

# **GRAND COURT OPENING JANUARY 2017 – REMARKS BY THE HON. ATTORNEY GENERAL**

1. My Lord Chief Justice, Hon. Judges of the Grand Court, Hon. Chief Magistrate, and other Hon. Magistrates, President of the Justices of the Peace Association, Madam Director of Public Prosecutions, Madam Solicitor General, Presidents of the Bar Association and the Law Society, other colleagues at the Public and Private bars, other special and distinguished guests, Ladies and gentlemen.
2. It is with pleasure My Lord Chief Justice that I rise, at your invitation, to move the motion for the opening of the Grand Court for the Year 2017, and in doing so will crave your indulgence to proffer a few remarks.
3. My Lords, I think it would be most apposite to begin by observing that the last calendar year can only be described as a record breaking one for the amount of laws enacted. There were over 50 pieces of primary legislation, plus numerous pieces of Regulations

enacted by Cabinet. Indeed, in the final sitting of 2016 some 29 pieces of legislation were passed by the Legislative Assembly which is more than the amount sometimes passed for an entire legislative year.

4. Further, while the elected Government and support staff are to be credited for this extraordinary achievement, it would be remiss of me not to also publicly recognize the herculean effort of my Legislative Drafting team. It was not easy, indeed it was very stressful at times but they all displayed commendable dedication and professionalism in preparing the Bills.
5. Also My Lords, while it goes without saying that all the laws enacted were of vital importance, it is equally correct to say that there were some that deserve special mention. These include the Disabilities (Solomon Webster) Law 2016, which among other things, seeks to provide for the first time, locally, a comprehensive legislative framework that regulates how as a society we should treat with those among us that suffer from disabilities. This

legislative initiative further enhances our Bill of Rights imperatives in this area.

6. It is no secret My Lords that there are many persons in our society who encounter such challenges and are often times not afforded the same level of opportunities and care as those who are not. In this regard the Government has also unveiled a comprehensive Policy to help undergird the workings of the Law.
  
7. Government was also able to enact a raft of other legislations aimed among other things, at ensuring that the jurisdiction will be in compliance with the revised FATF 40 Anti-Money laundering recommendations when the Mutual Evaluation exercise is undertaken later this year by the CFATF. A successful review will understandably be critical in ensuring the continuing excellent reputation of Cayman's international financial services industry. I therefore as chair of the AMLSG wish to thank all stakeholders, including the Anti-Money Laundering unit, CIMA and the Ministry of Financial Services, as well as the many volunteers,

Public and Private Sectors, who have been working continuously on our preparations for the upcoming review.

8. On the subject of the Financial Services Industry My Lord, I note with some more than passing concern that notwithstanding the numerous confirmations and validation of the soundness of our regulatory standards, that there are still some foreign organizations that continue to perpetuate their jaundiced criticisms about our regulatory framework. Most of the critics are persons or entities who are just not familiar with the nature of the industry. But My Lords, we will continue to highlight the fact that our standards are consistent with, and in some cases, exceed International thresholds.
9. My Lords, I should also at this juncture make mention of two more recent legislative initiatives, albeit not by the Legislative Assembly but which are of great significance. First, is the recent amendment to the Cayman Islands Constitution Order 2009 which now clarifies that Judges of the Grand Court will retire at age 70, instead of the previous bifurcated arrangement which led to differing interpretations. This amendment therefore serves to

finally remove the ongoing uncertainty about the tenure of Judges. Here I pause to note that the Government has also increased the retirement age for persons in the public and private sectors.

10. The other initiative is the extension of the 2003 UK Extradition Act to the Cayman Islands, as well as some of the other overseas Territories. The effect of this extension is that the Cayman Islands as a jurisdiction will now, in general, operate on the same extradition regime as the UK and will thereby be able to place greater reliance on some of the relevant case laws from the UK.
11. My Lords, on the matter of tenure of members of the Judiciary, I should also mention that last year the Judge's Allowances and Emolument Law, was amended, and the related Order is in the process of being amended to provide our hard working Magistrates with more enhanced terms and conditions of their employment and thereby further strengthening their independence. The changes will be effective from 1<sup>st</sup> January 2016, that is, retroactively.
12. Finally on this area My Lords I wish to publicly recognize the work of the Grand Court Rules Committee, the Insolvency Rules

Committee, the Financial Services Legislative Council, the Law Revision Commission and the Law Reform Commission and to point out that long standing member Mr. Kenneth Farrow QC has been appointed by Cabinet as the new Chair of the Commission, having succeeded Mr. Ian Paget-Brown QC, who we wish to thank immensely for his many years of dedicated service on the Commission. I also wish to thank former Commissioner Mr. Hew Moses, and to welcome new members, Mr. Hector Robinson and Mr. Vaughn Carter as well as returning members Her Honor Mrs. Eileen Nervik, as well as the DPP and SG.

13. My Lords, I am aware of, and therefore wish to mention the ongoing initiative to possibly establish a formal Mental Health Court, perhaps as part of the Summary Court. Indeed I understand that preparations are currently under way to establish a working group to look at this, including the need for a legislative framework that would underpin the court.

Also My Lords, I am happy to announce that the Government has agreed to move to the tendering stage for the construction of a

secure building on the Bonaventure Boys Home site to house high-risk youth offenders placed on youth re habilitation orders or remand. Some 2.1 million dollars has been allocated for this project.

