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Ethics and the Rule of Law

Grand Court No. 1
Cayman Islands

Thursday 22 March 2012

Chief Justice, my Lords, Ladies and Gentleman,

It is a great honour and a privilege to have been invited by the Chief Justice, and the Judiciary, of these Islands, to address such a distinguished audience this afternoon, as Chairman of the Bar Council of England and Wales. It is an even greater honour to have been asked to give this address in Grand Court No.1, a Courtroom in which I first made an appearance as an advocate, some 20 years or more ago.

Then, I appeared before the then Chief Justice, Sir Denys Malone.

I appeared on the Instructions of one Charles, or as we knew him then, "Charlie", Quin, a member of the Bar of England & Wales, of the Bar of Northern Island, and of the Cayman Bar. I have watched with interest, but without any great surprise, his stellar rise, to become a Judge of the Grand Court.

During my first appearances before this Court, I was led, at times, by Mr William Stubbs QC, also a member of the Bar of England & Wales (now retired), and by one Ramon Alberga QC, in my eyes the "father" of the Bar in these Islands, and a man who rightly, and deservedly, could have been the "father" of the Judiciary also, had he wanted to be.

Since my first appearance before these Courts, I have never looked back, and have never wanted to do so. I have now appeared before a number of Judges of this Court, including Harre CJ, and the present Chief Justice. And it has always been a privilege, and, often, a pleasure.

Indeed, such has been the courtesy and welcome extended by both the Judiciary and the practitioners of these Islands to me, and to the many Advocates from England & Wales appearing before these Courts, that, whilst Vice-Chairman of the Bar, last

year, I resolved that I would visit the Cayman Islands during my Chairmanship of the Bar.

The Chancery Bar Association seminar programme, this week, presented the ideal opportunity for me to do so. That programme, of course, has been a confluence of legal learning, business development, and relationship building, from, hopefully, both sides' perspective.

However, the purpose of my visit to these Islands is somewhat different. Many, who know me well, may suggest that I am simply here to "top up my tan", to enjoy the pleasures of Seven Mile beach, and the hospitality afforded by these Islands. In part, of course, they are correct.

But even more importantly than that, and whilst naturally I am interested in pursuing all of the things of interest to the Chancery Bar, of which I am a member, this year I have a different agenda, as I try faithfully to represent the Bar of England & Wales, its interests, and its role in the administration of justice.

The focus of my visit is so that we lawyers may share our common experiences, to discuss with you problems we encounter in the administration of our system of justice, in access to justice, in access to our legal profession, to learn of those issues with which you may be faced, to learn how, together, we may lend support to each other.

This invitation to address you, this afternoon, has provided me with an opportunity to discuss a topic which is, or certainly should be, close to every lawyer's heart, the Rule of Law. In so doing I will discuss the relevance of the Rule of Law in a modern and sophisticated society, and the essential role of the advocate in promoting the Rule of Law.

I have been instructed by, appeared with, and against, many different attorneys, in these Islands. Their professionalism, their integrity, their values, their ethical standards, their adherence to the principles of access to justice, and to the Rule of Law have never been, and should never be, in doubt.

But there are worrying trends which we, and particularly we as lawyers, must all guard against, not just here, but in England & Wales, and in the rest of the common law world. Those concerns derive from both economic and political expediency.

In economic terms, the stakes in litigation are high. Reputational damage may be global, not simply domestic. But whichever it is, it is costly. Financial loss appears to be ever increasing in quantum. And the costs of dispute resolution have soared first, as business, commerce, finance and industry now operate in globalised markets,

second with the advent of e communications and technology, and third as a result of the rods which we have made for our own backs with our procedural reforms and innovations.

With the stakes being so high, how easy it might become, in our enthusiasm to win, in our legitimate attempts to further our clients' interests, to overlook our cardinal duty and primary duty as advocates, our duty that is, to the Court.

In political terms, as I have said many times already, in my short period as Chairman of the Bar, access to justice is too often sacrificed on the altar of price competition, as a matter of political dogma, and if not on that altar, then as a sacrifice to populist opinion.

Justice does not, after all, come at any price and we must always be wary of Governments which, as Oscar Wilde said of the cynic, "[know] *the price of everything and the value of nothing*".

Further, in countries across the world, when Government expenditure is being cut back, in some cases drastically, how do we ensure that effective access to justice remains as part of a properly funded infrastructure?

