

**COMMENCEMENT ADDRESS BY THE HONOURABLE SIR MICHAEL BARNETT KT.
AT THE GRADUATION CEREMONY OF THE EUGENE DUPUCH LAW SCHOOL ON
SATURDAY, 17TH SEPTEMBER, 2016 AT MELIA RESORT, CABLE BEACH, NEW
PROVIDENCE AT 6PM.**

Before I begin my address, may I extend warm congratulations to you Mr. Chairman on your election as the new Chairman of the Council of Legal Education. Your commitment to the work of the Council is well known and I wish you every success in your work as the Council seeks to meet the challenges of legal education in an ever changing region.

Members of the graduating class of 2016.

May I begin by extending my sincere congratulations to you and members of your families on your successful accomplishment in obtaining a Certificate of Legal Education from the Council of Legal Education.

I am aware of the sacrifices that you and family members have made over the years to enable you to achieve this success. I assure you that the sacrifices and investments you all have made are well worth the cost. A good education is something that no one can ever take away from you and will remain with you for the rest of your life.

For more than 6 years I was a member of the Council of Legal Education both in my capacity as Attorney General as well as Chief Justice. I am therefore well aware that you have received a very good training. As good a training as you would have received if you studied law in the United Kingdom, Canada, Australia or elsewhere. Too often we denigrate things local or regional in favour of things “foreign”. I am confident that you have been properly prepared for the tasks ahead.

Next month, in the presence of the Chief Justice, you will put on your full ceremonial attire, wigs, gowns and bands and take your oath of office, sign the Roll of attorneys and become counsel and attorneys of the Supreme Court. You will

become officers of the Court. The courts are the third branch of government. Whilst anyone one can serve as members of the Executive and the Legislature, only you as counsel and attorney, officers of the court can ever serve as members of the Judiciary, that vital third branch of government.

I make this point to emphasize that you can play, nay are obliged to play an important part in the governance of The Bahamas.

You are about to enter an ancient profession. It is a noble profession. It is a learned profession.

Notwithstanding, that lawyers are the butt of many jokes and some have sullied the reputation of the profession, you will quickly find that the society still holds you in high esteem and the demands on your skills and training may sometimes overwhelm you.

No doubt you are apprehensive and that the profession may be saturated. I am painfully aware of the challenges you may find in obtaining employment in the prevailing environment. Those days in the 1980's and 1990's of a buoyant economy fuel by the underground economy of the drug trafficking industry and by a vibrant international financial services sector not yet attacked by the OECD countries are relic of the past.

You enter the profession in much more challenging times. It is a much larger profession and modern communication and the internet enables the lawyer in New York, London, Singapore or New Delhi to advise on matters of Bahamian law almost as effectively as those of us resident in The Bahamas. Indeed, the pressure to open up the profession is likely to grow in the upcoming years.

But as you begin and seek to make a success of the career you have chosen, may I remind you, that New Providence is not The Bahamas and that the residents of Andros, Eleuthera, Exuma, Cat Island, San Salvador, Crooked Island, Acklins, Inagua and Mayaguana need legal services as well. They need to have wills prepared. They too buy and sell property, rent homes, borrow money, and employ

and are employed. They too have issues of family law relating to divorce, separation, custody and maintenance. They too require the titles to their property to resolve by petitions under the Quieting Titles Act. Matters are heard in the Magistrates Court and Administrators court on a regular basis. It is important therefore that you look beyond New Providence and Grand Bahama.

It is important too that you do not restrict yourself to the public practice of law. The Public Service requires persons trained as lawyers, not only in the Office of The Attorney General, but in other parts of the Public Service including the Foreign Service and International Organizations. You must be open to taking on new challenges in an ever changing world.

However, in your quest to obtain success in your chosen career you must always bear in mind that this profession carries with it great responsibility and it imposes very high standards.

You will be required to protect the life, liberty and property of your fellowman. You will be required to assist in making decisions concerning the welfare of infants, the elderly and the infirmed.

As has been observed by other judges and you will have been taught that in the exercise of your profession you will require multiple skills. You will be required to give wise counsel, write expert opinions, prepare legal process, examine, cross examine and re-examine witnesses, make addresses to a jury and make submissions to the Courts.

Given the adversarial nature of our work, you must guard against treating others involved in the process as your enemy. Whilst you have an obligation to defend the interest of your client to the best of your ability it is imperative that you always treat others with respect whether it be opposing counsel and his or her client, the staff of the courts and most importantly the court itself. You must always bear in mind that your paramount duty is towards the Court.

I commend to you the observation of the Law Commission of India on the Role of the Legal Profession in the Administration of Justice where it said:

The real role of the legal profession is to resolve disputes-not to encourage litigation, but to reduce it, and only as a last resort should disputes be allowed to go to court.

You are not a mere spokesman for of your client, paid to say whatever he wants you to say. You should you tell or coach him on what he ought to say to get out of trouble which does not reflect the truth. You are called upon therefore to show a remarkable degree of probity or rectitude in your behavior as a counsel and attorney of The Supreme Court.

We must all be alarmed at the behavior of counsel as described in the recent decision of the Court of Appeal in Goodman v Attorney General. The rude and unprofessional behavior of counsel has required that a criminal trial which lasted 5 months be retried. The conduct of that counsel was an embarrassment to the profession, a disservice to the accused, the court and the community itself. Judicial time is valuable and a fair hearing within a reasonable time is a right guaranteed by the constitution.

