

My Lord Chief Justice, Hon. Justice Henderson, Hon. Justice Quin, Hon. Justice Cresswell, Hon. Justice Foster, Hon. Justice Williams, Hon. Magistrates, Mr Attorney, Hon. Deputy Premier, Hon. Members of the Legislative Assembly, my colleagues at the Bar, our Special Guests, Ladies & Gentlemen

If it may please my Lords.

For many years Ramon Alberga QC, Father of the Cayman Islands Bar, exercised his usual prescriptive right to address the opening of the Grand Court on behalf of the Cayman Islands Law Reports. I am greatly honoured to have been asked to speak in his place this year, and I can only hope to bring some small measure of Mr Alberga's wisdom and perspective to this address.

This is the 21st ceremony marking the opening of the Grand Court for the New Year since it was inaugurated in 1992 by the late Chief Justice Sir Dennis Malone. It has become an occasion for the Bench and Profession to take stock on the previous year and look forward to the new year, and afterwards to enjoy some judicial hospitality.

I am privileged to be able to associate myself with the motions to open the Grand Court for the year 2012 moved by Mr Attorney and seconded jointly and comprehensively by the President of the Bar Association and the President of the Law Society and to add an addendum of my own.

Judgments are delivered to enable litigants to know the reasons for a judge's decision. But the basis for the delivery of judgments goes further than the mere private rights of litigants. Unless there are very strong reasons to the contrary, judgments are made available to be reported so that the principles established in those cases can be applied and scrutinised by other Courts. Judgments are made public so that they may be subject to the scrutiny of the public at large, and debated

in newspapers and in the Legislative Assembly. Therefore public law reports are fundamental to the doctrine of precedent, the rule of law, open justice, freedom of expression and public confidence in the judiciary. These are not merely academic concerns: twice in the last 18 months judges of the Grand Court have grappled with these issues, and delivered considered judgments on them. I need hardly say that one judgment has already been reported and in a few weeks' time the other will be reported!

On a narrower scope, the Law Reports are an essential part of our financial services industry. They provide a continuing advertisement to the world's financial community that disputes involving Cayman Islands structures, no matter how complex, may be efficiently and predictably litigated in our courts. Mr Alberga, as President of the Law Society, and his colleagues understood this and, with the support of Sir John Summerfield, our late Chief Justice, and Michael Bradley, our late Attorney General, to embark on the production and publication of the Cayman Islands Law Reports in the early 1980s. Each of their successors and up to an including those here present today, have continued to support the regular production of our law reports. We remain grateful for their continuing support.

I am sometimes asked what criteria the Law Reports apply when deciding whether or not to report a judgment in full. There are only four. We seek to report:

- (1) all cases which introduce, or appear to introduce, a new principle or a new rule;
- (2) all cases which materially modify an existing principle or rule;
- (3) all cases which settle, or materially tend to settle, a question upon which the law is doubtful;
- (4) all cases which for any reason are particularly instructive.

These guiding principle are the same guiding principles at the establishment of the English Law Reports as stated by no less a person than Nathaniel Lindley QC, later the Master of the Roll and a Law Lord.

It is therefore only right that we take the opportunity to acknowledge the essential role of the judiciary in considering and writing judgments.

2011 was yet another busy year in all of our Courts. Our judges undertook and completed a great volume of work. 136 written judgments and rulings were handed down in the past 12 months by the judges sitting in this Court and the Court of Appeal, almost exactly the same record number delivered in the previous two years, or just over 500 in three years. This amounts to a rate of over three judgments each and every week for each of the last three years.

Many of these judgments concerned difficult and novel matters. The judges sitting in the Financial Services Division have delivered judgments on complex issues arising out of applications to wind up funds and their subsequent liquidations, including proceedings against former directors and officers of funds, and fallout from major international insolvencies such as Lehman Bros; proceedings arising out of international frauds (particularly the long-running *Algozaibi v Saad* dispute, and continuing fall-out from the Madoff fraud), insurance disputes, and applications for novel forms of injunction and receiverships to facilitate the recovery assets for the benefit of creditors and victims.