Those are my concerns for England & Wales. Is there any cause for concern for the maintenance of the Rule of Law in this jurisdiction?

I have described Cayman as being welcoming and hospitable, but it is more than that. It has emerged as an important, ever developing, and indeed thriving, financial centre. You will know, better than I do, that these Islands are now the fifth largest banking centre in the world. By 2008, more than 93,000 companies were registered in Cayman. Those companies included almost 300 banks, 800 insurers, and 10,000 mutual funds.

It is an impressive success story, particularly for an Island occupying, as it does, just 76 square miles, and with a population of only 55,000, according to the 2010 census. And the more successful it becomes, the more the eyes of the world fall upon the intricacies of how, and the economic, political and legal infrastructure within which, this market operates. The status the Islands have achieved brings with it a new level of interest and scrutiny.

I am not going to pretend that in saying that I am telling you something that you do not already know. These Islands have faced particular scrutiny from the United States. Adherence by the Government, by the Judiciary, and by legal practitioners to the Rule of Law will enable these Islands to withstand that scrutiny, however hostile and politically expedient it may be.

So what is the relevance of the Rule of Law in a modern, global commercial environment?

I wonder sometimes if the Rule of Law, our ethical standards, our faith in, and support for, the integrity of our legal system, may, at times, seem a little lofty to, and a little remote from, the public for whose benefit, in part, they exist.

The modern exposition of the Rule of Law is generally attributed to Professor AV Dicey, Vinerian Professor of English Law at Oxford, in his work "An introduction to the study of the Law of the Constitution" published in 1885.

(1) No man is punishable or can lawfully be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land

(2) Not only is no man above the law, but every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals, and

(3) In England, the general principles of the constitution (e.g. liberty, public meeting) are the result of judicial decisions determining the rights of private persons in particular cases brought before the courts.

Whilst Dicey's exposition of the Rule of Law has been variously, and in some quarters, roundly, criticised, the core elements identified by Dicey have remained and are readily identifiable in later iterations of the Rule.

Thus, in his work "The Rule of Law", published in 2010, the late Tom Bingham, former Master of the Rolls, Lord Chief Justice of England & Wales and, latterly, Senior Law Lord, expressed the Rule of Law in the following way:

> "The core of the existing principle is that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made, taking effect (generally) in the future and publicly administered in the courts."

He identified the following facets or elements of that principle:

(1) The law must be accessible, intelligible, clear and predictable

(2) Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion

(3) The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation

(4) The law must afford adequate protection of fundamental human rights

(5) Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve, and

(6) Adjudicative procedures provided by the state should be fair.

In many, if not all, of all of those matters the advocate has an essential role to play. But before discussing the role of the advocate, let me consider the last of those elements, namely the requirement that "adjudicative procedures provided by the state should be fair", because, in a sense, that is the framework within which the Rule of Law, if it is to do so at all, must operate.

I will, of course, have to come back to the role of the advocate in ensuring fairness as between the parties. But that can amount to nought unless the independence of the judicial decision makers is constitutionally guaranteed.

The independence of the Judiciary from Ministers and of Government, from vested interests of any kind, from public and parliamentary opinion, from the media, from political parties and from pressure groups, is fundamental to the Rule of Law. That is to say, Judges must be independent of anybody or anything which might lead them to decide issues coming before them on anything other than the legal and factual merits of the case.

Inevitably that must extend beyond the influence which may be brought to bear by matters such as tenure of office, promotion, and remuneration. It extends also beyond the decision making process itself. It extends to acceptance of, support for, and implementation of decisions made by that independent Judiciary.

Too often these days, decisions made by the Courts are held up to political or public obloquy. Often undue criticism is made by lawyers outside of the Judicial process; decisions that is, involving a determination of legal right and liability by application of the law, that is, according to the Rule of Law. The Rule of Law and the effective administration of Justice require, and demand, that support and respect be given to the Judiciary and to the Judicial Process, and that effect be given to them.

Only the other day, Lord Neuberger MR, is reported, in the Daily Telegraph newspaper, dated 17 March 2012, to have said:

> "It is quite inappropriate for politicians publicly to criticise decisions of Judges or, even worse, Judges themselves in connection with the performance of the Judicial function."

He continued:

> "If they slag each other off in public, members of the Judiciary and members of the other two branches of Government will undermine each other, and, inevitably, the constitution of which they are all a fundamental part, and on which democracy, the Rule of Law, and our whole society rests."