It is imperative that effective disciplinary action be taken against that counsel and more importantly that no one in this class of 2016 will ever be guilty of that kind of irresponsible conduct.

I urge you to fully participate in the work on the Bahamas Bar Association. Attend its meetings and its workshops. Cultivate relationships with your colleagues particularly the more senior members of the Bar. You can reinforce each other and learn from each other. I assure you that there is a lot of law and procedure that you still have to learn.

But I must alert you that your role in this society is not restricted to the public practice of law.

You will find, if you have not already done so, that your advice will be sought on many matters by your family your friends, your high school classmate, your church group. I suspect that you may have experienced it during the debate on gender equality in the recent Referendum. You will discover it more so in the upcoming months before the general elections, constitutionally required by next summer. It is because of your training that members of society look to you for leadership. They expect you to be reasonable, objective, and knowledgeable on the many matters and issues that affect our society. Because of your training and understanding of the fundamental rights and freedoms guaranteed by our constitution and which under gird our democracy, the society expects you to be at the forefront of the debate on many of the issues that continue to confront us.

It is for you in every public forum to remind the society that governments cannot be allowed to trample on people’s freedoms. People cannot be incarcerated and deprived of their liberty without being convicted of any offence.

It is for you to remind the public that judgments of the courts must be respected and obeyed, unless and until they are set aside by a superior court. You must be as alarmed, as I was, when after the recent judgment in which the court found that the actions of a Minister of the Crown was wrong and a breach a person’s constitutional rights, the Minister, who is himself a lawyer, would be defiant and say that notwithstanding the judgment he would do it again. Whilst anybody, including a litigant, may profoundly disagree with a judgment and upon appeal that judgment may be found to be wrong, unless and until that judgment is set aside by a higher court it must be respected. It is most regrettable that the Minister publicly stated that notwithstanding the judgment, he would do it again. Such comments, I suggest, only undermines the Rule of Law and cannot be in the best interest of the society.

May I take this opportunity to remind you of the commentary in the Code of Professional Conduct under the Rule XII “The Attorney and the Administration of Justice” .

Although proceedings and decisions of tribunals are properly subject to scrutiny and criticism by all members of the public, including attorneys, members of tribunals are often prohibited by custom or by law from defending themselves. Their inability to do so imposes special responsibilities upon attorneys. First, the attorney should avoid criticism which is petty, intemperate or unsupported by his *bona fide* belief in its real merit, bearing in mind that in the eyes of the public his professional knowledge lends weight to his judgments or criticisms. Secondly, if he himself has been involved in the proceedings, there is the risk that his criticism may be, or may appear to be, partisan rather than objective. Thirdly, where the tribunal is the target of unjust criticism, the attorney, as a participant in the administration of justice, is uniquely able to and should support the tribunal, both because its members cannot defend themselves and because the attorney is thereby contributing to greater public understanding of and thus respect for the legal system.

We must be vigilant in monitoring the proposed work of the Committee of Privileges of The House of Assembly. The suggestion that a judge of the Supreme Court could be answerable to Parliament for a judgment he or she delivered in a matter brought before the courts is an affront to the separation of powers and the independence of the judiciary. Litigants before the court have their right of appeal. It is for the higher courts of the judiciary to determine the propriety of the judge's decision, not Parliament. Any attempt to encroach on this judicial independence must be vigorously resisted.

In short, you have an important role in protecting the institutions of the courts and its judges so that the courts and its judges at all levels are respected by the society. As the American lawyer and abolitionist, Wendell Phillips said: "Eternal vigilance is the price of liberty"

Members of the graduating class of 2016, lawyers have traditionally been leaders in our society.

It is no accident that the three Prime Minister of The Bahamas were all lawyers and that eleven of the twenty members of Cabinet are lawyers.

A review of worldwide leaders over the years shows that the legal profession is by far the predominant profession. You may be interested to know that 26 of the 44 Presidents of the USA were lawyers. Half of the Prime Ministers of Canada and Australia were lawyers. Indeed, 43% of the present United States Congress are lawyers.

I urge you not to shun this traditional responsibility of leadership in our community.

Although law is a jealous master and will demand of you a lot of time, you must have some balance in your life. The practice of law must never be the only thing in your life.

We are social beings and you must not forget your family and your friends. In times when you feel overwhelmed and things are not going as you would wish them to go, it will be your family and friends who be your bridge over troubled waters.

7

This advice on having balance in your life can be summed up in a very pithy advice that my father gave me:

“Work hard, have a little fun, pray often!”

Like everything else in life, to succeed you must be constantly reinforced. You must constantly be renewed. Renewal often involves quiet prayer. At the graduation ceremonies of this Eugene Dupuch Law School a few years ago, the class valedictorian commended to her classmates, the Prayer for Lawyers written by Scott Richert. Like she did to them, I commend the prayer to you. Paraphrasing it slightly, it reads:

“Dear Lord,

I pray that I may be trustworthy with confidences, keen in study, accurate in analysis, correct in conclusion, able in argument, loyal to clients, honest with all, courteous to adversaries, ever attentive to conscience.

Sit with me at my desk and listen with me to my client's tales. Read with me in my library and stand always beside so that today I shall not, to win a point, lose my soul.

I pray that my family may find in me; friendship and courtesy, cheerfulness and charity, diligence in duties, counsel in adversity, patience in pain, their good servant, but God's first."

I commend that prayer to you and in doing so I wish for all of you a very successful and happy career in this our noble and learned profession.