

## **ASSISE D'HERITAGE**

**MONDAY 9 SEPTEMBER 2013**

Mr Bailiff, Your Excellency, Members of the Court

Although I have attended many sittings of this Court, this is the first time that I do so as Bâtonnier, with the privilege of a guaranteed seat. Albeit that it is a seat that carries with it the obligation of delivering a speech on behalf of the Bar, the ranks of which not only fill this Court but also, for the first time, the benches in the States' Chamber where members of the profession are watching via video link.

That two separate venues are required is not surprising; there are now some 340 Jersey advocates, working in some 40 separate firms (5 of which have opened in the last 12 months). As a whole, the profession employs approximately 1,800 people in Jersey and a total of over 3,000 across the globe in some 21 separate jurisdictions. And it is that global reach of the profession, ranging as it does from London to Shanghai, and from Guernsey to Cayman, that is truly impressive - and from my perspective, also rather daunting.

What I can however say without fear of contradiction is that the advocates of the Jersey Bar are a dynamic group of individuals who are contributing not only to the prosperity of the island's economy but also to its international reputation; both of which are crucial to the well-being of the island, and its community, as a whole.

If corroboration be required, one merely has to look at the two forthcoming international conferences to be held in the island in September, of which you Sir, have already made mention.

As you have noted, the Commonwealth Magistrates and Judges Association will be attended by key members of the judiciaries of over 54 independent states and will be addressing issues of judicial independence, procedural fairness, judicial appointments, human rights and the Rule of Law.

The second conference, the Law via the Internet Conference a few days later, will consider before a global audience, the fundamental human right of having free access to legal information, in a fast-changing world, thereby allowing justice to be maintained and promoted and the Rule of Law to be applied.

The fact that both conferences are being held in Jersey, in close proximity, is not only an endorsement of Jersey as a jurisdiction, but also of its judicial system and the caliber of those within it.

It is no doubt in part due to that reputation of the profession and the judicial system that there are also significant numbers of young, and not-so-young, aspiring advocates being trained. Recent figures from the Institute of Law indicate that there are currently 87 students on the Jersey law course (with a further 46 studying for an LLB). In addition, following the recent examinations, there are 9 new advocates to be sworn in who in turn will take their place in the ranks of advocates before you.

Sitting in court, I have often heard you, Sir, say - as indeed you have said today - that Jersey has a long tradition of public service. As might be expected from a profession which is steeped in tradition, lawyers play their part in the giving of their time and expertise gratuitously to numerous charitable, parochial and other organizations in the interests of the community in which they live. But to do more than refer to this contribution *en passant* would be to risk singling out individuals; and that is not my role.

What, however, I would like to draw attention to, is the contribution that the advocates collectively make through their individual law firms to the island in the form of over 100 separate corporate social responsibility initiatives. These initiatives can and do make a real difference to the island community by enhancing the lives of many. In my view, no one should be in any doubt as to the magnitude of the contribution made by the profession, to the Island, economically, intellectually and altruistically.

That contribution is all the more significant given that until now, I have not even mentioned legal aid.

In a break with recent tradition, I am not going to recite all the facts and figures about the number and type of certificates issued. What I will say - and I fully appreciate that this may well leave some of the statisticians in the audience wanting more - is that there are 171 active advocates on the Tour de Role who each receive about 8 certificates a year.

Those certificates are discharged professionally by highly skilled and trained advocates and solicitors who appear regularly before the Courts in criminal, family and civil legal aid matters. They ensure that justice is not only done but is seen to be done in often difficult and emotionally charged circumstances. It is a service provided by practitioners voluntarily; and in accordance with their Oath; in respect of which their firms often get no recognition and only very limited reward. However without this work being carried out by practitioners, access to justice would be much curtailed if not, wrongly denied, to many.

The allocation of legal aid and the administration of the scheme do not happen by magic and I would like to take this opportunity to thank the Acting Bâtonnier publicly for the work that she and her office do on behalf of the profession in

relation to the legal aid scheme; the fact that she does not always manage to please all stakeholders is probably indicative of the fact that she is managing to balance effectively and fairly their very different interests under the terms of the current scheme.

That does not mean that the profession can be complacent; whether about the terms of the scheme or indeed, the eligibility criteria for those who might receive legal aid. It is only right that the scheme is subject to ongoing review as there are no doubt improvements which could and should be made to ensure that access to justice is maintained, if not enhanced - whilst at the same time, ensuring fairness to the profession. That review is being led by the Acting Bâtonnier with input from my office and other members of the profession and their conclusions and proposals should be available in the New Year.

So what of my role?

I was elected as Bâtonnier at the end of June to take over from Advocate Sue Pearmain and I would like to thank her for all that she did for the profession during her tenure.

Elected by the advocates, my role, its powers and responsibilities are wide and varied. Try as I might, there is no readily available job description - the Law Society Law merely states that "*I am to be head of the advocates and to oversee their interests*" - nor is there any list of statutory obligations and powers. In my view, my role is firstly to represent and to further the collective interests and reputation of the Bar. Secondly, but no less importantly, it is to assist the Court and the island community by amongst other things, delivering legal aid through the office of the Acting Bâtonnier and providing an interface (if one be required) between various different stakeholders in the justice system.

Some more radical members of the profession might ask whether there is still a place for the Bâtonnier given the incorporation of the Law Society and the establishment of a formal disciplinary system. Leaving that academic question to one side, what I can say is that given the number of queries and issues that have been referred to me by the Court, members of the profession, and others - in what has only been the very short period of time since my election - there appears to be a real demand for the services provided by this role.

I also think that given the threats presented by ever-moving global, regulatory and political landscapes, it is important that the profession has a single individual who is charged with overseeing its interests and who can respond quickly and freely on matters of concern.

You, Sir, have mentioned change, whether in terms of legal aid or more widely through the Chief Minister's working party. The profession is not afraid of change; but any changes, and the potential consequences of such changes, must be properly considered. One does not have to look far to find other jurisdictions, where legal and judicial systems which have taken years to perfect, have been reformed in haste, leaving access to justice in tatters, and both the public and the profession as victims. That cannot and should not happen here. Part of my role is to try to ensure, as far as I can, that there remains a strong and vibrant profession both for the next incumbent of this role and for the benefit of the island as a whole.

There are clearly challenges ahead for the island and the profession. However, I would hope that both the island and the profession would meet those challenges by drawing on tradition, expertise, and determination. Qualities which I think so

very much sum up the advocates in this island on whose behalf I have had the privilege to address this Court.