The Rule of Law cannot survive, let alone thrive, if the Judiciary, the Judicial decision making process, or the decisions themselves are undermined.

By the same token we must ensure that the decision maker is impartial. Whilst a decision maker who is truly independent of all influences extraneous to the case to be decided is likely to be impartial, he may nonetheless be subject to personal predilections or prejudices which may pervert his judgment.

It was those sorts of concerns which lead to the establishment in England & Wales of the Judicial Appointments Commission (JAC). Appointments are now made on the basis of recommendations made by the JAC, which was established to replace the "Tap on the Shoulder" system of Judicial appointments. Inevitably it came under fire, as any change would; "After all what was wrong with the old system?" The JAC, now has its second Chairman, and the system of Judicial appointments is now bedding down, and has become the accepted mode of making Judicial Appointments.

Similarly, the Queen's Counsel Appointments (QCA) Panel was established to advise and make recommendations in relation to the appointment of Queen's Counsel. Initially, that met with the same reaction as the JAC. But it too has become an accepted, if not particularly well liked, system for appointments.

In both cases, such transparency in the selection process, albeit that it is long and laborious, has served the legal system well. "Cronyism" is becoming, if has not already become, a thing of the past.

As Tom Bingham observed, in his seminal work, "Scarcely less important than an independent Judiciary is an independent legal profession, fearless in its representation of those who cannot represent themselves, however unpopular or distasteful their case may be."

Thus we have the "cab rank rule". In its present form it provides, amongst other things:

> **"Acceptance of instructions and the 'Cab-rank rule'**
> 601. A barrister who supplies advocacy services must not withhold those services:
>
> > (a) On the ground that the nature of the case is objectionable to him or to any section of the public
> >
> > (b) On the ground that the conduct opinions or beliefs of the prospective client are unacceptable to him or to any section of the public, and
> >
> > (c) On any ground relating to the source of any financial support which may properly be given to the prospective client for the proceedings in question (for example, on the ground that such support will be available as part of the Community Legal Service or Criminal Defence Service).
>
> 602. A self-employed barrister must comply with the 'Cab-rank rule' and accordingly except only as otherwise provided in paragraphs 603, 604, 605 and 606 he must in any field in which he professes to practise in relation to work appropriate to his experience and seniority and irrespective of whether his client is paying privately or is publicly funded:
>
> > (a) Accept any brief to appear before a Court in which he professes to practise
> >
> > (b) Accept any instructions, and
> >
> > (c) Act for any person on whose behalf he is instructed;
>
> and do so irrespective of (i) the party on whose behalf he is instructed (ii) the nature of the case and (iii) any belief or opinion which he may have formed as to the character reputation cause conduct guilt or innocence of that person."

Those words of Tom Bingham, to which I have just referred, bring to mind the judgment of another former Master of the Rolls, Lord Denning MR, in **Rondel v Worsley [1967] 1 QB 443**. I hope you may excuse me for repeating them. He said:

> "[The barrister] must accept the brief and do all he honourably can on behalf of his client. I say "all he honourably can" because his duty is not only to his

> client. He has a duty to the court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do as he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously misstate the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are against him. He must see that his client discloses, if ordered, the relevant documents, even those that are fated to his case. He must disregard the most specific instructions of his client if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honour."

Moving stuff! They don't write them like that these days! Well, it is easy to scoff, but I would ask you to pause for a moment, and look at what Lord Denning was saying.

(1) The barrister must accept the brief – the cab rank rule

(2) He has a duty to his client

(3) But his paramount duty is to the Court

(4) He is not simply the mouthpiece for his Client, indeed he must disregard his Client's specific instructions if they conflict with his duty to the Court

(5) He owes his allegiance to the cause of truth and justice; thus he may not knowingly misstate the facts or conceal the truth

(6) He must not without sufficient evidence to enable him to do so, make a charge of fraud

(7) He must bring to the Court's attention all relevant authorities, both for and against him, and

(8) He must ensure that all documents are disclosed so the Court has a full, and not merely a partial picture.

As I have said, moving stuff from the former Master of the Rolls; but who amongst this audience would dare gainsay that those are the duties of the advocate? I apprehend that no-one would.

