

**Remarks by the Hon. Attorney General on the Opening of the
Grand Court of the Cayman Islands for the 2012 Session**

My Lord Chief Justice, Judges of the Grand Court, Magistrates, distinguished guests, Colleagues at the Bar, Ladies and Gentlemen.

I am pleased my Lords, to rise and at your invitation, to move the motion for the opening of the Grand Court for the year 2012, and with your Lordships' leave I propose in doing so to make a few observations.

May I take this opportunity to welcome My Lord Justice Williams to the Bench here in the Cayman Islands and to his first full year in the Grand Court.

As is customary my Lords this occasion is an opportunity for the justice system to reflect on the year just past and to look ahead with hope and optimism to new achievements and to embrace the changing landscape.

While 2011 provided many challenges it also provided many opportunities for growth in the structural matrix which is a foundation for our system. On international initiatives, Cayman

recently completed its tenure as Chair of the Caribbean Financial Action Task Force and participated in many activities and Fora hosted by the FATF and other leading international standard setting bodies. In doing so Cayman continued to demonstrate not just leadership but also its commitment to optimum legislative and administrative standards consistent with our international obligations. Additionally, a number of tax information agreements were signed with some major countries thereby bringing to 27 the total number of such agreements signed and again as further evidence of Cayman Island's commitment to the global standard for the exchange of such information.

My Lords, It is without doubt that the year was a difficult one for Cayman not only economically, but also on the crime front. The spike in crimes in September 2011 was unprecedented and caused much anxiety across this otherwise quiet community. The Commissioner of Police and his team rose to the occasion and worked tirelessly to restore order and calm. Their job is not just a difficult one but also a dangerous job and they are to be commended for their commitment to the call of duty.

For the criminal justice system to work, all members of the community need to be involved, witnesses must come forward. The Police cannot do it alone.

In addition to financial resources, for law and order, the Government has done much to provide a legislative framework and a number of avenues for the protection of witnesses who may be in fear. Indeed, the Office of the DPP will soon be publishing a charter for witnesses and provide guidance as to the legislative provisions so that all relevant persons can be aware of the system. But ultimately, we cannot legislate our way out of this problem. We need the collective effort of the entire community.

In 2012, the Cayman Islands will see the implementation of a legislative and procedural framework which will further delineate and prescribe the accountability of public officials.

In keeping with the 2009 Constitution it is expected that we will be enacting legislation this year to further underpin the work of the Commission on Standards in Public Life. This My Lords, will further augment the ongoing good governance model being developed for these Islands.

Additionally, there will be the coming into effect of the much anticipated Bill of Rights provisions of the Constitution later this year. This is a development that will understandably impact the conduct of every public official but more so those of us with responsibility for making decisions that can or do adversely impact a person's liberty and/or property. By way of reminder, if one is needed, we need look no further than s.19 of the Constitution which is very apposite in this regard. It mandates that all decisions and acts by Public officials must be lawful, rational, proportionate and procedurally fair. We should read this section together with s.24 which prescribes that it is unlawful for public officials to make decisions or act in a way that is incompatible with the Bill of Rights.

The advent of the Bill of Rights will inevitably bring into sharper focus the relationship between the three branches of Government on the issue of the Rule of Law, including Human Rights and good Governance, all issues that have to do with the promotion of the highest standards of probity and accountability.

And in this regard I have no doubt, my Lords, that there will be challenges, especially by that section of our society that still continue to struggle to appreciate that an independent judiciary is

integral in engendering public confidence in our jurisdiction. I am confident however that as a jurisdiction we will rise to the challenges.

My Lords, some of the more significant legislative changes in 2011 include an amended Companies Law; a revamped Patent & Trade Mark Law; Gender Equality Law; Traffic Law; Special Economic Zones Law; an amended Penal Code, among others.

