

Address to the congregation on conferment of
Degree of Doctor of Laws (*honoris causa*)

Salutations: Mr. Master of Ceremonies
HE The Acting Governor and Mrs. McCarthy
Hon. Attorney General
Vice Chancellor, Prof. Bone
Pro-Vice Chancellor, Prof Gaskell
Dr. Gary Walker
Fellow Members of the Judiciary
Distinguished guests
Ladies and Gentlemen
Boys and Girls

The conferment of an honorary doctoral degree by so prestigious an institution as the University of Liverpool is the kind of event that compels one to reflect. Try as one might to resolve, that it is best left to those who propose to know their reasons, one inevitably asks – is it justified?

Well, although I must admit to having reflected on that question, you will be relieved to know that I am not about to embark upon so risky a task as to argue for the justification. If there is one lesson one learns from many years of Court experience, it is that there are always at least two distinct sides to every argument! And as is often said “The lawyer [or judge] who argues his own cause has only a fool for a client”!

I am therefore very grateful to have had so eloquent and erudite an advocate as Prof. Gaskell, the University Pro-Vice Chancellor and Public Orator, to present the rationale or justification; as indeed I am to Vice Chancellor Bone and Dr. Walker for coming to the Cayman Islands to officiate at this ceremony on behalf of the University.

My Dear Sirs, I am truly honoured. Along with my thanks, please convey on my behalf to the Council of your venerable Institution that sentiment in its most resonant possible terms.

Such sentiments so personally felt and expressed, may not however, be truly conveyed only in the subjective case.

The *honoris causa* which this award recognizes is not mine alone. In its proper objective case, it is nothing less than a recognition of the emergence of the Cayman Islands as a jurisdiction of note and of the redoubtable nature of the jurisprudence developed by its judiciary both past and present.

Too easily we forget that the favourable prospect from which we now view the world is built upon the shoulders of those giants who came before us. And while it may not be polite to mention the names of the living, I may not let this occasion pass without remembering those of blessed memory – The Rt. Hon. Telford Georges, The Hon. James Kerr, the Hon. Ira Rowe, the Hon. Gerald Collett, Sir. Denis Malone, Sir. John Summerfield and the Hon. Ena Allen; with all of whom I had the privilege to work in one capacity or another in the Law.

Our Law Reports, of which we are so justly proud and which are increasingly being cited by other courts and by leading text book writers, contain abundant testimony of their wisdom and learning. They have provided a jurisprudential legacy to which, those of us who still serve, are privileged to be able to contribute.

Of no less moment is the immediate reason for our being gathered here tonight. This occasion marks the first time that our Law School graduands will be receiving their degrees in a ceremony of the University, presided over by the officials of the University, instead of in absentia in a ceremony of the School itself.

The special dignity of the occasion is justified, I dare say, in no small measure by the results this year. They mark the best set of CILS graduating results to date, with the award of four overall First Class and eleven Upper Second Class degrees of the University.

It is all the more fitting that such results should be achieved on the eve of the Law School's "coming of age".

On the eve of its 25th Anniversary, the Law School is becoming a mature and venerable institution. This is due not only to the caliber of its students but, with every passing year, more and more to the standards and commitment of its Faculty and Staff and to the academic ties which are being forged with the University of Liverpool School of Law.

From the point of view of the Legal Advisory Council which regulates the administrative affairs and the Professional Practice Course of the Law School and on which, as Chairman, I serve together with the Hon. Attorney General and distinguished representatives of the Profession; it is pleasing to note that this academic year witnessed a very positive outcome to the University's Departmental Periodic Review of the CILS. And this year's academic results is ample proof of the accuracy of that Review.

Thus, it is plainly to be acknowledge that here too, this prestigious award must be accepted in a representative capacity. I do so gratefully on behalf of my fellow members of the Judiciary and of the council and on behalf of the dedicated and talented members of the Faculty and Staff of the CILS.

Finally, it is only appropriate that I should end with a few words not only in my more accustomed role as Chief Justice, but on this occasion to my fellows; as a graduate as well. Not only do we have the excellent degree candidates already recognized, we also have an excellent group of postgraduate candidates for the Professional

Practice Course, standing on the threshold of admission to the profession.

To all of you I say warmest congratulations and to those about to be admitted to the profession, I say welcome. You have all embarked upon a wonderful and potentially rewarding calling which is the Law, but it is also one of stern discipline and many challenges. It will involve you in many complex and often difficult situations and relationships, not only with your clients, but with your colleagues in the profession as well as with the Courts to which, as its officers, you will owe certain overriding responsibilities. And these are responsibilities which you owe to the wider public, to whom we are all accountable for the due and proper administration of Justice.

You therefore must never forget that yours will be a calling to the service of people. The real life of the law is not wrapped up in the cold reasoning logic of doctrine. Nor is it embodied in the written instruments which we so proudly produce as manifestations of our skill and learning.

The real life of the law is in the experience of ordinary people. Yet, as Professor Radin reminded us when he wrote:

“And of this we may be assured. These persons in whose experiences the law is alive, when they rise up and lie down, when they go forth and return, are as wholly unaware that they have had anything like a legal experience as Monsieur Jourdain was that he had been talking prose all his life.

