



PARLIAMENT
OF THE CAYMAN ISLANDS



OFFICIAL HANSARD REPORT

**SECOND MEETING OF THE
SELECT COMMITTEE
ON
THE GAMBLING (AMENDMENT) BILL, 2022**

**Thursday
19th January, 2023**

**Hon. Samuel W. Bulgin, *KC, JP*
Chairman**

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Hon. Samuel W. Bulgin, KC, JP, *Chairman*

Attorney General, ex officio Member responsible for the
Portfolio of Legal Affairs

MINISTERS OF THE CABINET

Hon. G. Wayne Panton, JP, MP

Premier, Minister of Sustainability & Climate Resiliency

Hon. Christopher S. Saunders, MP

Deputy Premier, Minister of Finance & Economic
Development *and* Border Control & Labour

Hon. Juliana Y. O'Connor-Connolly, JP, MP

Minister of Education *and* District Administration & Lands

Hon. Bernie A. Bush, MP

Minister of Youth, Sports, Culture & Heritage

Hon. Kenneth V. Bryan, MP

Minister of Tourism & Transport

Hon. André M. Ebanks, MP

Minister of Financial Services & Commerce *and*
Investment, Innovation & Social Development

Hon. Sabrina T. Turner, MP

Minister of Health & Wellness *and* Home Affairs

Hon. Johany S. "Jay" Ebanks, MP

Minister of Planning, Agriculture, Housing & Infrastructure

EX OFFICIO MEMBERS OF THE CABINET

Hon. Franz I. Manderson, MBE, Cert Hon, JP

Deputy Governor, ex officio Member responsible for the
Portfolio of the Civil Service

**ELECTED MEMBERS
GOVERNMENT BACKBENCHERS**

Hon. W. McKeeva Bush, JP, MP

Elected Member for West Bay West

Ms. Heather D. Bodden, OCI, Cert. Hon., JP, MP

Parliamentary Secretary to Tourism *and* Social Development,
Elected Member for Savannah

Mr. Isaac D. Rankine, MP

Parliamentary Secretary to Home Affairs *and* Planning,
Agriculture & Infrastructure, Elected Member for East End

OPPOSITION MEMBERS

Hon. Roy M. McTaggart, JP, MP

Leader of the Opposition, Elected Member for
George Town East

Mr. Joseph X. Hew, MP

Deputy Leader of the Opposition, Elected Member for
George Town North

Hon. Sir Alden McLaughlin, KCMG, MBE, KC, JP, MP

Elected Member for Red Bay

Mr. Moses I. Kirkconnell, JP, MP

Elected Member for Cayman Brac West and Little Cayman

APOLOGIES

Ms. Barbara E. Conolly, JP, NP, MP

Elected Member for George Town South

Mr. Dwayne S. Seymour, JP, MP

Parliamentary Secretary to Labour, Housing *and* Transport
Elected Member for Bodden Town East

Mr. David C. Wight, JP, MP

Elected Member for George Town West

COMMITTEE CLERK

Ms. Nordra Walcott

**OFFICIAL HANSARD REPORT
SECOND SELECT COMMITTEE ON
THE GAMBLING (AMENDMENT) BILL, 2022
THURSDAY
19 JANUARY, 2023
10:46 A.M.**

[Hon. Samuel W. Bulgin, Chairman presiding]

The Chairman: Good morning Honourable Members and welcome to the Select Committee on the Gambling (Amendment) Bill, 2022. Let the record show that we are quorate. Thank you very much.

The next order of business, if you permit me, would be to invoke the Lord's presence. The honourable Member for Savannah will lead us in prayer.

Thank you.

Ms. Heather D. Bodden, Elected Member for Savannah: Good morning, thank you.

Let us pray: Heavenly Father, we humbly bow our heads before you to ask your guidance upon us during this meeting. Thank you for another beautiful day. Grant us wisdom, strength and understanding that we may carry out the business of our beloved country in a professional manner. All this we ask in your great Name's sake. Amen.

The Chairman: Thank you, honourable Member.

Can I ask the Clerk whether we have any apologies?

The Clerk: We have two apologies, Mr. David C. Wight and Ms. Barbara E. Conolly.

The Chairman: Thank you, Madam Clerk.

Mr. Isaac D. Rankine, Elected Member for East End: Mr. Chair, I also want to record apologies for Parliament Secretary (PS) Dwayne S. Seymour who is not well.

The Chairman: Thank you very much, Member.

Honourable Members, yesterday we had the first meeting of the Select Committee on the Gambling (Amendment) Bill, 2022. Those proceedings adjourned and we are now reconvening, so welcome again.

By way of housekeeping, yesterday the Committee resolved that we could co-opt Ms. Camille [Stoll-Davey] to assist us with legal advice and legal support. I want the record to show that Ms. Camille is in fact present—thank you very much, Ms. Camille.

I have asked the Clerk to circulate the Terms of Reference as amended and agreed yesterday, so Honourable Members should have a copy of the document. I am also asking the Clerk to circulate what I would call a “working copy” of the Gambling Act which

would reflect some of the proposed changes as contained in the Bill; that would be in red so that Members could follow easily. It is an unofficial working document, if I might call it that, but it is probably a useful aid. I'm advised that it is on its way to Honourable Members. Thank you very much.

Yesterday, the Committee also had a discussion about the possibility of having witnesses and, in particular, whether it would be useful, in order to help inform the discussion, to have the Commissioner of Police attend these proceedings to provide oral testimony. I have been advised that the Commissioner has been asked and has volunteered to attend and if that is so, it would obviate the need for the formal seven days' notice.

As a matter of convention, sometimes witnesses are invited and I am now in the hands of the Committee, whether it is the wish of this Committee for the Commissioner to be invited today to provide this testimony. I'm advised that he is available, on notice, and is ready to do so, therefore can I just get an indication from the Committee, whether it is the wish that the Commissioner of Police be asked to attend to provide evidence?

I am not too sure whether we need a formal motion; I think an indication would suffice.

Hon. Kenneth V. Bryan, Elected Member for George Town Central, Minister of Tourism and Transport: Mr. Chairman, through you.

As I brought up the topic yesterday about the Police Commissioner, I do hope that my colleagues agree that he should be a witness. As he is a key component for the advice with respect to this Bill, I would like to have him as a witness.

The Chairman: Thank you, Minister.

[Pause]

The Premier, Hon. G. Wayne Panton, Minister for Sustainability and Climate Resiliency, Elected Member for Newlands: Mr. Chair, thank you.

I think, in terms of the request that has been made, it's obvious that it would be very beneficial to have the Commissioner come and give evidence as discussed yesterday and raised again this morning.

I don't think that we have to formalise a motion, but I think it would be useful just to make sure that no

one objects to the invitation being extended to the Commissioner. As you know, the Commissioner has indicated that he is more than willing to come, and I think his evidence will be very useful, particularly in light of the fact that most of the proposed changes to the Bill would have originated on the basis of advice from the Royal Cayman Islands Police Service (RCIPS).

The Chairman: Thank you very much, Premier.

Can I enquire whether there are any objections from honourable Members as to the proposal that the Commissioner of Police be invited to attend the Committee and give evidence today? Any objections?

Hon. W. McKeeva Bush, Elected Member for West Bay West: Mr. Chairman, I thought that was agreed yesterday. Maybe you're doing the formalities right now, but I know it was suggested and agreed. For my part, yes; certainly.

Hon. Sir Alden McLaughlin, Elected Member for Red Bay: Mr. Chairman, good morning, sir.

Yes, I do think it would be very, very useful for the Commissioner of Police to come and talk to us regarding the recommendations for these massive increases in penalties that are being proposed for our people "buying a number", as we say. I really want to understand why this particular issue is being targeted among all of the other businesses that get robbed or have been robbed over recent times. I look forward to the Commissioner coming so that we can have an opportunity to ask him some questions.

The Chairman: Thank you, Honourable Member for Red Bay. I am further advised that as a matter of—can I call it logistics—that the witness normally would be sitting somewhere at the table, somewhere in the middle, I am told.

[Inaudible interjection]

The Chairman: So if Members have no objection, clearly we could ask the witness to sit at one of those empty seats using the mic from there, which seems quite convenient to me. Thank you.

[Pause]

The Chairman: I am not sure how much time the Commissioner needs to get here, but I am told that he was advised that he should be on standby. That being the case, we could suspend briefly to await the arrival of the witness, if that's okay.

Hon. W. McKeeva Bush: The relevance with him, as far as I am concerned, is in the fines because I gather it is being said that we need to increase the fines because of the criminality, but I think we should at least begin.

Hon. Sir Alden McLaughlin: Mr. Chairman, with your permission sir, I agree with Mr. Bush. Surely, there is much more that we want to discuss. I know Mr. Bush had a motion for amendments which he proposed to bring, and I think there are many other things we need to discuss.

I'm not sure how much light the Commissioner will be able to shed on the broader policy regarding gambling, beyond, you know, the significant increases in penalties which are proposed. I don't see anything else here that addresses anything beyond that, really.

The Chairman: Thank you.
Minister Bryan.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair.

I think what would be helpful here is to find the genesis of this through the process of it being presented to the Government and the emphasis of why we thought it was important to make it become a Bill to come to this House. Obviously, the Police Commissioner will be able to give the advice that he gave to the Government on which we made the decision to approve it in Cabinet to bring it to Parliament—maybe as the Governor's representative.