Permit me to also mention a number of initiatives for this year my Lords:

- Government will be considering legislation in relation to the duties of Directors.
- We will also be looking at the issue of the Court's ability to grant free standing interim injunctions similar to the enabling provisions in the UK's Civil Jurisdictions and Judgments Act 1982, s.25.
- Indeed, the series of judgements with the most recent being VTB CAPITAL highlight the need for legislative certainty in these areas. There are other issues arising from the VTB judgement that will also be examined, including the scope of s.11 of the Grand Court Law.

- Also, Cabinet is soon to consider the report of the Law Reform Commission on the Arbitration Bill. It will also be looking at the most recent drafts of the Legal Aid Bill and the Legal Practitioners Bill and the Charities Bill among others.
- As is customary, once Cabinet takes an initial look at all of these drafts then all stakeholders will be fully engaged for consultation before any decision is taken on the way forward.
- We will also continue the work on the Judicature Law with a view to expanding the jury pool.

My Lords, allow me to publicly observe that all of this could not have been possible without the solid jurisprudence from these courts and strong partnership of and support from the legal and broader financial community as well as others. We wish to thank in particular the Law Associations, the Financial Services Council Legislative Sub-committee, CISPA, Cayman Finance, the Law Reform Commission, Legislative Drafting, as well as all our friends in the media, print and electronic, for their role in ensuring public awareness on these matters.

We therefore look forward in this New Year to continued cooperation and consultation in areas of mutual interest.

On the portfolio front, 2011 saw the eventual constitutional separation of the Chambers of the Attorney General and the Office of the DPP. While funds did not allow for a physical separation, there was separation of computer systems, personnel records, and archiving, and plans are underway that this year will lead to separate accommodation.

Indeed, my Lords, it is with immense pleasure that I stand here today to publicly congratulate Ms Cheryl Richards QC on her appointment as the Cayman Islands first Director of Public Prosecutions (DPP). This country is very fortunate to have someone of her caliber, integrity, probity, ability and above all professionalism as DPP. Ms. Richards has with her a very dedicated group of prosecutors, including her newly appointed deputy Mr. Trevor Ward, and they will continue to perform with professionalism and distinction. This appointment of a DPP marks the final culmination of a process started in 1967 when the office of Attorney General was created to take over the roles played by the then Stipendiary Magistrate. It is a welcomed Constitutional development in Cayman.

2011 also saw a number of personnel changes, former Clerk of Courts Mr. Valdis Foldats was appointed as Magistrate and we

congratulate him on a well deserved appointment. We note also the pending arrival of Magistrate Mrs. Kirsty- Ann Gunn.

We note also the retirement of Justice of Appeal Mr. Ian Forte after a long and distinguished career and the departure of Ms. Margaret Ramsay-Hale having been elevated to the High Court in the Turks and Caicos Islands.

We also recently bid farewell to Legislative Counsel Ms. Michelle Daley who has joined the Commonwealth Foundation in Belize.

We wish to publicly thank them for their service to the Cayman Islands and wish them well.

Allow me to also observe the changes to the Law Reform Commission, which now has a new Chair, Mr. Ian Paget Brown, joined by Ms Vicki Ellis and Mr. Kenneth Farrow QC. Thanks to Mr. Langston Sibblies QC and Mr. Justice Jones QC, both of whom demitted office last year after years of distinguished service on the Commission.

Finally, my Lords, I wish to recognise and thank my entire Portfolio staff, professional and support, and on behalf of the DPP

to say thanks to her staff as well, for their continuing support and professionalism as we face yet another year of challenges.

My Lords, there remains only for me to reiterate the continued commitment of the Government in ensuring the required resources as finances allow, for the smooth administration of Justice, and of the Attorney General's Chambers and the Office of the DPP to providing quality legal service and our assistance in whatever way possible to facilitate the efficient conduct of the business of these Courts, and in moving the motion for the opening of the Grand Court 2012 to wish for your Lordships, Magistrates, Court Staff, and all here present, a prosperous and productive New Year.

And with that my Lords, I now formally move the motion for the opening of the Grand Court for the year 2012. May it so please you my Lords.

Samuel Bulgin QC, JP
Hon. Attorney General