Indeed those duties are now enshrined in the Code of Conduct of the Bar of England and Wales, which provides, amongst other things:

"**Applicable to all barristers**
301. A barrister must have regard to paragraph 104 and must not:

(a) Engage in conduct whether in pursuit of his profession or otherwise which is:
(i) Dishonest or otherwise discreditable to a barrister
(ii) Prejudicial to the administration of justice, or
(iii) Likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute.

(b) Engage directly or indirectly in any occupation if his association with that occupation may adversely affect the reputation of the Bar or in the case of a practising barrister prejudice his ability to attend properly to his practice.

Applicable to practising barristers
302. A barrister has an overriding duty to the Court to act with independence in the interests of justice: he must assist the Court in the administration of justice and must not deceive or knowingly or recklessly mislead the Court.

303. A barrister:

(a) Must promote and protect fearlessly and by all proper and lawful means the lay client's best interests and do so without regard to his own interests or to any consequences to himself or to any other person (including any colleague, professional client or other intermediary or another barrister, the barrister's employer or any Authorised Body of which the barrister may be an owner or manager)

(b) Owes his primary duty as between the lay client and any other person to the lay client and must not permit any other person to limit his discretion as to how the interests of the lay client can best be served, and

(c) When supplying legal services funded by the Legal Services Commission as part of the Community Legal Service or the Criminal Defence Service owes his primary duty to the lay client subject only to compliance with paragraph 304."

Rondel v Worsley, as this audience will know, involved the issue of a barrister's immunity from suit in relation to advocacy. 13 years later, a barrister's immunity in

relation to advice tendered outside of Court proceedings was removed by the House of Lords, in **Saif Ali v Sydney Mitchell & Co [1980] AC 198**.

Some 20 years after that, in **Arthur J S Hall v Simons [2002] 1 AC 615**, the House of Lords had to consider, once again, the question of an advocate's immunity from suit in relation to his conduct in Court. The Judge at first instance had struck out the proceedings. The Court of Appeal, the President of which was one Lord Bingham of Cornhill LCJ, overturned that decision. In the House of Lords, a number of matters were relied upon in support of continuing the immunity, including the existence of the advocate's primary and paramount duty to the Court (the case in fact involved solicitors firms not barristers.) In giving the leading speech, removing the immunity, whilst in no way, undermining, questioning or doubting the existence of this paramount duty, Lord Steyn posed the critical issue as being whether or not immunity was required to ensure that nothing would undermine the advocate's overriding duty to the Court. He concluded that the legal profession did not need that immunity. He explained:

> "Most importantly, public confidence in the legal system is not enhanced by the existence of the immunity. The appearance is created that the law singles out its own for protection no matter how flagrant the breach of the barrister. The world has changed since 1967. The practice of law has become more commercialised: barristers may now advertise. They may now enter into contracts for legal services with their professional clients. They are now obliged to carry insurance. On the other hand, today we live in a consumerist society in which people have a much greater awareness of their rights. If they have suffered a wrong as a result of the provision of negligent professional services, they expect to have the right to claim redress. It tends to erode confidence in the legal system if advocates, alone among professional men, are immune from liability for negligence."

Most aptly, for the purposes of this address at least, it is noteworthy that Lord Steyn's principal concern was "public confidence in the legal system".

And it is in maintaining that confidence that the advocate has a primary role.

I have talked, by reference to Rondel v Worsley, about the duty of the advocate in relation, amongst other things, to disclosure of documents. That same duty is owed by a solicitor.

In **Myers v Elman [1940] AC 282**, the House of Lords was concerned with the duty of a solicitor who learnt that his client had perjured himself in an affidavit relating to discovery. Upon learning of the falsity of the affidavit, the solicitor is under a duty to inform the other side's solicitor of the falsity, and if his Client declines to permit him

to do so, he must cease to act. If the false affidavit has already been deployed in the proceedings, the solicitor must ensure that the matter has been put right by means of a corrective affidavit and that the other side is informed, or, again, he must cease to act. As Viscount Maugham succinctly put it:

> "A solicitor who has innocently put on the file an affidavit by his client which he has subsequently discovered to be certainly false owes it to the Court to put the matter right at the earliest date if he continues to act as solicitor upon the record. The duty of the client is equally plain."

The integrity of Judges, it hardly needs to be said, is essential in maintaining confidence in the Judicial system. But so too is the integrity of practitioners before the Courts. That, as we have seen is reflected in the extracts from the Code of Conduct of the Bar of England & Wales to which I have already referred.