The Civil Division judges delivered judgments on topics as diverse as assessment of damages for catastrophic personal injuries (too often, it is unfortunate to say, arising out of road traffic accidents); judicial reviews from various local licensing boards regarding matters as diverse as telecoms, immigration and firearms; and damages available for wrongfully obtaining injunctions and for malicious prosecution. The Civil

Division has had its fair share of proceedings arising out of the local consequences of the prevailing economic conditions, in particular the increasing number of proceedings in relation to defaults on mortgages.

The judges of the Family Division gave a number of important decisions concerning custody of children and financial provision in divorces. Last year there were no rulings given in the Admiralty Division.

Regrettably, our criminal courts were just as busy as the other courts. The judges of the Criminal Division delivered a range of judgments relating to murder, malicious wounding, indecent assault, burglary, arson, firearms offences, drugs offences, and witness anonymity orders.

The preparation of written judgments requires an enormous amount of time and effort outside the hours spent sitting in Court and I know that I speak for the whole of the profession when I say that we are particularly grateful to our judges for the provision of these detailed reasons and the commendably short time that usually elapses between the conclusion of a hearing and the appearance of the written reasons.

6 August 2012 marks the 50th anniversary of the coming into force of the first Cayman Island Constitution, and the bringing into being of our own Legislative Assembly, Executive Council (now Cabinet), Administrator (now Governor) and Grand Court, each distinct and independent of the equivalent institutions in Jamaica. Since that time some 1600 judgments of our courts have been reported in the Law Reports. The reports of 2010 comprised 79 judgments and spanned over 1,000 printed pages. Space dictated that, for the first time, they be published in two volumes. We expect the same will be true in 2011. By way of comparison, the judgments delivered in the years from 1952 to 1995, were such that they had to be

combined in multi-year volumes. The first year that a volume was produced containing judgments for a single year was 1996 which, by comparison, was a rather slim volume of some 400 pages and 48 judgments.

Considering and editing the rulings handed down in 2012 will keep the editors of the Law Reports busier than ever.

I am pleased to be able to report that with the assistance of our Editor and publisher, Dr Alan Milner, the Judicial and Legal Information web-site has now been populated with all the decisions of the Cayman Islands Law Reports up to and including 2010. Further improvements to the web-site are being planned. I commend this valuable on-line tool to the Bench and practitioners alike. I am also pleased to be able to report that our Law Reports continue to grow in popularity overseas and are frequently referred to in the judgments of other jurisdictions and in some of the leading texts of the world.

Dr Milner has asked me to convey to your Lordships and to the entire legal profession his best wishes for a successful and happy 2012 and regrets that he was not able to be present today.

We also wish Justice of Appeal Ian Forte the very best in his retirement. In the seven years that he sat as one of our Justices of Appeal, he was a member of 49 panels whose judgments were reported, of which he wrote the leading judgment in 14.

I would also like to express our thanks to those overseas judges who have willingly given up their valuable time to sit as acting judges of the Grand Court during 2011 – Mr Justice Howard Cooke, Mr Justice Karl Harrison, Mrs Justice Marva McDonald-Bishop, Sir Alan Moses, and Mr Justice Algernon Smith.

Finally, I thought it only right to take this opportunity to congratulate My Lord Chief Justice on your successful completion earlier this week the 2012 Disney Marathon, at Lake Buena Vista, Florida in the very impressive time of 6h 47m, while raising money in support of the Anglican Church Youth Fellowship and Positive Intervention Now programmes. I am reliably informed by Mr Alberga that you are the first Chief Justice literally to have run a marathon, although many have presided over marathon trials!

I regard it as an honour and a privilege to have been allowed to add these few remarks. I end by wishing you good health in 2012. It now only remains for me to wish a prosperous, health and happy New Year to all the judges and magistrates of this Court, and to their administrative staff, and to all members of the profession, and to the people of the Cayman Islands.

I have the honour to support Mr Attorney's motion this morning

Colin McKie

11 January 2012