As a matter of fact, they have violently repudiated the suggestion, since they entertain the fervent hope – or say they do – when they think about the law at all, that they will have the least to do with it that is possible. The law means to them judges, juries, sheriffs, jails, policemen, and tax collectors; or else

leases, deeds mortgages, wills articles of incorporation, policies of insurance – a mass of paper that must be signed, sealed, and delivered, in which signing, sealing and delivering there is a great deal of jeopardy. When a non-lawyer affixes his signature to a legal document he usually does so with undisguised misgiving. Some day a hectoring attorney will thunder at him, “Is this your signature?” and upon his faltering admission will turn with a look of cruel elation to a jury or Judge.”

That deep and abiding mistrust and skepticism of all things legal has been around, as Shakespeare was fond of reminding the audiences of his day, from the beginning of the professional practice of the law which preceded his era by nearly a millennium.

They are sentiments which have never abated. And as we all know, they are often not without good cause in fact.

But things can and will change. Society has entered the information age and transparency is the order of the day. The law is being called upon to shed its cloak of mysticism and, like all other professions - witness for instance the **Enron** case – the public will demand of lawyers a greater degree of responsibility and accountability.

Rest assured though, - this is all welcome news. Not only from the public’s point of view for a better assurance of the vindication of people’s rights; it also presents a wonderful opportunity to you as the new generation of lawyers. It will be an environment in which you, as professionals, can truly claim for yourselves, perhaps fully only for the first time; the hearts and minds of the people you serve and the repute and standing of the honourable calling your profession is meant to be.

As always, your greatest asset in your endeavours will not be your technical legal training or your sharply honed wit and intellect; it will be your sense of personal integrity.

There will be many circumstances when your character will be tested; many choices which will present you with the right path to take as well as the perilous path.

But these will be the times when the client, in whose interest it will be to take the perilous path, may not be allowed to choose for you. When only you can decide.

These will be times when you must be guided by the moral compass within. It is a compass which you will have to nurture and hone in much the same way you would the intellectual skills which you will need.

How, you might ask, am I to accomplish this within the hurly burly of daily professional life?

I suggest to you that the answer is readily available: **Read the good Book.** There you will find, more than in all your other texts combine, the source and origin of the very moral foundations upon which our Western Civilization is built.

It is often forgotten too that this greatest of Books is also the original source of the written laws. And its influence on what we do, even in our attempt at the dispensation of justice every day in the Courts, is very real.

Beyond the strict edicts of the Ten Commandments, there are many passages which have become woven into our moral consciousness. Take for instances, “the Talion” which was first articulated in the Book of *Exodus 21:23-25* in the following terms and form which the word, now-a-days often misused, “retaliation” derives:

²³*If any harm follow, then thou shall give life for life,*
²⁴*eye for eye, tooth for tooth, hand for had, foot for foot,*
²⁵*burning for burning, wound for wound, stripe for stripe.”*

Notwithstanding the particular social milieu in which the book of Genesis including the Talion was written, punishment was often not proportional to the crime; the Bible, read literally, sends a complex message about law enforcement. The substantive law was written in those harsh terms but the sentencing procedure was often ameliorated by the circumstances. So for instance, we know that Ca8n was not visited with the full literal force of the law when he committed the most heinous of crimes against his brother, Abel. Instead, he was banished from Eden to wander in the wilderness.

Some commentators have posed the question whether that happened because God, having shown his favoritism for Abel, recognized that Cain may have been driven beyond self-control by his jealousy; thus suggesting the earlier manifestation of the defence, which in modern times we now call “legal insanity”, the McNaughton rule.

Another Rabinnical point of view suggests that as Cain had never seen someone injured and die before therefore that: “Cain slew – but had no one from whom to learn the enormity of his crime”.

Thus giving early currency to the notion that without *mens rea*, - without the guilty mind; there really is no crime.

Even though the Great Text has always been and will always be accommodating of debate in the quest for its true meaning; there can be no doubt about its lasting influence.

The tension between retaliation by the full measure of the law and amelioration according to the circumstances of the offender; even now lives on in the principle that justice must be tempered with

mercy. It is a principle that is at the heart of the modern day controversy about sentencing. And as you have already observed from your studies about sentencing, it still is no easier to explain!

But the real moral of my brief charge is that we must never forget what is the real source of our inspiration for any good that we might hope to do in our lives – professional or otherwise.

And staying the right course is infinitely easier through fellowship. There is already recognition of the value of fellowship in your vibrant Students' Association and in the Professional Associations, you will no doubt join. But always remember the truest and highest purpose of fellowship is as it is written in **Hebrews 10:24:25**:

“Let us consider one another to provoke unto love and to good works; not forsaking the assembling of ourselves together.”

I wish for you all the very best in your future endeavours and that you will each of you, come to realize the full potential of your noble calling.

Mr. Master of Ceremonies, distinguished representatives of the University of Liverpool, distinguished guests, once more, thank you.

Good evening.