

**Remarks by the Hon. Attorney General on the Opening of the
Grand Court of the Cayman Islands for the 2013 Session**

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

My Lord Chief Justice, at your invitation, it is my pleasure to rise to move the motion for the opening of the Court for the year 2013, and in doing so I propose, with your leave, to offer a few remarks.

My Lord, perhaps from a legal standpoint one of the most significant events of last year was the coming into force of the Bill of Rights provisions of the Cayman Islands Constitution Order 2009.

For the first time in the legal history of these Islands claimants are now entitled to file a claim in these courts where they are alleging that there is a breach of his/her human rights, and the courts are now empowered to adjudicate on such claims and to grant direct relief where a claim is made out.

My Lord this is not an insignificant development in our legal history. It will not be too long before the benefit of such a facility will start to manifest itself.

And while not encouraging more work for ourselves, it is appropriate for me to observe that it is incumbent upon the legal profession to assist those minded to access the courts to have such alleged transgressions adjudicated.

I am aware that the judiciary has taken the necessary steps to put in place the legal and administrative framework to facilitate the filing of such matters by promulgating the relevant Grand Court Rules of such claims.

For our part, all the legal officers in the Chambers of the Attorney General and the Office of the Director of Public Prosecutions have done extensive training in preparation to deal with such matters.

Similarly, other departments of the Government, including the RCIP, Immigration and others have undertaken general as well as targeted training.

And so challenges there will be but we should all seek to embrace them.

And while I am on the issue of the Human Rights please allow me to make a relevant and indeed timely observation, especially as it relates to the freedom of expression, including the freedom to hold, receive and impart as contemplated by section 11 of the Bill of the Rights.

My Lord we, unlike a lot of countries in the world Cayman can boast about the fact that we have a free press. Not only should that be the case but long may it remain that way.

Indeed it is our duty to continue to promote the freedom of our press.

A Bill of Rights understandably serves to further underpin that freedom of the press, but equally there are going to be additional challenges for our friends in the media. Indeed we need look no further than the UK and read the very telling Leveson report and his recommendations flowing from his enquiry.

It is in that spirit that I would encourage our local media to again consider coalescing into a formal association, underpinned by a comprehensive written code of conduct which includes a self-regulating framework.

Such a move will guarantee three benefits that immediately spring to mind.

One is that whenever they seek to speak out on challenges/issues facing them they do so from a position of strength, not as individual entities, but as a body, a press association.

Secondly, and of equal significance, is that it is not always the case that every time someone is alleging that they have been unfairly treated by the press, that they wish to resort to taking legal action. Neither does the press relish the situation where it must always have to go to court to demonstrate that they acted fairly and within the boundaries of acceptable journalism.

Accordingly, a properly drafted and promulgated code of conduct setting out the guidelines which inform how the press carries out its affairs, including a well developed grievance procedure for those crying foul would go a long way in preventing aggrieved persons from having to resort to the court and all the expenses for both sides associated with such a claim. An aggrieved person as well as the media should have some medium, short of court proceedings, to have complaints addressed or adjudicated upon.

The third benefit is that it will provide a degree of clarity and consistency among their membership, and in a way not necessarily inconsistent with competition. We see recent observations in one media about the lack of clarity on the sub-judice rule and what is permissible to be published in such instance. I have deliberately stayed out of the debate because I think that if there was a uniform code of conduct such an issue could be resolved among them rather than myself or others seeking to impose prescriptive rules on the press. They ought to be free and independent to do their job.

I therefore commend this suggestion to the media, that they consider self-regulating. I do not think it is an unreasonable recommendation in the modern climate. I do so fully appreciating the risk of being frowned upon by my friends at the private bar who may say I am steering briefs away from them. But there are those that will inevitably end up with them.

My Lords allow me to formally welcome Magistrate, Her Hon. Ms. Kirsty Gunn, no stranger to these Islands, we are happy to have her back with us.

Permit me also to note and welcome the appointment of Justice of Appeal Sir Richard Ground QC, to our Court of Appeal, again a much welcomed addition to our bench. In the same breath I wish to offer congratulations to Baroness Patricia Scotland QC, former Attorney General of England and Wales on her recent appointment to the Cayman Islands Judicial and Legal Services Commission. We seem to have a way of attracting heavy weights to the Cayman Islands and Baroness Scotland certainly falls into that category also. Permit me to also welcome Ms. Jacqueline Wilson as our Solicitor General. We are delighted to have her back. She replaces Ms. Vicki Ellis who has taken up duties as a High Court Judge in the Eastern Caribbean, and we certainly wish her well, and that she too will one day return to Cayman

We note the retirement of former Court Administrator Mrs. Delene Cacho, we wish her happy retirement.

Let me at this stage say congratulations to my colleague Mr. Alasdair Robertson on his election as President of the Cayman Islands Law Society. I look forward to partnering with him as well as Mr. Crowley on various issues relating to the Profession and Administration of Justice. I say thanks to Mr. Charles Jennings for his many years of outstanding work as President, and wish him an enjoyable retirement again.

My Lords as we all come to expect, a new year brings its share of new challenges. We have no reason to think 2013 will be different. We will continue to experience head winds, but as we have done in the past, Cayman Islands will continue to fly at high altitude.

During last year the Summary Court, under the guidance of yourself Chief Justice and the Chief Magistrate Ms. Nova Hall, refined its scheduling procedures and made significant efforts to tackle the volume

of cases and the Coroners Inquests which are outstanding. To this end, in addition to the efforts of all three magistrates we welcome the part time assistance provided by Acting Magistrate Grace Donalds and Acting Magistrate Eileen Nervik. This has undoubtedly made a difference.

We applaud also the efforts of the Court Administrator, Mr. Kevin McCormac who has established a working group as a sub- committee of the Court Users Group to develop strategies and effective plans for improving the efficiency of the criminal justice system. Partner agencies include the Defence Bar, the Police, Prison, Departments of Counseling and of Children and Family Services and the Office of the DPP. The proposed aims include:

- a) to reduce the time between detection of an offence and completion of the court proceedings;
- b) to improve the flow of information between different agencies and make best use of available technology;
- c) to improve the experience of jurors, witnesses and victims;
- d) to minimise the need to repeat information at the various stages of a criminal case;
- e) to improve the quality of documentation at each stage and the speed and accuracy with which it is produced;

On the issue of Law and Order we note that we nearly ended last year without a murder. However, that was changed at the last minute. We commend our Commissioner of Police and his team for an outstanding job as they continue to keep a tight grip on anti-social behaviour and Law and Order generally.

We have to say thanks also to all others who are involved either directly or indirectly with Law and Order and our Justice System for their continuing hard work as we look forward to working together this year and beyond.

We place on record the continued commitment of the Government, including the Chambers of the Attorney General, the Office of the Director of Public Prosecutions and other supporting agencies in support of the proper and efficient Administration of Justice in these Islands.

And as I move the motion for the opening of the Court for 2013, to wish for your Lordships, Magistrates, Staff, our Colleagues at the Public and Private bar, and all others involved in the administration of justice a prosperous and productive 2013.

And with your leave, I now formally move the motion for the opening of the Grand Court for the year 2013. May it so please you My Lords.

Samuel Bulgin QC, JP
Hon. Attorney General