An advocate's role in our common law system, whether or not set out in a written Code of Conduct, is to support the Judicial process, because it is through that process that the Rule of Law is maintained. Such a Code must, where necessary be vigorously, and rigorously, enforced.

Fearlessly, advocates will defend a person's human rights, however egregious the crime of which he is charged, however unpopular the cause, however distasteful the client, or his views.

However, their ability to do so necessarily depends on "accessibility".

Commentators speak of "accessibility" in many contexts:

(1) Accessibility, that is, to the profession (an enormously important subject in England & Wales in terms of diversity (gender, ethnicity and social mobility)); a subject upon which I would welcome further discussion with different jurisdictions, but it is not really the subject matter of this address

(2) Accessibility in terms of intelligibility, clarity and predictability of the law

   a. As Tom Bingham pointed out, this is absolutely essential. The successful conduct of trade, investment and business generally is promoted by a body of accessible legal rules governing commercial rights and obligations

   b. As long ago as the 18th Century, Lord Mansfield (considered by many to be the father of English commercial law) recognised this when he said, in **Vallejo v Wheeler (1774) 1 Cowp 143, 153**: "In all mercantile

transactions the great object should be certainty: and therefore, it is of more consequence that a rule should be certain, than whether the rule is established one way or the other. Because (investors and businessmen) then know what ground to go upon"

c. Indeed, no one would choose to do business, perhaps involving large sums of money, in a country in which the parties' rights and obligations are vague or undecided. A testament to that is the litigation, conducted in the newly opened Rolls Building in London, between the Russian Oligarchs. The dispute has really no connection with London, but the reputation for integrity, fairness and certainty of the English legal system, its adherence to the Rule of Law, its accessibility are such that those Oligarchs chose to have their dispute determined in London

d. As Tom Bingham said, the Rule of Law not only "embodies and encourages a just society, but also is a cause of other good things, notably growth"

e. Thus, certainty and accessibility serve not only a "higher" purpose, but also a commercial purpose, and

f. This is the subject matter of a talk on its own.

(3) Thirdly, accessibility is spoken about in terms of access to Justice; and it is here that the advocate's role is again indispensable.

When parties are otherwise unable to resolve their disputes by some alternative dispute resolution procedure, such as mediation or arbitration, then the Rule of Law requires that there should be access to a Court. The means to resolve disputes must be provided for, without prohibitive cost or inordinate delay.

Expense and delay are often two obstacles to such access to Justice. Whilst our concerns about these two issues may endure relentlessly, attempts to remedy the expense of litigation appear to be almost cyclical.

In 2000 Lord Woolf introduced his reforms to make more accessible Court procedures. We moved from the Rules of the Supreme Court 1965 (RSC) to the Civil Procedure Rules (CPR), almost seamlessly, overnight. But it was not long before the volume and density of the CPR exceeded, and trumped, those of the RSC. Well intentioned though they may have been, the Woolf Reforms increased the costs of litigation, by, amongst other things, "front loading" those costs, as Lord Neuberger

observed, in his recent speech on "docketing", which he gave to the Solicitors' Costs Conference last month.

More recently, in England & Wales, in a yet further attempt to improve access to Justice, Jackson LJ reviewed and reported on the Costs of Civil Litigation. He is presently responsible for the implementation of the reforms he proposed.

Following a speech given, last year at the offices of Clifford Chance in London, by the Lord Chancellor, Ken Clarke MP, in which he sang the praises of the Commercial and Chancery Bars of England and Wales, a panel of financial experts, bankers, analysts accountants, and the like, were asked what they wanted from a legal system. To a man (and woman) they all replied: first cost effective dispute resolution; and second speedy dispute resolution.

That should provide a commercial imperative. And indeed, I have set up a working group of the Bar Council to look at means of improving the speed of delivery of dispute resolution. In that endeavor, I have discussed those matters with, and gained the support of, the senior Judiciary in England.

Unsurprising perhaps; after all, it is often said that "justice delayed, is justice denied."

As recently as 19 March 2012, it was reported in the London Press that the litigation between Baron Thyssen and his son had settled, with legal fees amounting to some US$100m. You may remember that in 2000 the case, in the Bermuda Courts, had, somewhat notoriously, been opened for 66 days.

Clearly the sums involved, and I do not mean just the lawyer's fees, were enormous (US$ 2.7bn). But what does this say about access to justice?

What price justice? What price access to justice? Is this a justice system we want?