14. Moving on My Lords, both in the Summary Court and in the Grand Court in the past year, there have been continued efforts by the Judiciary and the Bar to improve processes in the criminal justice system. Increasingly sophisticated crime requires an increasingly sophisticated criminal justice system. The operation of the Practice direction in the Summary Court and robust case management hearings in the Grand Court have sought to identify the real issues in each case as early as possible leading to less Court time during trials. It is hoped that this approach will become the new norm as cases progress through all of the courts this year;
15. Also of note is the fact that 2016 was the first full year of the new sentencing guidelines issued in respect of a number of serious offences following the work of the Criminal Justice Review Committee under the Chairmanship of the Justice Quin. These

have proven to be of real benefit to the criminal justice system. We must also publicly recognise Justice Quin not just for his leadership on the ongoing reviews, but also for his role in the Criminal Division, in leading on ensuring the speedy disposal of criminal matters, with priority being given to custody cases. Of course, he is ably assisted in this by others, including a number of visiting Judges.

16. Of practical significance last year in the Grand Court was the introduction of the Electronic Diary in the Criminal Division. This assists attorneys to identify available trial dates ahead of time, thus increasing the efficiency of the Mentions procedure at Court. Allow me here to express our gratitude to Ms. Suzanne Livingston and the Listing Officer, Ms. Yasmin Ebanks for their hard work, to facilitate its implementation.
17. Looking ahead My Lords at some upcoming legislative initiatives for this year, we will be considering reforms to the Matrimonial Causes Law with a view, to among other changes, creating a single



ground for Divorce, that of the irretrievable breakdown of the marriage, and thereby abolishing the fault-based grounds.

18. Government will also be looking at enacting an Ombudsman Law, and a Public Authorities Law, among others. The Government will also be moving to finally enact the long outstanding Legal Practitioners Law. We are all familiar with the history of this initiative but we are confident that an acceptable compromise will be achieved.

19. My Lords, one of the more significant upcoming events for 2017 will be the General Elections, which for the very first time will be conducted on a one person one vote, single member electoral districts regime. As your Lordships will recall, the way was previously paved for this by the relevant amendment to S.89 of the Constitution, as well as by an amendment to the Elections Law. This is a new constitutional construct and will understandably encounter teething pains, but I am aware that the necessary training is under way to get elections officials up to speed with the new system.

20. My Lords on the issue of Law and Order, I wish to publicly welcome our new Commissioner of Police, and wish for him a successful and enjoyable tenure. I wish to also thank Deputy Commissioner Ennis for his able stewardship during the interregnum between the departure of former Commissioner Baines and the arrival of the new Commissioner. Thanks also to former Commissioner Baines and Deputy Commissioner Brougham for their stewardship during some very challenging periods in these Islands.
21. Congratulations are also in order for Deputy Commissioner Kurt Walton on his well-deserved elevation. We also wish to publicly welcome Superintendents Graham and Lansdown as we thank the entire leadership, and rank and file of the RCIPS for their continuing hard work in maintaining law and order.
22. My Lords on the personnel front there have been some notable personnel changes during last year both within the Portfolio of Legal Affairs and the office of the DPP. These include the appointment of Mr. Robert Berry as our new Director of the FRA.

Also My Lords, we note the transitioning of Mrs. Suzanne Bothwell from AG's Chambers to the post of Court Administrator. Although it was a huge blow to us, it was an excellent replacement for Mr. McCormac, who did an outstanding job. We wish for Mrs. Bothwell as well as the entire staff at the Judicial Department a productive and enjoyable 2017.

23. Might I also My Lords mention the departures from the DPP's Office of both Ms. Tanya Lobban-Jackson and Ms. Tricia Hutchinson, formerly both Senior Crown Counsel. These vacancies created have since been filled by Mrs. Nicole Petit, and Ms. Candia James. Ms. Lobban-Jackson and Ms. Hutchinson have both assumed duties as Magistrates in Turks & Caicos and Jamaica respectively. I also wish to mention the promotion of Ms. Reshma Sharma to the post of Deputy Solicitor General.

24. Let me also note publicly My Lords that the Judiciary under the visionary leadership of the Hon. Chief Justice continues to work very long hours in disposing of the very large number of matters coming before the courts on a daily basis. These include weighty

multi-billion dollars commercial matters, family law matters, constitutional and other public law matters as well as criminal cases. We wish to also thank our Magistrates and JPs for their continuing dedication to duty, and their hard work.

25. I wish to also recognize and thank Madam DPP and her dedicated team in dealing with the numerous criminal and related cases ably investigated by the equally hardworking members of the RCIP.

26. Thanks also to the Solicitor General and our team of lawyers as we all continue to play our part in the administration of Justice. To our colleagues at the private bar, thanks also for their hard work and professionalism as they too continue to play a vital role in the justice system, including those assisting our Truman Bodden Law School and Director Mitchell Davies in the training of our lawyers. Indeed the Summer 2016 LIB exam results were the best in the history of the Law School both in terms of the number of First Class and upper Second Class degrees awarded, and the fact that no student received less than a lower second class honours degree.

Thanks to the Director and his Lecturers/Tutors.

27. We thank also the Executive and Elected branches of Government which continue to provide the required resources for the justice system to function effectively. This includes during the past year a revised legal aid regime, to facilitate the maintenance of law and order and the administration of justice. We are a jurisdiction that prides ourselves on the rule of law, and therefore it requires the combined effort of all three branches of government as well as others to ensure success. We also wish to thank the JLSC and the other Constitutional Commissions for their role as stakeholders in the rule of law. We thank our media for continuing to keep the society informed about what is happening within our justice system, and more generally.

28. I wish for all a happy, prosperous and productive new year.

I now formally move the motion for the opening of the Grand Court for 2017.

May it so please you My Lords.

Hon. Samuel Bulgin QC, JP  
Attorney General  
January 11, 2017