

Welcome Address by

Erik Mark Alexander Bodden

At the Opening of the Sitting of the

Judicial Committee of the Privy Council

Grand Court I, Tuesday 15 November 2022

My Lords,

I rise as president of the Cayman Islands Legal Practitioners Association, on behalf of my colleagues at the private bar and the wider legal profession.

It is truly an absolute honour to be here today, having been invited to offer further welcoming remarks, following the Honourable Attorney General's speech on behalf of the public bar, and to assist with opening this very special sitting of His Majesty's the Judicial Committee of the Privy Council.

It is customary for the Cayman Islands Legal Practitioners Association, which we refer to as "CILPA", to also assist with the opening of the Grand Court each year, and to use that opportunity to raise awareness of CILPA's work over the past year, and to highlight upcoming projects and challenges in the year ahead. This is, of course, a slightly different occasion, and so I will reserve the CILPA update for the 2023 Grand Court opening.

However, having read the Attorney General's speech in advance, and then having further realised that his speech was basically the same as my first draft, and that the Attorney General had already formally submitted his before me, I was forced to take a different approach.

I thought instead, this time, I would very briefly discuss - where we have come from and where we are now, as a legal industry, to mark this very special occasion.

So, where we have come from.

Dating back as far as 1798, there is evidence of the appointment of Justices of the Peace by the Governor of Jamaica to administer public affairs in the Cayman Islands, which is considered the precursor to our current judiciary.¹

In 1811, the post of Clerk of Courts was established.

In 1898, a transition took place that saw the powers of the Custos vested in a Commissioner, who combined administrative duties with those of a Judge of the Grand Court.

Almost 60 years later, in 1957, a Stipendary Magistrate was appointed to perform all judicial and legal functions, which included all matters laid before the Court of Petty Session with the exception of capital offences, which were still being heard in Jamaica.

¹ This information is available on the judicial.ky website

Jamaica formalised its independence from the United Kingdom in 1962, which ultimately triggered an expansion of the jurisdiction of our local courts.

In 1975, a Grand Court Judge and a Magistrate was appointed. The Grand Court itself was upgraded to supreme court status, summary courts replaced the petty sessions and a Juvenile Court was established.

The following year, a Chief Justice was appointed in accordance with the Grand Court Law of 1975.

Then, in 1984, we established the Cayman Islands Court of Appeal to exercise the appellate jurisdiction formerly held by the Jamaican Court. After that, all proceedings could be heard within the Cayman Islands, subject to a possible final appeal to the Privy Council in London.

But our Courts were still small and our attorneys few.

Fortunately, following the enactment of the Mutual Funds Act, and the rapid rise of the financial services industry, the Cayman Islands experienced an accelerated population growth.

In 1950 we had approximately 7,000 people living between the three islands, whereas we now have approximately 80,000.

As the population rose over the years, and the financial services industry became more successful, the result was, unfortunately but inevitably, an increase in disputes, involving civil, criminal, family and financial services matters.

This necessitated an increase in judges and magistrates and court administrative staff, and ultimately the creation of a specialist court, the Financial Services Division, to deal with disputes involving complex trusts and Cayman Islands registered companies.

Which takes us to where we are now.

Our judiciary currently boasts over 35 judicial officers. Including the ex-chief justice of Bermuda, the Hon Justice Kawaley, and the first female Chief Justice of the Cayman Islands, who was also the Chief Justice of the Turks and Caicos Islands, the Hon Chief Justice Margaret Ramsay-Hale. There are also three deputy clerks of the court in addition to the Clerk of the court.

Our courts now operate in a fully modernised setting. Court documents are filed electronically, and we have the ability to conduct hearings virtually, when necessary. This all adds to the speed and efficiency, and transparency, of the administration of justice in the Cayman Islands.

In terms of the increase in the number of attorneys, there are currently just over 900 practicing certificates issued to attorneys locally, and with the Legal Services Act now in effect, we will very soon have the ability to issue practicing certificates to attorneys working in our affiliate offices around the world, so it is very likely that we will see that number rise by at least another 200-400 attorneys.

I say all of this to emphasis and to place into context the great significance, which really can't be overstated, of the Judicial Committee of the Privy Council actually sitting physically in Cayman. This

didn't arise out of a vacuum – it is a testament to the rise of our legal industry and is the logical next step in the history of the administration of justice in the Cayman Islands.

I remember the first time I visited the Supreme Court and Privy Council in London. The feeling one gets as an attorney, and particularly as an advocate, by visiting that building is quite difficult to express in words. There is a distinct and profound air of judicial greatness that resonates, permeating the halls and each of the Court rooms.

At the heart of the building is the Justices' impressive library. In addition to books, it maintains a permanent display of quotes chosen by the Justices at the time it was built, including, for example, a quote from Dr King's "Letter from a Birmingham Jail", which reads:

Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality tied in a single garment of destiny. Whatever affects one directly affects all indirectly.

And the famous quote from Francis Bacon:

Judges ought to be more learned than witty, more reverend than plausible and more advised than confident.

The final appellate court, and the building itself, bestows a sense of direction, pursuit and purpose, feeding the drive of all great attorneys, who all hope to ultimately make their mark, in the highest Court of the land, and to be made eternal through the publication of a judgment, win or lose.

And whilst we have come from humble beginnings, and our building might not be as impressive as the Supreme Court building in London, the fact is that this Court room, right here, for this week, with the Privy Council in session, will emanate that same air of greatness to all those that pass through.

I would therefore echo the Attorney General's sentiments and invite my colleagues at the bar to attend and witness the Privy Council in operation locally.

I'm sure the first chief justice when he first visited Cayman would have never envisaged that the Privy Council would be landing on our shores; and who knows where we will be in the next 40 years, but if history is any indication then we know it is only onwards and upwards for these three small islands.

It only remains for me wish your Lordships a very warm welcome on behalf of the Cayman Islands bar.

We know you have a very busy schedule this week, but we hope that at some point you will take pause to experience our soft fresh breezes, white sand beaches and emerald sea, and we look forward to seeing you all at the Gala on Friday, after this Court session has come to an end.

Erik Bodden

President, CILPA