If I am not out of place to ask, this was not something that was the Government's mandate. None of us ran on the ticket of addressing the numbers [game] or changing the Gambling Bill, and we know that His Excellency the Governor is in charge of security of the country and, ultimately, in charge of the Police Commissioner. Maybe the Deputy Governor (DG), if appropriate, only if appropriate, can give the sentiments of what the Governor's Office thinking was, in respect to putting it forward to the Government as a matter of priority, because I intend to ask a series of questions as to the process of deciding that enforcement was the only way to resolve the principal problem, which is the criminality surrounding the illegal game.

I intend to try to resolve whether or not we could have had a different option to solve the problem that I know all Members of this Select Committee would want to resolve, which is that of any serious crime, at all, in the country. In order to examine that, we have to examine the Police Commissioner, but also of where the direction came to suggest it to us as a Government to go down that route; I think the only way we can do that is through the genesis which came from His Excellency's Office through his representative, the Police Commissioner, and potentially, the Deputy Governor.

I don't know if that assists, or if the DG can assist in that respect.

Hon. W. McKeeva Bush: Mr. Chairman.

The Chairman: Thank you, Minister. Mr. Bush.

Hon. W. McKeeva Bush: I heard what the Minister of Tourism said. The fact is, though, it is the broader policy

that we are concerned with. We have to vote the fines or don't vote the fines and that's what we would need the Commissioner of Police to explain to us.

Obviously—obviously, the Government already knows all of this because the Government has made a Bill, brought it to Caucus, brought it to Cabinet, [and] sent it to the House; therefore, we already understand—I mean, I would have thought what the Honourable Minister said, that the Governor would have explained that in Cabinet. That's what I think.

All I want to do, you know, is to get going and start the work, because I got a number of amendments and, because I was not well, I missed the introduction of the Bill and didn't get to speak on it. Therefore, I couldn't even have a chance to do anything when it was suggested to go to this Select Committee, and therefore no amendments could have been drawn at that time.

I want to get started, really. I think that's what we should do, and I hold fast to that.

The Chairman: Thank you, Honourable Member. Two things:

[Firstly,] I think I should clarify that the monetary penalty in the Bill, the dollar amount, would not be something that would be proposed by the Commissioner. That is a Government Bill, so it would not be correct to ask the Commissioner why the fine is set at \$2,500 or \$10,000 or whatever it is, that is just my take on it; but in terms of what informed the increase in penalty, clearly that is something that the Commissioner might be able to assist this Committee with. Just to clarify that.

Secondly, if there is a dispute in terms of how we should proceed, then the best thing for me to do is probably ask this Committee to resolve by a motion what members would prefer—that is, whether we begin to deal with all these things, or we wait to hear the Commissioner's evidence to help inform the discussion as some members are proposing, so I am in the hands of members.

There are two suggestions or two schools of thought, if I might say so: One is that we should commence doing other things pending arrival of the Commissioner; the other is that we should wait to hear from the Commissioner and use the Commissioner's evidence to help inform the discussion going forward.

Hon. Kenneth V. Bryan: Mr. Chairman.

Hon. Sir Alden McLaughlin: Mr. Chairman.

The Chairman: Can I just take Mr. Bryan. His mic was on.

Hon. Kenneth V. Bryan: Thank you, Mr. Chairman.

I accept Member Bush's viewpoint that the information that I suggested to be highlighted by way of the Deputy Governor, if suitable, was presented to the

Cabinet and the Caucus, but I think the information which is available should also be available to the public, so [they] can understand what we are trying to accomplish here. They may say that yes, the Government is aware of it, but my priority here is the people of this country, so they can understand how we got to this point and also formulate whether it's priority to make any kind of amendments and what amendments, if any.

Hence the reason I am suggesting that in the interim—until the Police Commissioner gets here, which I think we are all in agreement with—maybe the foundation or genesis for this move could be facilitated by the Deputy Governor, which [would] give context for everyone in this room—including the Opposition.

Again, I highlighted the fact that it was not the Government's mandate; no one campaigned on it. Obviously every one campaigns on keeping the Cayman Islands safe, but it wasn't a mandate, so it had to come from somewhere. Where did it come from? Of course, the Police Commissioner can assist us with that but, being the representative for his Excellency in this House, the Honourable Deputy Governor could possibly assist [with] why it was presented to the Government in the first place.

Hon. W. McKeever Bush: Mr. Chairman, since I was referred to—

The Chairman: The Member for Red Bay.

Hon. W. McKeever Bush: Okay.

Hon. Sir Alden McLaughlin: Mr. Chairman, with your permission, sir.

I was contemplating what you said by way of attempting to explain what the Commissioner would provide evidence of, but having looked through the Bill, the only changes of consequence in this are the increases in penalties. There is nothing else, there are no policy changes, so I am not sure what the Commissioner is going to tell us, although I am anxious to ask him, hat we don't already know.

Mr. Chairman, this is a bit awkward because you were, as you are now, the Attorney General when I was Premier, and the two members sitting directly in front of me were two of my Ministers when the almost exact proposals were brought to us in Cabinet and brought down here, and we took a policy decision that we would not proceed with them because we felt that the only real consequence was going to be the persecution of our people, particularly our older people who like to buy a number, and no other real consequence was going to flow from it.

It is not just number sellers who get robbed; Gas stations, stores, pizza parlours, Subway—you name it. Of the 53 robberies that I managed to track over the past few months, only three of them—those reported anyhow—related to people who were selling

numbers, so I think we need to have some discussion about the policy that underlies these changes.

If we accept the policy, then perhaps you can persuade some of us on this side to support the changes or increases in penalty, but not to simply increase the penalties when we know that the people who are going to get arrested right away are our own people, mostly older Caymanians, who go and buy a number.

Hon. W. McKeeva Bush: Mr. Chairman.

Hon. Kenneth V. Bryan: Mr. Chair.

The Chairman: Thank you, member.

Hon. W. McKeeva Bush: Mr. Chairman.

Hon. Sir Alden McLaughlin: And Mr. Chairman, I could give evidence about this because I know, from my interaction with people, particularly in Central George Town, what is the principal demographic that buys numbers.

The Chairman: Thank you, Honourable Member for Red Bay.

Member for West Bay West.

Hon. W. McKeeva Bush: Mr. Chairman, you see we are already discussing pros and cons, right? That's why I wanted us to take it from the very beginning of this Bill and where I propose to start with amendments.

Mr. Chairman, I also want to say, in regard to what the Minister of Tourism has said, I can't completely buy that because the fact is:

- the Bill was brought to Caucus;
- the Bill went through Cabinet;
- it came down here; and
- we had a Second Reading from the Honourable Premier.

And I know he explained this, pick up the Hansard and you will see. There was a second reading debate, wasn't there? So all of that would have been explained.

I understand the Member wanting the public to know where it originated, and he has said that so we now know—I didn't know it before, now I know. However, the Honourable Premier introduced the Bill, as far as I know, in a second reading, and explained the Bill and therefore Government policy, because the Bill is Government policy. All I want to do, is to begin work on the Bill before us and that's what we should be doing, because that's what select committees do.

Now yeah, we have agreed to call witnesses, and I don't mind the Commissioner coming and telling us what he knows, I am glad that we came to that conclusion. As far as I am concerned maybe fines need to

be increased, but how much, and how much for whom—the seller, the buyer, or the banker?

The Chairman: Thank you, Honourable Member. All of this is part of the discussion.

Hon. W. McKeeva Bush: Aha.

The Chairman: So it is all in the round. Was it the Minister of Planning who wanted to... Someone indicated just now? Honourable Minister.

Hon. Kenneth V. Bryan: Thank you again, Mr. Chairman.

I was trying to solicit opportunity for understanding so I can do the appropriate line of questioning to ultimately come to where I think most people are going to come to, in respect to the procedure of examining the proposed Bill. Mr. Chairman, we are making amendments and the only thing that we can do, as proposed by Mr. Bush, is to go and decide whether the penalty is going to be \$300 or \$100 or \$3,000 or \$1,000 and we are not going to get very far, because I think what we need to examine is whether this Bill should have been brought in the first place.

The basis of the questions I want to ask, is the ideology of why we have chosen to resolve a problem with further deterrents, when that is not the only way to resolve criminality. It is obvious in the public domain, that the culture within our country is that not everybody sees buying a number to be as sinful or as criminal as it once was, so my line of questioning through the genesis of where this came from is: Was there a proper professional assessment done, in respect to the way to resolve the ultimate problem that we want to resolve, which is serious crime around this activity.

Now, we all have heard in this honourable House that the Government intends to have a referendum and a referendum on a national lottery, which could potentially be defined as numbers in itself, which would potentially resolve this matter of the penalties. So, the question is whether we should have actually brought this Bill at all until we have heard from the people, because my line of questioning to the genesis originators is: If you have a national referendum and people are allowed to do it legally, would the criminality around the issue not go away?

Hon. W. McKeeva Bush: No.

Hon. Kenneth V. Bryan: And I am saying that I do not think such an assessment was done, because the only advice that the Government got—because I am a part of the Government—was from the Police Commissioner, whose principal training has been from an enforcement arm. He is not a specialist in anything else, and studies will show that there are other ways to resolve an illegal activity.

We have historical records of that, particularly when it came to the illegality of alcohol sales many, many, moons ago, before my birth. As much as they tried to penalise it, it never went away. The demand, the want and the trade in that area never changed, but when they decided to legalise it, almost 80 per cent of the criminality surrounding that activity was reduced. Now, of course, there are still liquor stores that get robbed, but the criminality around it decreased tremendously.

Thus, I want to examine whether or not this Bill should actually go forward at all, before we even talk about what the level of penalties should be.

Hon. W. McKeeva Bush: Mr. Chairman.