We all, Government, the Judiciary and legal practitioners, have a duty to ensure effective access to justice, in the legal system we provide and in our management of litigation before our Courts.

It is one thing to talk about these principles, of our ethical standards, of access to justice, of the Rule of Law, but what do they mean in practice.

Let me give you just two issues with which we are currently wrestling in England.

First, as you probably all know, in England and Wales, the regulatory landscape under which we now practise has changed fundamentally as a result of the Legal

Services Act 2007. Anticipating the change, whilst still acting as the Approved Regulator, the Bar Council devolved its regulatory responsibilities to the independent Bar Standards Board (BSB). It is now the BSB which oversees and enforces the Code of Conduct, handling complaints against barristers and taking primary responsibility for education and training, alongside the important role played, of course, by the Inns of Court. In turn, the BSB is scrutinised by the Legal Services Board, the oversight regulator. There is also a Legal Ombudsman, who deals with consumer complaints.

You will therefore readily appreciate that, in England and Wales we are operating in an environment where clients have become consumers, and, it would seem, "the consumer is king."

Indeed, speaking at the Bar Council's Annual Conference in 2010, the Master of the Rolls, Lord Neuberger, warned that whilst an important factor, consumerism was not the only, or indeed the most important factor. "It is of fundamental importance", he said "that, particularly when it comes to the professions, above all to the legal profession, society does not adopt what might be called a form of unreflective consumer fundamentalism."

Second, our new regulators are planning to assess the advocacy services we provide. They are proposing to introduce a system of Quality Assurance for Advocates (QASA). It was proposed that such a scheme be rolled out for criminal advocates from 1 April of this year. However, disagreements as to the scope and rigour of such a scheme have resulted in delays. The concerns are that the system will not demand the standards of excellence which the justice system require if proper and effective access to justice is to be afforded but will be content with some lowest common denominator of competence. Our justice systems, access to justice, the Rule of Law, demand, and require, excellence from our advocates.

It is true that we face some difficult challenges, but that simply means we should be more rigorous about the observance of our professional and ethical standards.

For example, consider those English barristers who appear before courts and tribunals all around the world. They are, in truth, ambassadors for our profession and for the English Bar. They must adhere to our Code of Conduct. But they must do more. They must also observe the ethical and professional standards of the Bar to which they must be Called in order to enable them to practise in that other jurisdiction. The Bar Council has recently issued further guidance in relation to this. It is not a question of picking and choosing. It is not a free for all. We have to ensure that we maintain the highest standards. We cannot afford to compromise.

When I delivered my inaugural address to Bar Council last December I had one (I hope) clear and prevailing message; invest in the future. By that I was not referring to spending money we simply do not have, mortgaging our future for today's expedients. I was talking of marshalling our resources; to invest our available resources wisely to produce the greatest returns; to invest more strategically, more intelligently and more transparently.

Recently, in England, we celebrated the opening of Rolls Building, the new business and property court complex, housing the Judicial expertise of the Chancery Division, the Commercial and Admiralty Courts, and the Technology and Construction Court. In that respect, we have been investing in our future. But it is not just about operating from modern, purpose-built courts. It is about investment in the justice system, and in the services provided. It is also about investment in those who provide those services.

If we want justice systems which are the envy of the world, which command respect from other jurisdictions, which attract inward investment and instil confidence in those looking to do business in our respective jurisdictions, and which command respect, we must make that investment in access to justice, in the Rule of Law. A jurisdiction which does not exude its support for the Rule of Law, its investment in the quality and integrity of its Judicial system, of its Judiciary, and of its legal practitioners, cannot, and will not, prosper.

I have talked about the challenges which are facing the English Bar at home and how we are seeking to tackle them.

But these Islands are not immune from challenges of their own, and the legal profession here must be willing to face them head on.

The advocate, I suggest, has a central and crucial role in ensuring access to justice. So too do the Judges. We must work collaboratively to ensure effective access to justice, to promote the Rule of Law.

Chief Justice, members of the Judiciary of the Cayman Islands, ladies and gentleman, as honoured and privileged as I have been to appear on many occasions at the Bar of this Court, this opportunity, extended to me, is right up there with those occasions.

I thank you, Chief Justice, for inviting me to speak, and for the honour of allowing me to address this invited audience, on this occasion, from the Bench, rather than the Bar, of this Grand Court.

Thank you.

Michael Todd QC
Chairman of the Bar Council of England & Wales