

Speech at the Assise d'Héritage

Monday 12th September 2011

1. This is the first time for many years that an Assise d'Héritage has been held in the absence of a Lieutenant Governor, because we are of course between office holders, with Sir John McColl due to take up his office in two weeks time. The presence in the Island of a Lieutenant Governor reminds us that we are a dependency of the Crown and in this respect we look forward with anticipation to celebrating next year the Diamond Jubilee of Her Majesty's accession to the throne.
2. We are of course one of three Crown Dependencies. In the past we all used to go our own separate ways without a great deal of interaction between us. That is no longer possible or desirable. Nowadays we face very similar challenges concerning matters which would previously have been regarded as purely domestic but are now subject to international conventions and international pressures. The Dependencies are strong when they stand together and weak when they are divided. It is therefore important that the Law Officers as well as the political leaders of the three Dependencies work closely together. I know that our current Attorney General shares these views and I am delighted to welcome his guests today namely Stephen Harding, Attorney General of the Isle of Man and Richard McMahon, HM Comptroller (or Solicitor General as we know it) of Guernsey. I hope that you both enjoy your visit and that you will all manage to work in close liaison as future challenges arise.

3. All three Dependencies are determined not to be repositories for criminal money and to demonstrate that this is so. In this respect, a case of particular significance has been concluded since the last Assise a year ago. The case involved the prosecution of an individual concerned with laundering the proceeds of crime by members of the Abacha regime in Nigeria. Even though no prosecution had been brought in Nigeria, a decision was taken to prosecute in this jurisdiction for money laundering involving the passage of money through Jersey. As a result of the prosecution and the consequent confiscation order, a substantial sum is to be returned to Nigeria for the benefit of its people. I believe this demonstrates the determination of the Island that our financial services should be used only for lawful purposes.
4. I also welcome District Judge Quentin Purdy from the City of Westminster Magistrate's Court. Judge Purdy is in Jersey to speak at a seminar on the law of extradition which, for a finance centre such as Jersey, is a particularly important area. I am grateful to him for agreeing to speak and I hope that he and his wife enjoy their stay in Jersey.
5. The Assise is an opportunity to review the legal scene in Jersey and we are at present in the midst of a period of change. First, we have lost Sir Philip Bailhache, who resigned as a Commissioner in July following his decision to seek election as a member of the States. Fulsome tributes were paid to him on his retirement as Bailiff. I

would like simply to place on record my gratitude to him for his contribution to the administration of justice in Jersey since his retirement by sitting regularly as a Commissioner. His contributions to our jurisprudence are legion but in this respect I would pick out for special mention one of his last decisions, which related to the law of mistake as applied to gifts into trust. He re-affirmed in ringing tones that, even in an area such as this, where we draw considerably on English law for assistance, the Bailiwick is a separate jurisdiction and we are free to determine the course which our law should take without necessarily following the twists and turns of English law.

6. The second change I would mention relates to the Jurats. Between the 2009 and 2010 Assise, three Jurats retired and since last year a further three have retired. Two more are due to retire before the next Assise. This will mean that in the space of three years, we will have lost two thirds of our court. This is not ideal as experience in a judge is undoubtedly a useful attribute. However the Island remains fortunate that men and women of real ability, judgment and dedication are willing to serve the Island in an honorary capacity as Jurats and the Court remaining as strong as ever. It is only by sitting with the Jurats that one comes to appreciate fully the enormous contribution which they make to the administration of justice in the Island and I would like once again to place on record my thanks to them and my appreciation of what they do.
7. The third change relates to a member of our Court of Appeal in that Mr Jonathan Sumption will be resigning from the Court on taking up

appointment as a Judge of the Supreme Court of the United Kingdom. It is over 60 years since a person was appointed direct from the English Bar to the highest court in the United Kingdom and it is an indication of the quality of lawyers who sit as judges of our Court of Appeal that it should be one of the members of our Court who is thought worthy of this singular honour.

8. I recently swore in the members of the Youth Court Panel who give of their time in seeking to administer justice to young offenders. I mentioned at that ceremony the contribution made by the Parish Hall enquiry system and I would like to take the opportunity of saying something about that today. A number of experts who have come across to look at the system have all spoken of it with admiration. When a youngster is thought to have committed an offence, he is summoned to the Parish Hall. There a Centenier will hold an enquiry which involves the parents if at all possible, as well as the Probation Service and any other relevant parties. The Centenier will often take action which means that the offender does not have to be sent to the Youth Court and thereby acquire a criminal record. If the youngster can be persuaded to see the error of his ways, this can only be to his benefit and to the benefit of the community as a whole. The Centenier will often delay taking a decision in order to give the youngster a chance to prove that he deserves a chance. So he may be placed on voluntary probation or there may be measures for restorative justice such as repairing damage he has caused, if the victim agrees. I would like to commend the Centeniers and the other members of the Honorary Police who give of their time to make this system work in

the interests of the community as a whole. I also thank the Probation Service for the contribution which they make in helping youngsters when they first get into trouble in this way.

9. But despite their efforts, the courts remain busy. Last year I commented on the dramatic increase in public law children's cases. Although there have not been quite as many this year as last year, the first six months of this year show that this continues to be a significant area of work for the Court.
10. The percentage of the Court's time spent on criminal matters remains essentially unaltered at 41% for the first six months of this year. Most of the defendants are of course represented on legal aid and this gives me an opportunity once again of paying tribute to those advocates who undertake legal aid work, which for the most part involves no remuneration. In my experience the community is well extremely served by members of the profession when carrying out their duties under the legal aid scheme and the Court certainly appreciates their hard work and dedication.
11. No doubt the coming year will bring new challenges. But the Court will endeavour to continue to administer justice to the best of its ability with the assistance of the profession.