The Chairman: Thank you, Honourable Member.

On the question of whether the Deputy Governor can assist, I don't think the Committee has the power, as a Select Committee, to summon a Member of this House as opposed to a civil servant. It is entirely within the Honourable Deputy Governor's gift if, as part of his contribution to the Committee, he wants to make a contribution as to what he thinks would help to inform the whole thing.

Hon. W. McKeeva Bush: Mr. Chairman.

The Chairman: It is entirely up to him. Honourable member?

Hon. W. McKeeva Bush: Mr. Chairman, this is going to be my last time until I get to move my amendments, but I disagree. While I support the Government's position and voted to move for a referendum, the two things are completely different. A lottery and the numbers games are completely different, and you can put it and spin it any way you want.

The experience throughout the Caribbean has been that they had a numbers' problem and they introduced the lottery, but the numbers game continued, and that's exactly what will happen, because the two things are completely different. Completely different, and if you think not, then go and research some of the other countries that had the numbers game and introduced lotteries and find out if I am wrong in saying that the numbers game continue alongside the lottery.

My position is make it legal, yes, make the number's game legal and Government find ways and means to do that and that will solve the problem of the criminality.

Hon. Kenneth V. Bryan: Mr. Chairman.

The Chairman: Thank you, Member for West Bay [West].

Minister for Tourism.

Hon. Kenneth V. Bryan: Thank you, Mr. Chairman.

I [refer to] member Bush's comments just now and want to suggest that I think we agree... but disagree a little bit.

The reason I say that is because, although it may be perceived that numbers and a national lottery are fundamentally different, the principles behind it are the same, it is [only] the variable of probabilities of winning [which] is different. For example, for the listening audience: A national lottery has a very, very, low level of probability of your winning because you're getting one odd out of 100 million people, for example, in the Florida National Lottery.

In a numbers game now—and I am going to use examples as to where we have been informed by the Royal Cayman Islands Police Service—you have the numbers, which I think originate from Honduras, that go between 1 and 100; so you have a higher probability of winning the rate of whatever if you select that number, say 30, and whatever ratio you get for the amount that you buy. So there is a higher probability you are going to guess a number between 1 and 100.

[Inaudible interjection]

Hon. Kenneth V. Bryan: 00 to 99 is what I am being informed.

[Inaudible interjection]

Hon. Kenneth V. Bryan: I didn't know it because I don't buy numbers.

I understand that the Jamaican numbers are from 1 to 36, I think? 1 to 36, so your probabilities of winning are higher, however, the foundation of the idea of a game of chance, and I didn't mean to take that from the wording of the law, your probabilities of winning are exactly the same, it is just a different ratio, so if the people said that they were okay for a National Lottery, one can easily assume— because they are the same principles with a different ratio— that they would also be in support of what is being considered as numbers, but I see them as being the same.

To Mr. Bush's point: I agree with him, that if you do a national lottery you are also agreeing to what is being perceived as numbers because they are one and the same, but my line of questioning is: Why are we talking about this before we are talking to our people? I need to get to the bottom of that first, so that people can understand why the Bill is here at all.

Maybe if the DG could highlight whether he would be willing to offer some assistance in this area— of course, this Committee cannot mandate that he does so because he is a Member, but we need to...

[Pause]

Hon. Kenneth V. Bryan: The member has indicated he is willing to assist, and I think it would help this discussion, and the listening audience, as to how we got here.

The Chairman: Thank you. Thank you, honourable member.

The Premier, Hon. G. Wayne Panton: Mr. Chair, we've had interesting discussion but what this boils down to is the actions of both the previous Government and this Government in bringing these very similar amendment Bills. Let me put it this way: this Government is not persecuting anybody any more than the previous leader would have been in promoting an Amendment Bill through Caucus and his Cabinet at that time.

The foundation of all of it is the evidence which the Commissioner will be able to provide to us, the perspective which he will be able to provide. He is the expert not just changing on laws to increase enforcement measures, but understanding how to manage and control crime overall. I don't think there is any denying that he has had lots of experience with this.

Mr. Chair, the Commissioner is here, present and available to us now, so I think we can stop sort of going in circles; give him the opportunity to provide his evidence and for the Committee to ask him questions and then, I think, we can go forward constructively from there.

The Chairman: Thank you, Premier.

Hon. Juliana Y. O'Connor-Connolly, Minister of Education and District Administration and Lands: Mr. Chair.

The Chairman: Member for Cayman Brac.

Hon. Juliana Y. O'Connor-Connolly: Mr. Chair, might I just invite members' kind attention to Standing Order 72(6) in order to make sure that the tautological circling is perhaps reduced at best:

"The deliberations of a select committee shall be confined to the matters referred to it by the House, and to any extension or limitation thereof made by the House and, in the case of a select committee, on a Bill, to the Bill [...]"— the relevant part for us this morning would be the deliberations of a select Committee would be confined to the Bill committed to it, which is the Bill before us, and the relevant amendments.

At this stage in a select Committee it's not really about the merits or the demerits of the modus operandi; it is basically the Bill that is before us, and if any amendments are proposed—as all Members would know—those amendments have to be proposed before the debate is done, otherwise it would be anticipating the debate.

Just to keep it in sequence so that we can hopefully have a proper procedural Select Committee which will set precedents in future, I have no doubt about it.

The Chairman: Thank you, Honourable Member.

Hon. Kenneth V. Bryan: Mr. Chairman, forgive me. I do think I have to take part in that comment because I am concerned about the outcome of what that can be perceived as what was said as to the Standing Orders that highlights trying to keep the Bill in context as to the amendments.

I accept that we have to be within the scope of the discussion but, as you highlighted just yesterday, per Erskine May, this Select Committee can make a decision to either:

1. Make amendments to it; or
2. Even determine a report as to whether the Bill should be shut down or not.

And with Erskine May being, I would dare say, more senior in Standing Orders to ours, even though ours are supposed to be principal (Erskine May should only be acted on when it is silent within our Standing Orders), my point is that the relevance of how [the Bill] started, and its examination as to bring these amendments, is important to the context of the discussion of whether we move forward with amendments— increase them, decrease them or even accept it at all. So I am saying, though the scope is correct with what the Honourable Member just said about the amendments, the genesis of the Bill is also an important context to the discussion.

The Chairman: Thank you, Honourable Minister.

We have the Commissioner of Police, of course [a] busy gentleman and he has kindly agreed to be here on short notice, so if we could take his testimony and then we will have all the time to discuss all the other issues in the round as a Committee. Therefore, if it is okay with Members, I will invite the Commissioner of Police to come in.

Thanks, I'll do so.

[Pause]

The Chairman: Commissioner, if you could use one of these chairs. Thanks.

[Pause]

The Chairman: Commissioner Byrne, thanks for coming on very short notice and volunteering to assist this committee in terms of the deliberations on the Gambling (Amendment) Bill, 2022.

Before we begin, I would ask you to state your full name and your office.

Royal Cayman Islands Police Service

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Chairman, Good morning. Derek Byrne, Commissioner of Police for the Royal Cayman Islands Police Service.

The Chairman: Thank you, Commissioner.

Commissioner, I am told that as a matter of convention you normally don't swear witnesses unless there is some reason to want to do so but I mean, I have the members. I don't purport to swear the Commissioner of Police but, are members content with him giving his evidence without being sworn?

[General assent]

The Chairman: Thank you very much, very kind indication, thanks.

Commissioner, just to set the stage: The matter before the Select Committee is a review of the Gambling (Amendment) Bill, 2022 to:

- Determine the timeframe for the Gambling (Amendment) Bill, 2022, to be brought back to the House;
- Make recommendations, amendments, et cetera, if any, to the Gambling (Amendment), Bill, 2022, and produce a report on the recommendation to the Gambling (Amendment) Bill, 2022, by the provisional date of Monday, 20th February, 2023;
- Present the report of the Select Committee to the House pursuant to Standing Order 74 of the Parliament Standing Orders 2022 consolidation.

What we have is a Bill with a proposed range of increased penalties to the Gambling Act and Members are interested in understanding the concerns that would have helped to inform the need to amend the penalties to act as a deterrent, if you will, for persons who are involved in illegal gambling; and what are the concerns, in particular from a law enforcement standpoint, that would help to inform the object of the Bill and the legislation generally.

With that sort of a broad parameter in mind, if you could assist the Committee [on] what the objectives are, as you understand [them]. Thank you.

Hon. Juliana Y. O'Connor-Connolly: Mr. Chair, if I could perhaps beg your indulgence and ask the Commissioner of Police whether, in his opinion, if there is anything in your presentation that would be considered a risk to national security that you would require in camera.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Minister

and I will be very careful and circumspect in what I say and I hope they will be general and informative comments to assist the House.

The Chairman: Thank you, Commissioner; thank you Honourable Member. So you will proceed within those permissible limits.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Good morning and thank you for the opportunity. Just to make a general opening statement if I can.

The Chairman: Please.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Mr. Chairman, this is something I've been looking at for the past six years in my role as Commissioner of Police for the Royal Cayman Islands Police Service and, I suppose, as a senior law enforcement officer for the Cayman Islands, it is something that has caused me considerable concern.

Trying to contextualise that then for members of the Committee, I see illegal gambling, in all of its forms, as a hugely pervasive criminal activity in the Cayman Islands. It impacts right across strata in the Cayman Islands [and] has the capacity to cause significant damage. I appreciate that these are general statements at the moment, and I may have to zero in on them.

