice of Appeal Mottley a long and happy retirement, and wish him, and his wife (Amor), who is here this evening, and their two sons including Stewart, who is also here, and two daughters (all lawyers) and their four granddaughters, all the very best.

**Colin McKie QC**

**5 May 2015**