I believe that the illegal gambling is an organised criminal activity, by criminal enterprise. It has international links, it is very apparent in our communities, and involves a significant amount of money laundering. I would conservatively estimate that the illicit proceeds of illegal gambling in the Cayman Islands are somewhere between KYD \$30 million and \$50 million per annum. In all of its activities there is a tiered hierarchical structure in terms of the organised crime links, in other words, we have people who are organising these events, we have sellers, and we have people who collect.

The crimes associated with this illegal gambling span into drugs, firearms, extortion, assaults. One of the more serious incidents in 2022 culminated in the murder of a person well known, and documented a person before the courts charged with the murder at the moment. So, it is a hugely pervasive criminal activity in the Cayman Islands.

A general comment from me: the current laws provide little or no deterrent and obviously, attempts by Government to bring forward new legislation provide stronger deterrence to deal with all of the criminal activity associated with illegal gambling in the Cayman Islands. My concern is that we do nothing and we allow people to break the rule of law in the Cayman Islands.

I'm looking at how this money then moves throughout the community. We see it in little corner shops, happening in barbershops; we see it associated

with illegal immigration and people arriving on Island looking for work permits. It is often said to me [that] they come as gardeners, but in fact what they are here to do is sell numbers—make money. This causes many problems in the community and as I said, it permeates then in crime [through] drugs, firearms, extortion, assaults, and it's occurring on a daily basis and in plain sight in the Cayman Islands, in our communities, and I do have great concerns about its impact.

The money laundering aspect of it, we see the money being laundered; money mules take money from the country going through our airports. We have had some evidence of that. We see vehicles being bought and we see assets being accumulated in terms of property being bought and investment in small businesses. That's how it actually works on the economy here, and it's not to lose sight of us as a global financial centre and then this type of money laundering going on in the background. As I said, at a very conservative figure readjusted from 2016 figures downward to a very conservative figure of between \$30 and \$50 million (KYD) per annum in this type of criminal activity in the Cayman Islands.

That is a general overview or introduction, Chairman, just in terms of what I am seeing and hearing; of the intelligence I've had an opportunity to view over the past six years, and from officers I have spoken to who are involved in the investigation of crimes associated with illegal gambling.

The Chairman: Thank you very much, Commissioner. Very helpful overview. Members will understandably have some questions.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Please.

Hon. Kenneth V. Bryan: Good morning, Commissioner.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Good morning, sir.

Hon. Kenneth V. Bryan: It is an honour to have you in the House to discuss this topic. I'm glad that you are here to provide context because the listening audience, our people, want to understand why and what we are doing here, and I think your answers will give much clarity.

I'm going to ask you a number of questions, not to try to make it a trap or anything like that, but just so we can get into the psyche of what has been transpiring over time, so thank you again.

Through you, Mr. Chairman. The witness suggested this being across a number of strata. When you say "*across a number of strata*", what do you mean? Explain to us the Members, but also the listening public what do you mean. Across different categories and people in society...? Elaborate on that for me, please.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: My concern—and I have written this and I would have spoken at different security forums—is that public officials, civil servants, unemployed persons right across social strata, we know that there are small shops in Central George Town, for example, that would have been discussed; that people are inside there and are conducting this illegal business, these illegal numbers.

It is going on, on a daily basis, seven days per week, so when I say social strata, it's not confined to one section of the population, its right across the social spectrum. That's my assessment.

Hon. Kenneth V. Bryan: Thank you, Commissioner.

Through you, Mr. Chairman. I know you never intentionally did this, but just for the listening audience, I know when you say Central George Town because my constituency's associated with Central George Town as a constituency, I know you mean the centre heart of George Town, which falls in other constituencies like George Town North, George Town East, et cetera. Right?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I do, and apologies. If I was to focus in or zero in, I would say Eastern Avenue is a particular problem for us. We know it's a centre of congregation, we know that and many crimes would have occurred there so not to single out a constituency that's of concern to you. I'm just generally...

Hon. Kenneth V. Bryan: I totally understand; thank you so much.

Can I just ask— obviously your profession is in prevention of crime and the different strategies. Your advice to the Governor, as your senior head, to resolve this problem, you made the suggestion that, based on what you just said, there is little or no deterrence within the law, meaning basically low penalties. Would that be correct?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: That's one aspect. I mean, I have had several conversations with His Excellency the Governor explaining that it is permeating right throughout our crime.

I look at the Cayman Islands as a wonderful place, relatively crime-free and I ask myself, what are the problems? So as I go to His Excellency the Governor and indeed, the National Security Council (NSC), this issue keeps returning. There is something about illegal gambling that's permeating right across society and crime; it's the drugs, it's the firearms, it's the extortion, it's the assaults, it's the robberies; and then last year we had this horrific murder of Mr. Elliott. I think there is no issue mentioning his name— it's known, it's a public record and we have a person charged before the courts. And this all, as we go back and examine our

intelligence, speaks to illegal gambling and all of the associated issues with it; and a small number of people making large amounts of money and then using it to invest in businesses. It's wide and permeating and I briefed His Excellency the Governor on this and said this is a real problem. Of all the problems you have in the Cayman Islands, illegal gambling is a significant problem and I am strongly urging that something is done, and done as speedily as possible, to address it.

I am also concerned about our reputation internationally in terms of being seen as weak in our enforcement or with any kind of a tolerance towards money laundering, considering that we are one of the largest global financial centres. In a really wide context, I had wide-reaching conversations with His Excellency the Governor, and I also had the opportunity to mention this on more than one occasion at the National Security Council.

Hon. Kenneth V. Bryan: Thank you so much, Commissioner. Through you, Mr. Chair, again.

I do agree with you that this has wide reaching penalties for Cayman, our reputational damage and so forth and we've got to definitely "take the bull by the horns", but can I just ask you, how many arrests. It is currently still illegal even though the penalties are very small, there's this attitude within our society that the Police don't go after persons who are involved because it is being seen as, *'why do I put so much energy?'*

As a matter of fact, I think you gave evidence to the Government previously, suggesting that it's not worth the value for money to go after a person who is involved in the crime, because the penalties are so small that the manpower, court time and legal time, that you get charged \$100, I think, was the amount. Is that the perspective?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I think I need to be really, really, clear on this. The perspective is not that we shouldn't go after it, it's that there seems to be kind of a very high tolerance level towards illegal gambling in the Cayman Islands, which I believe is wrong.

I believe it's the long premise that we believe that the laws are inadequate, they don't provide any real deterrent, so the Police should be doing more. I accept the Police should be doing more and the first step in the process then, is to make the laws commensurate with the level of crime and the money that is being generated, the proceeds. Allow us to do more and I may have to put more resources into it.

More than what you're seeing with numbers, we have had cockfighting, we've had other types of betting taking place on the Island so it has wide application across the Island, and in the context of what crime means in the Cayman Islands, illegal gambling very much permeates right throughout the system. There's an ecosystem—and it's an illegal ecosystem.

Hon. Kenneth V. Bryan: Through you, Mr. Chair.

Are you suggesting that there is an acceptance within the Police Service for illegal numbers?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Certainly no acceptance from me. I think that we could be doing more. I don't really call it an acceptance. I think that there's probably... people might not see the value in it because there is no real deterrent. It goes back to that point you made earlier on. As it stands, it seems that going to court is...

Yes, it's a breach of the criminal law, it needs to be prosecuted, it cannot be ignored, you know, we could ignore several laws, but this one that we are talking about has really wide, strategic implications.

Hon. Kenneth V. Bryan: So through you, Mr. Chair. Who is ignoring it, because I am asking you whether or not the Police Department... Because it is still a crime, the penalty is low, granted, I accept that, but the Police can still arrest somebody even if it's for \$10.

I am asking you then, if you're saying that there is an acceptance, who are you speaking of by way of acceptance.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I really want to be very careful about saying "an acceptance". I think society tolerates it or appears to tolerate it in the Cayman Islands. I am saying it shouldn't, and I am saying the police should be doing more. I have said that previously, and I've not said that we are doing enough. I am saying we could do more and we should do more, but it's this push-pull factor because of the tolerance level. We could be doing more.

Hon. Kenneth V. Bryan: Thank you. Through you, Mr. Chair.

So the tolerance level of the people involved has nothing to do with the police's ability to arrest. You still have the ability to arrest, to penalise someone, put them in court even though it may not seem cost-effective because the fine is so small, but you could still be doing that right now. Would that be a correct statement?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: It is correct that we have limited powers, very limited powers in terms of what we can do; they are outdated. I think if you went back and you saw, I think it's 1964 legislation that we are actually dealing with when we first start dealing with illegal gambling. We have now moved on many, many years and we haven't actually moved our legislation in line with what is happening and with the risks that I have mentioned, in terms of money laundering, criminal enterprise, organised crime, drugs, firearms, assaults.

I don't think it is recognised that all of these associated crimes are connected with illegal gambling. It's seen as a small, isolated... something that is happening in an ecosystem in the Cayman Islands.

Hon. Kenneth V. Bryan: Thank you. Through you, Mr. Chair. When you said you had limited powers and the laws need to be changed, it is a strong point, Mr. Commissioner, but the Bill that is being presented has nothing to do with the powers. It has to do with the amount of the deterrent. Would you agree with that?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, I think they're interconnected. They may not be synonymous but they're interconnected. If there are more powers and more of a deterrent, well then, there should be greater enforcement.

Hon. Kenneth V. Bryan: Through you again, Mr. Chair.

Would you agree then, [that] this Bill doesn't change your ability to do anything different other than the penalties? So technically, if we pass this Bill today, you would be in the same position to arrest. The only outcome would be whether they'd be penalised more from the penalty in court. Would that be correct?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: The penalty, the punishment, would meet the crime.

It would be commensurate, proportionate; it should be up-to-date crimes/up-to-date penalties for what we understand of illegal gambling now [compared] to what was understood many, many years ago. An evolution has taken place in terms of what's happening in society.

My respectful submission is [that] the onus is on the relevant authorities to respond and provide a proportionate, or appropriate, response to what is happening in society.

Hon. Kenneth V. Bryan: Thank you. Through you, Mr. Chair.

Can you say how many arrests you have had over the last year with respect to numbers?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: They are very few. [I can come back with numbers.](#) I haven't put together statistics.

In terms of number of arrests, they are very, very few. What I have highlighted is the number of crimes that we are looking at, in terms of the assaults, the robberies and the intelligence picture, so I am giving you a much broader outlook. Rather than just arrests, I'm trying to explain to you what is actually happening in society and what's happening in plain sight in the community.

Hon. Kenneth V. Bryan: I agree there is definitely a societal issue, but that's not what we are focusing on right now. We are talking about your Force's ability to do more. You accepted that there is very little amount of arrests. This [Bill] just increases the penalties. Are the arrests going to increase tremendously after this Bill is passed by penalty?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, the focus of my discussions with National Security Council and His Excellency was, *I would certainly do an awful lot more if I thought there was proportionate response to deal with the laws.* The concern is that—and I think I said it a few moments earlier—we are not doing enough to address all of these concerns or we wouldn't have a murder; we wouldn't have the level of extortion; we wouldn't have the level of robberies that we have. I am also afraid that we are losing a young section of the population with all these associated crimes.

What I am trying to do is make sure that we clearly understand the link between the proceeds of illegal gambling and what's happening in communities with young people getting involved in crime and maybe ignoring the law or feeling that this is nothing that they should be worried about. That it's acceptable, or there is tolerance for illegal gambling and all that goes with it—buy drugs, buy guns, commit robberies, get involved in extortion.

Hon. Kenneth V. Bryan: Through you, Mr. Chair.

I agree with you, Commissioner, we definitely shouldn't allow that; but it is a fact that you are responsible for the area of ensuring that people see this is not okay; it has nothing to do with the penalties, because you gave evidence here today that it's prevalent in our society, to where you can practically drive out and see it. You see it in the barbershops—you have intel. You know that it's happening; but you also gave evidence that very little is being done.

I think that the association of the increase in penalties has really nothing to do with whether your office is actually penalising the people regardless of the fine, because you can still take them to court for \$10 or \$10,000. It doesn't change much. Would you agree with that assessment, or am I wrong?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, crimes are committed and not reported to the Police again, because of this tolerance level. Not all the crimes are reported to the Police, we know that; there are crimes happening, again, because of this acceptance of an ecosystem that is occurring in Cayman society.

I know you say that yes, I, as the Police Commissioner and the Police Service are responsible, but I also think the whole of Cayman Islands' society has a responsibility to say, *we don't want to tolerate illegal gambling and we don't want to be associated with the*

money laundering; or the crimes I have mentioned are occurring, which are consequent and associated, I believe, with the gambit of illegal gambling.

Hon. Kenneth V. Bryan: Thank you. Through you, Mr. Chair.

I think it is a good opportunity or prime time to say that the Government and I, and everybody sympathises with the victims of these severe crimes and we do want to resolve this problem.

Commissioner, you spoke about the peoples' attitude of acceptance. Would it be fair to say, based on your reports and your expert opinion, that there is a large percentage of people in this country who think that it's okay or that it should be legal? Is that a fair comment?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: It certainly puzzles me and does concern me that people don't fully understand or grasp what's associated with illegal gambling.

If you take it in isolation, it just seems to be illegal gambling, but what I have been trying to do here is explain all of the associated criminal activity and the criminal enterprise and the criminal organisation that's involved in illegal gambling. If I could educate society or society understood clearly, I think there would be less of a tolerance for it. If they just realised how it kind of kicks in right across society and impacts families and young people, how they are going to develop and the myriad of crime that I have spoken about right across.

Those are my biggest concerns and those are the conversations I have when I'm discussing illegal gambling. When I go into my office during the day, I deal with a range of issues and somehow in the middle of it there is always this illegal gambling or there is something associated with illegal gambling, and I am not sure that society has a full grasp or an understanding of its current and future impact on society and our international standing.

Hon. Kenneth V. Bryan: Through you, Mr. Chair. I agree with you, Commissioner and I want to go down that line with you.

The concept of the concern for our global image, our brand and, particularly, our financial services component... Do you think that if it were legal we would resolve many of the concerns of potential money laundering? If we had a national lottery and we legalised numbers, would that resolve that very serious component, because we wouldn't want to damage our economy. Would that resolve that [issue] in your opinion?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Legal gambling then is like part of social policy. My sense, from a social policy perspective, is that you regulate and control and then there is a defined set of rules in which this will operate. There is no defined set of rules now. It's a breach

of the rule of law and we sit here and we say if we tolerate illegal gambling, we discard the rule of law and we allow all these things to happen. If we move to the proposition—this is just my sense, my input in terms of social policy—then we regulate it and control it and we have a set of guidelines and rules and Government, or the regulator, has control of what is actually happening.

That provides a set of rules in which we can all operate and we all understand and I am sure it would have immense benefits for society once the rules are established.

Hon. Kenneth V. Bryan: Thank you so much. Through you, Mr. Chair.

Is it plausible then, that if it were to become legal the criminality that we are experiencing now—that we all want to get rid of—would diminish and decrease tremendously, because you have heard me respond to you in your presentation to Government before about what would be awarded to persons who now take what we call “numbers” and national lottery to a legal extent. For one, they would be awarded the opportunity, first things first, were they ever to be robbed, to be a witness in court, because that's one of the biggest problems—they never want to tell you because they know they are involved in something illegal.

Right away, if they are legal, they're going to call the police and say, *listen, this happened, here's what I saw*. That would happen. They would also be allowed to have security guards or, for instance, a Brinks truck to pick up their cash like a normal shop would; they would be able to deposit their money in a bank, rather than having it at home—you know, where you have people getting robbed on the way home. All of those things would be resolved.

Therefore, would it be fair to come to the conclusion that if it was legal, much of the criminality surrounding it would be reduced?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I'm not sure what exactly you're asking me. I don't think that introducing a national lottery and allowing illegal activity to take place are synonymous. I believe they are two separate issues. The criminal act is whether we comply with the rule of law or we don't, and if we don't, what are the consequences?

The other proposition, then, is that we introduce a regulated... call it an industry, or business, with a set of rules controlled by Government—and that falls into any business acumen.

Hon. Kenneth V. Bryan: I think—

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: But I don't think they are synonymous and I don't think that there is a level of interdependence. Legalising it would obviously provide

a control aspect to it, but my concern as a police officer is, I can't ignore the rule of law.

Hon. Kenneth V. Bryan: I agree with you, I think we are saying the same thing Commissioner; and through you again, Mr. Chair.

What I probably failed to say so we can understand is: Would it be logical that those who are in the illegal behaviour, once it becomes legal would then regularise themselves to be in that regulated framework, so there would be fewer people outside of the regulated framework—in a “dark zone”.

Would a person who is selling numbers illegally now say, *well, I can now go to Government and get a permit to do this and make money off of it and pay a fee to Government?* Wouldn't they do that?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, there is no indication on my part that a person involved in a criminal enterprise now would switch to being involved in a regulated lottery. I don't know the answer to that, they may or may not. I mean, that's a business proposition and I don't think that I could actually answer that.

Hon. Kenneth V. Bryan: Fair.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: It would be a surprise to me that the persons are doing what they can to avoid the legitimate economy. This money is illicit, and as I said it is leaving the country through money mules and being invested illegally in assets, whether it's vehicles or homes or small businesses.

Hon. Kenneth V. Bryan: Maybe that was an unfair question, but I will state just for the record that I believe that is what would happen.

Let me ask you a very, very, important question: Outside of your expertise as an enforcement specialist which is what you're trained to do; that's how you resolve problems, you tactically advise legislation and tactics within your police arms—units and traffic, *et cetera*, to control a regulated area. Was there any other investigation of different strategies to resolve this problem outside of enforcement, that you are aware of, which helped advise how Government should resolve this problem?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, I mean, in a wider context, it was always the education and alternatives, employment and all those things that happened but from a policing perspective, you look at strategic, operational, tactical interventions; strategically, the law; operationally, what is the extent of the problem; and tactically, the enforcement. That's the way you will tackle it from a policing perspective.

Yes, police officers are looking at it through the prism of enforcement, as they should, but they're

acutely aware of the wider societal implications. I go back to the people we talked about—the young people in crime, the people who are intimidated and the people who find themselves in a poverty trap. People hoping to make a small amount of money by investing in the illegal lottery and this vicious circle that occurs in society; people spending their last dollar or couple of dollars trying to make money to sustain themselves. This is what you hear in communities.

For me it's really quite serious, what's going on; the rule of law then underpins everything. Either we stick with it, or we abandon it.

Hon. Kenneth V. Bryan: Thank you so much. I'm gonna start wrapping up my line of questioning now. So the answer is no, you did not get any other advice as to how to resolve the criminality around it other than the enforcement arm.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Predominantly, yes. That is how the Police Service would deal with it, we enforce it.

We identify the extent or scale of the problem, which I believe I have done with a conservative estimate of \$30 million to \$50 million which is revised downwards from estimates provided years ago; identify the range of criminality that's involved; and my function then, I believe, as the primary law enforcement agency, is to tackle this and work with wider society—Government included—to try and deal with all the issues—and members of society that who very valuable input, I'm sure, to assist us in coming to a resolution.

Hon. Kenneth V. Bryan: I don't think it's your role so it is kind of a hard question, but just to cover the ground: Did you involve any analysis with anybody outside of the enforcement arm as to how to resolve this problem? What I am trying to get at, I will be straight forward.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes.

Hon. Kenneth V. Bryan: Was there any examination before a suggestion to increase the penalties that, maybe, a way to resolve this is not to make it illegal anymore, because I know—I believe that you are aware—that some people think that it should be legal and that would resolve many of the problems. So, were there any discussions with any other agencies or professional theorists outside of the enforcement arm to assist with?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I'm not really understanding that anyone believes that illegal gambling should be made legal or decriminalised. That bit I don't understand.

I am aware of the alternative, in terms of one aspect being a lottery, but I have not heard the argument that we should decriminalise illegal gambling, if that's the intention; and I'm not sure how I could reconcile that as a law enforcement officer, when I am talking to you about gangs, intimidation, robberies, extortion. I don't know how I could reconcile that.

Hon. Kenneth V. Bryan: All right. Are you aware that the Government is currently considering the decriminalisation of marijuana?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I've heard the wider debate. Yes.

Hon. Kenneth V. Bryan: Do you know if there has been any other consultation with the people of this country, whether this should be legal or not before the Bill came out?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: This is illegal gambling?

Hon. Kenneth V. Bryan: Yes; the numbers.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: No. I understand there has been some type of debate back in 2016, 2018, in advance of the Gambling Bill, but as it relates to my tenure, I've basically looked at it from the law enforcement perspective.

Hon. Kenneth V. Bryan: Commissioner, I want to say thank you so much. You were really helpful for me. I may have a couple other questions, but I know that my colleagues probably have some for you. I appreciate it. Thank you, sir.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Mr. Chairman.

The Chairman: Thank you, Minister; thank you, Commissioner. Does any other Member have questions for the Commissioner?

The Premier, Hon. G. Wayne Panton: Mr. Chair.

The Chairman: Premier.

The Premier, Hon. G. Wayne Panton: Yes, thank you, Mr. Chair.

I certainly want to add my thanks to the Commission as well for being present and for sharing his views with this Committee.

Mr. Chair, through you, could I ask the Commissioner if he has a sense of whether the issues

around illegal gambling and all of the various interconnected problems that he has identified or noted, have been getting worse than he observed in the past?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Honourable Premier.

I think that things couldn't have gotten much worse following Mr. Elliott's murder last year and we know that was associated with illegal gambling. Yeah, my sense would be [that] we have seen increased robberies, as you would have known, in the last four months of 2022. Some of those crimes were associated with robberies and illegal gambling and I do think that illegal gambling itself does attract criminal activity.

The locations are known, and the fact that money is there, and the lesser likelihood of reporting it to the police is kind of an incentive. It is a by-product of an incentive there for persons involved in this, so my sense would be that it hasn't diminished.

I would think Cayman society, particularly, as we strive, and I know Government strives very hard to provide this crime-free Island— and crime is relatively low on the Island. I do think that underpinning all this, there is a very toxic ecosystem involving this illegal gambling and it permeates, I have said it, right across the social strata and manifests itself in the commission of crime, and I am concerned about it.

The Premier, Hon. G. Wayne Panton: Thank you, Mr. Commissioner and Mr. Chair, with your permission, I would just ask a follow-up question which is:

Clearly, the advice you have given Government from your perspective as the Police Commissioner, is that these changes to the Gambling Act by virtue of the proposed Gambling (Amendment) Bill, 2022 would, first of all, help to ensure that there is less of an acceptance; that some of these provisions would form more of a deterrent value, and that this would contribute to lowering the incidence of both the specific operations of illegal gambling as well as the related activities that you have detailed.

In your view, if we were to make these amendments now, the benefits that would flow would be to improve the security position for the people and the country, and help to reduce the incidence of negative consequences for society as a whole.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Premier.

I certainly support that proposition. It strengthens the hand of the enforcement agencies, which is primarily the police service; I think it strengthens the judiciary's capacity to deal with it and signals, to the community, the lack of tolerance towards this illegal activity in the Cayman Islands.

As a wider package, it is progressive and it brings us forward, and it is a commensurate or propor-

tioned response to what we are dealing with in the Cayman Islands society at the moment, in terms of illegal gambling.

The Premier, Hon. G. Wayne Panton: Thank you. Thank you, Commissioner, and again, with the permission of the Chair.

I understand you to be saying then, that it would have a positive benefit in terms of reducing the incidence and improving security for society, possibly even improving national security as well.

Implicit in that might be that, if we had done this earlier, for example, we would be that much better off. Perhaps we might even have a situation where we might not have had at least this one loss of life and I don't know whether you can speak to it, but I think there were some references to other potential, let me just say homicides, that may also have been connected to illegal gambling.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Premier. What you have said there is exactly right.

As I said, we strengthen our hand and we signify to community and society the lack of tolerance to illegal gambling to improve our security situation and our international standing and protect our communities, including the vulnerable in the communities.

It has been connected with serious crimes, as I said, the most serious being Mr. Elliott's murder which occurred in 2022. That's as serious as it gets and there have been other related crimes where guns have been produced and homicides have been threatened, so people are under threat, there is no doubt about that; and I support exactly what you said, in terms of the benefits of strengthening the legislation.

The Premier, Hon. G. Wayne Panton: Thank you, Commissioner, and thank you, as well, Mr. Chair.

Just one other question for now: certainly your experience would have been that as legislators, as parliamentarians and representatives of the people of the country, whenever there is a threat, whenever there is advice given that there are certain impacts on the people which affect their security, whenever we can see for ourselves that this is the case, the normal approach of representatives would be to reflect concern and perhaps make demands of you, to increase your level of policing activity. Probably also in terms of representing the interests of the people in this House and ask for increased penalties, and support increased penalties to act as a deterrent. Is that what you would have experienced? Do you, perhaps, have a view as to why this is such a controversial issue at this point, when we have experienced these impacts?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Premier.

A general comment, again, is that policing by its very nature is dynamic; you are all the time working to close the gap.

Things are happening in the environment and you're responding, you're always responding. This is symptomatic of what is happening in our society at the moment, and I know I have been speaking to it at NSC since 2018, in terms of the requirement to move ahead with increased legislation and move forward with greater powers to prevent this type of illegal activity in our communities and societies to protect the vulnerable and to protect the communities.

The majority of our persons in the society here in Cayman Islands, as you all know, are law abiding people who want to live in peace and harmony here, and then this type of crime just permeates and causes this great difficulty. [It is] something I have been speaking about, and my suggestion is to move ahead to close the gap to increase our security and protect our communities.

The Premier, Hon. G. Wayne Panton: Thank you Commissioner and Mr. Chair if I could prevail, just one final question— despite what I said earlier about that being the final one. The question that I have for the Commissioner is in the context of some of the earlier questions and the answers provided.

If there was, for example, a national lottery that was legal and fully regulated, do you think it would necessarily mean that there would be no— I think it was implicit in what you were saying, but I just want to clarify: Do you think it would mean that no illegal activities along the same lines as we have today, would continue to occur? I think that would certainly be the experience of other jurisdictions where there is legal gambling.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I suppose my sense there, Premier, trying to look through the looking glass, is that you are providing a legal alternative, so therefore you're reducing the capacity for the illegal activity to take place. People find an alternative that is regulated and controlled.

From the piece of research that I have done in terms of preparing my papers, it has worked successfully elsewhere. I mean, I know there's much work to be done, that's outside of my control; but I do think that it does provide a good legal alternative and it should, in effect, reduce the capacity for illegal activity associated with illegal gambling and illegal gambling in all of its forms.

The Premier, Hon. G. Wayne Panton: Thank you very much sir, I appreciate that.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you.

Hon. Kenneth V. Bryan: Mr. Chair, I do have a follow up but I want to give way to my colleague because he has not asked any questions, unless you insist. I have about five follow up questions but I give way to the Member for Red Bay.

The Chairman: Thank you, Minister. Member for Red Bay.

Hon. Sir Alden McLaughlin: Thank you, Mr. Chair.

Good afternoon Commissioner, and thank you for coming, it is good to have you here. Commissioner, would you tell the Committee when you arrived in Cayman to take up your post as Commissioner?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes, sir, 2016; 1st November, 2016.

Hon. Sir Alden McLaughlin: So, you have been here now six years.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes, sir.

Hon. Sir Alden McLaughlin: Are you aware, sir, that over the course of a significant number of years, I will not tie you to a particular number because you weren't here then, there has developed a culture of acceptance of what is generally called the numbers game?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes, sir, I am aware and it has caused me some angst. Yeah.

Hon. Sir Alden McLaughlin: The Act, as we now call it, that we are operating under was first passed in 1964.

During the course of your evidence, you have repeatedly referred to illegal gambling. Do you agree with me, sir, that with the exception of the Amendment to the Gambling Law in 2015 that legalised the holding of raffles by churches, service associations, and voluntary associations, all other forms of gambling in the Cayman Islands are illegal.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: That's my understanding, sir, yeah.

Hon. Sir Alden McLaughlin: And I can say to you, Commissioner, that well before that amendment in 2015 many service associations, voluntary associations sold raffle tickets— as they still do.

Essentially, a game of chance; you pay \$10 for a ticket or buy as many as you want and there's a \$5,000 price at the end of the day so the amendment in 2015, was an acknowledgement by the Government at the time, and I can say this with absolute certainty because I was Premier at the time, that we needed to

legalise or legitimise what had become, over the years, an accepted, and quite proper manner, for service organisations to be able to raise money for their various purposes.

Now, Commissioner, I think I can say with some certainty that the numbers game has been around in Cayman for now pushing 40 years. It wasn't something that I knew about when I was a boy, but certainly, in early adulthood [buying] numbers became something that people did.

Now, Mr. Chairman, through you to the Commissioner, I think what has happened over the course of that period is analogous to what happened with respect to service organisations holding raffles. It is seen as something that is acceptable; indeed, by many, as something that is good— something that provides an opportunity for ordinary people to get some winnings and the perception, broadly speaking, is that it is quite harmless.

Now, Commissioner, as I said, you kept referring in your evidence to “unlawful gambling”. The reality is all forms of gambling, except that carve out for service organisations and churches, all forms of gambling, are currently illegal. Now the Government— and this is not your doing, but I think it is important for the narrative—has obviously been asking itself whether or not that state of affairs, (that all forms of gambling except the carve out for churches and voluntary associations) should remain the case, for they have brought, and we have agreed, a motion for a referendum on the issue.

Now, I take no issue with continuing to criminalise some obviously bad forms of gambling, cock-fighting, in particular, that sort of stuff. However, Commissioner, do you not think that it would be better, given how deeply entrenched the numbers game is in our culture, to put in place systems which regulated it, rather than seeking to ramp up the penalties, which are bound to bite hardest on the most vulnerable, that is, the retirees who go to buy a few numbers in the hope that they are going to win \$200, \$300 or \$500, rather than the people who sell the numbers, or those at the top of the criminal organisations you described? Because the fear that people like me and most of my colleagues on this side, and indeed some on the other side have, is that the more likely consequence of increasing fines up to \$10,000 is that we are not likely to see many of the sellers before the courts because they are far savvier.

What we are more likely to see, as has been the case in the distant past, are little old ladies and elderly gentlemen being charged with offences of buying a number— that's not the technical or legal term, but that is how Caymanians express it, “buying a number”— and I'm afraid that we are going to have to put in place, and the Government will have to find the money for this, some secure retirement homes, because you can't put these people in jail, not up in Northward, or Fairbanks, because they're going to need all kinds of other assistance.

The Chairman: Honourable Member that is a long question to ask the Commissioner to answer.

Hon. Sir Alden McLaughlin: Commissioner, the Chairman says you don't have to answer that question so I will leave it hanging there; but, Mr. Chairman, through you to the Commissioner that is our big concern.

We need to find a way to avoid penalising some of the most vulnerable in this community who are operating on very small, fixed incomes— and I'm saying this because I talk to these people, I meet these people almost every day of my life. I'll give you an anecdote, sir:

It is my birthday, 6th September, so I walked into a licenced establishment and someone said:

"Happy Birthday, Mr. Alden."

I said, *"Thank you very much."*

Next one says, *"Mr. Alden, today is your birthday?"*

"Yes, today is my birthday."

"6th of September; what year were you born?"

"— and I am 61 today".

"I gah play that number— 61; turn it back ways, that 16."

And you know what? They won.

[Laughter]

Hon. Sir Alden McLaughlin: I am saying that this is such a part of the local culture now, that to me it seems beyond wrong to seek to penalise, further, ordinary people who believe, and in many instances can demonstrate, that they are actually deriving a benefit from doing so. Surely what we should be trying to do, which I hope is where the Government is trying to go with this referendum, is to put in place a system where we can regulate it so that we can avoid, as far as that is ever possible, the criminal element.

I am not going to ask you to comment on that, Commissioner, because policy is not your remit in this context.

The Chairman: Honourable member, you are not interested in an answer from the Commissioner?

Hon. Sir Alden McLaughlin: He may comment, but I am saying I wasn't expecting him to comment on policy because that's not really his remit. Obviously, if the Commissioner wants to say something I am more than happy to hear.

The Chairman: Commissioner, do you wish to comment?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Mr. Chairman. Just in two parts, sir— I picked up the piece about the raffle, and I completely understand that. The

community raffle where there is a set of rules around it and the changes that took place to facilitate that.

I do have a difficulty then, reconciling the criminal association with the illegal gambling. That is the bit that I struggle to reconcile, I think I said it earlier on, because of the money that is made from it, the use it is put to, and then when we bring it back into the realm of drugs and guns and intimidation and extortion and all those things that are impacting safe community in the Cayman Islands.

I well appreciate the concept, both nationally and internationally, of private members raffles and raffles for particular reasons for schools and communities. I think there is a completely different proposition with illegal gambling and all the criminality that's associated with the money that is made and, yes, the unfortunate people who are used as mules in this criminal enterprise. I think I have said the rest more or less in terms of where I stand as the Commissioner of Police on illegal gambling, but if that assists in terms of my understanding.

Separating the issue around the raffle for the community and the good of the community, and then all of this legal activity associated with illegal gambling; and the criminal activity; and the money that is generated; and the proceeds of crime, and all that comes with that.

Hon. Sir Alden McLaughlin: Thank you.

Thank you, Commissioner. I just want to finish up with this particular line though and I presume all members of the Committee will have to take your word for it when you talk about the level of criminality that is associated with... You keep saying illegal gambling. My focus really is about the numbers. I can't argue with you about that, because I don't have your knowledge or access to your information in that regard.

I would want to know, however, if you would agree with me that the victims of robberies and other unlawful conduct that we have been suffering with— particularly recently, but this is not the first time that we have had that—are not limited to those who are associated with the numbers' game; and if you could provide, if you have them, statistics on how many of the reported robberies over the course of the last, say six months, have had as their victims, people or entities around the sale and purchase of numbers.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, sir.

Because of the short notice, I don't have really detailed statistics, but I do have a number of crimes that are associated with illegal gambling that occurred from 2021 to 2022. I have some details of them here, and altogether, apart from the murder, we are looking at 12 crimes that were associated with illegal gambling and aggravated burglary. One place involved in illegal gambling [was] targeted twice because of the monies that were involved in it, so locations that are known to us.

I could provide some details, but I think it's just the general thrust of going back to the dates. An attempted robbery at Archie's Bar on 14/12/2021; a robbery at Welly's Cool Spot, George Town, on the 23/12/2021— I have names of persons that were arrested, names of injured parties and sums of money that were stolen during it.

I could go through them, if it was of any great detail but I do have some preliminary details of the crimes that were involved in illegal gambling between 2021 and 2022, and in terms of the commission of crime that we have here, they are pretty, pretty, significant. I mean, the numbers aren't huge, but they're pretty significant in terms of the number of crimes that we have here in the Cayman Islands and they are of concern.

Hon. Sir Alden McLaughlin: Commissioner, I understand that and would not for a moment suggest that number sellers aren't a target of people who wish to rob. Indeed, I am sure that some of these incidents go unreported because of their illegal nature. I am not trying to argue against that at all.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes.

Hon. Sir Alden McLaughlin: However, I would ask you if you would agree with me, that other entities— fast-food restaurants, bars, gas stations, are all subject to robberies and I finish with this: the quick calculation that we have done has demonstrated, that of the 53 reported robberies in the last four or five months, only three of them related to places or individuals involved in one way or another with the number's game.

The point being, sir, for those who believe the premise that simply increasing the penalties for selling or buying numbers is going to somehow magically reduce the number of robberies or other illegal activities, I think we are dreaming in colour, if that's what we are hoping for.

Thank you, Commissioner.

The Chairman: Thank you, Member for Red Bay. Minister for Tourism.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair.

I said in my wrap up that I would have a couple more questions to follow up when my memory was working. They have come to me.

Through you, Mr. Chair: Can the Commissioner say what percentage of the whole population he believes may be involved in the purchasing of numbers, because obviously it's very prevalent. Do you have any estimates, sir?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I'm afraid not, sir. I don't; it will be a pure guess. As I said, my information

is [that] it is right across the social strata. We are concerned with a range of persons. It is not confined, it is right across the social spectrum.

Hon. Kenneth V. Bryan: Okay, I accept that, thank you.

Through you, Mr. Chair: We acknowledge that there is just a high level of acceptance, and you heard other members ask about that, as well as a nonchalant approach (probably not the best word), but there is an approach to being involved in it where people are involved in an illegal activity with no regard to the fact that it is illegal so, from a criminal level perspective, the people who may be selling it are what could be considered as low-risk. Would that be a fair assessment?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I'm not sure I'm understanding, sir. Apologies.

Hon. Kenneth V. Bryan: Okay, let me put it this way: Obviously a person under the law right now, who's caught selling a number [and] who, based on intel, is usually the target of a robber, their risk profile for criminality and being involved in selling is pretty low because the penalties are low.

Thus, if we change the penalties for a person who sells numbers from, *you were caught selling numbers and your penalty is \$100 with no jail time*, and you now change that in law to \$3,000 and potentially three years in prison, do you think that the risk profile of the type of criminal— because we are assuming that the person who is selling the number now is considered to be a criminal. Would that be correct?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Well, it is a criminal offence, yes.

Hon. Kenneth V. Bryan: It is a criminal offence, okay. So the risk profile, the person whose appetite for being caught is based on a theory of some people do low-line criminality and some people do high-level criminality. Do you accept that?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: You're providing a deterrent, and my understanding is [that] the ultimate objective is to eradicate illegal gambling— to stop illegal gambling.

Hon. Kenneth V. Bryan: Agreed, but there is not like a high percentage of murders which is a serious, serious, crime, but then you have a lot of petty stuff like traffic stuff.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Sure.

Hon. Kenneth V. Bryan: You got different risk levels of people who are willing to do criminality. Okay, so what I am getting at is: The level of risk profile of the person who's selling numbers now is low, due in fact to the type of penalty they would receive, which is a very low fine and no jail time.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: You dis-incentivise them from engaging in that type of criminal.

Hon. Kenneth V. Bryan: Exactly; now we are trying to increase the penalties to ensure that the people don't want to be involved, but we also have said that there is a high level of acceptance, therefore a high level of demand. I am going to make a suggestion to you and I want you to tell me whether or not you think my theory makes sense.

We are going to change the law to increase the penalties so that the seller—who is the robber's normal target—is going to go to prison. The person who's selling now, they will have to examine themselves and say, *do I want to continue to be in this kind of activity because no longer am I just going to get \$100 fine and a criminal record, I now potentially may have a \$3,000 fine and go to jail.*

I am saying that people may change from that position to say, *I no longer want to be involved;* but if the demand is still there (by the high acceptance of this activity), [then] it will be filled by somebody else who accepts that if they are caught, they're going to go to jail for three years. Would you therefore agree with me, that it is a higher-risk profile criminal— meaning a person who is willing to do severe things, because the penalty is more severe. Would that be a fair assessment?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Again, I think it's just, *"I'm dis-incentivised to do this because the penalties are going against me."* There is a higher penalty, there is a higher risk.

Hon. Kenneth V. Bryan: Yes.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: That's my understanding of it. Then you speak about the level of acceptance. It is the level of acceptance among the people who engage in this type of activity, but not a level of acceptance by the wider community who don't accept this type of activity.

Hon. Kenneth V. Bryan: Yes, acceptance and demand is what I am trying to create here. I'm suggesting to you that when we increase this, the demand for purchasing numbers is still going to be there and the people who sell the numbers may retract and say, *I no longer want to take the chance to do this because I don't want to go to prison.*

Then somebody else is going to fill that void who says, *I am willing to go to jail if I get caught,* who is a higher-risk profile individual and what we would have then is, when the robber goes to that higher risk profile person who is selling the number— usually what we have, and you can correct me if I'm wrong— usually what we have is a person potentially with a gun, going to a person who doesn't have a gun, who has loads of cash on them and their willingness to just say, *"Here you go, Mr. gunman, I am not going to do anything"*, and later on it is reported to police.

What could potentially happen, is [that] the person who's selling now is a new, higher-risk profile criminal who says, *"You know what? I'm selling numbers, but I am going to have a gun also,"* so when the robber comes, now you have a greater conflict. Rather than before, [where] a person would give up the money, you have a gunman coming after a gunman.

Here, is the question: Is it plausible [that] we could make this matter worse, with higher percentages of gunplay and severe assaults and incidences, if we were to change the law ultimately allowing the risk profile to [become] higher because the penalties are higher.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I gather from what you're saying, that we are increasing the risk.

Hon. Kenneth V. Bryan: Sorry, the AG was assisting me. Rather than say risk profile, risk *appetite* in respect to the type of persons involved in the activity.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: What I am interpreting from what you are saying, sir, is that if we change the law, then we are actually creating a bigger problem, which obviously I can't support.

I mean, we have to address it. We are either addressing the rule of law or we are not addressing the rule of law, which in my respectful submission to you, and my sense would be that when we provide this intolerance, there will be less people committing the crime because you're dis-incentivised, but I am not going on the basis that there is going to be an escalation in violence because the law is changing.

Hon. Kenneth V. Bryan: Okay, through you, Mr. Chair, I accept that you may not be inclined to accept that because you are a law enforcement agent, that's your principal training— that deterrence to enforcement is the way; but history has shown us, for instance alcohol prohibition showed where the severity of criminality around that illegal activity was also reduced when it became legal. Would you accept that?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: But the police also stepped up their enforcement at the end. It's not just

between the two parties deciding who will escalate; the police will be escalating their enforcement actions.

Hon. Kenneth V. Bryan: So through you, Mr. Chair, you're suggesting that we legalise it and then you increase enforcement, then we solve the problem.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: No, I don't think I said *legalise*. I don't think that was an issue I raised.

My concern is we don't have the appropriate powers in place to deal with the outputs or the consequences of illegal gambling in the Cayman Islands. That has always been my position since I came to understand it.

Hon. Kenneth V. Bryan: Okay, so you wouldn't agree that there is a high potential chance that the risk appetite of the type of people who would be involved could create more severity. This is on the record. I just want to make sure that, if I understand, that is what you just said.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: That's my sense. I don't see that as being the primary risk; the primary risk is not having the appropriate laws in place to deal with all of the associated consequences of illegal gambling.

Hon. Kenneth V. Bryan: Thank you, Commissioner. Through you, Mr. Chair, last question: Do you recall when this was presented to the Opposition by yourself as suggestions to bring this Bill? Do you remember when that was?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Sorry, when did I present it to the National Security Council?

Hon. Kenneth V. Bryan: To the Government.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I started my papers in 2018/2019. We have had discussions ongoing 2018, 2019; interrupted in COVID and we got back to it in 2021/2022.

Hon. Kenneth V. Bryan: Thank you for the historical context. I know that you presented it to the past Government and they accepted it and then retracted it in the past administration. We've heard evidence of that.

I'm talking about the current Government, now. You came to us I think it was about a year ago, and suggested that, with the criminality, the Government should consider increasing the penalties.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Yes, that is correct. I accept that, yes.

Hon. Kenneth V. Bryan: Who initiated for you to do the presentation to Government?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I will have to be reminded on that. Certainly it would have [been] raised at a NSC. I would have had it on the agenda through the NSC. I would have been trying to press that through his Excellency, The Governor, through the NSC for a considerable period. I would have raised it on a number of occasions.

Hon. Kenneth V. Bryan: This is something I don't know: Is it correct that the National Security Council supported for it to be brought to Government to bring to Parliament?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: That is my understanding, I mean, I'm subject to correction on that through the Cabinet Secretary, but that's my understanding.

I had taken it to NSC and the next stage then was to take it to Caucus to take it to Cabinet.

Hon. Kenneth V. Bryan: Thank you. Follow up, Mr. Chairman: Do you know the membership of the National Security Council and if there are any members of the Opposition on that council?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: I do, yes. Yes.

Hon. Kenneth V. Bryan: Thank you Commissioner. Thank you, Mr. Chair, for allowing me the line of questioning.

The Chairman: Thank you, Honourable Minister. Thank you, Commissioner.

Are there any other questions for the Commissioner? I mean, I notice we don't necessarily have a quorum but... We would not want to bring the Commissioner back unless it is absolutely necessary.

Hon. Juliana Y. O'Connor-Connolly: Mr. Chair, the Commissioner made himself available having waived the seven days' notice; if members thought it was prudent or essential to ask him questions, they would have occupied their chair, so I would have no objection in thanking the Commissioner and bid him farewell so he can carry on his enforcement duties in this country.

An Honourable Member: Thank you.

The Chairman: Thank you, Minister.

Commissioner, just for the purpose of the record and amplification.

You mentioned robberies; just to put that in context, my understanding is that you are talking about

robberies of the custodians of the gambling proceeds—the custodians of the large stash or persons in possession of the gambling proceeds, are the ones who are being robbed?

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: Thank you, Chairman.

Just to explain that: I think the premises being used for the illegal gambling or the proceeds would be known to the persons involved in the crime and thus the premises would have been targeted. More than the actual individual, it is the proceeds and the premises.

The Chairman: Thank you. I just want to clarify it for the record, so you are not saying that the persons who are involved in illegal numbers are carrying out robberies? That's not the case, that's not the premise.

Mr. Derek Byrne, Commissioner of Police - Royal Cayman Islands Police Service: No. Thank you, Chairman.

The Chairman: Thank you very much.

Commissioner, thanks for coming. Thanks for making yourself available at very, very, short notice; we certainly appreciate it and I think the Committee benefited immensely from your evidence, so thank you very much. Again, we appreciate it.

[Pause]

The Chairman: Thank you.

Honourable Members, it is now approximately quarter to one, I take it we would suspend for lunch and come back at 2.30. Thanks.

Proceedings suspended at 12.50 p.m.

Proceedings resumed at 3.00 p.m.

The Chairman: Good afternoon, Members. Welcome back. I'll just ask the Clerk to confirm that we are quorate. Thank you.

The Clerk: We are quorate.

The Chairman: Thank you.

[Pause]

The Chairman: Members, prior to the suspension we heard evidence from the Commissioner of Police and we intend to proceed. Some Members have commitments later this afternoon, so we'll see how far we can get. I'm entirely, as usual, in the hands of Honourable Members.

Going forward in terms of the direction of travel, I'm guided by you, but we have the evidence from the

Commissioner of Police and we have members who want to make interventions in terms of the provisions of the Bill. Do we envisage that we will have a discussion around the evidence of the Commissioner at this stage, or we just proceed with interventions by Members and then, at a particular juncture, we do the wider discussion including the Commissioner's evidence?

Hon. G. Wayne Panton: Mr. Chair, we've certainly not had the benefit of much practise with the operations of a select committee in this House so we are operating within our reviewing or reading of the relevant Standing Orders.

I don't get the impression at this point that there is a desire to discuss the evidence provided by the Commissioner, unless Members want to indicate otherwise. I think in terms of Standing Order 72(6) it is quite clear that in terms of powers and procedure, it provides that **"the deliberations of a select committee shall be confined to (and I'm skipping a section which isn't relevant but I can come back to it if any member wants) in the case of a select committee on a Bill, to the Bill committed to it and relevant amendments."**

Hon. Kenneth V. Bryan: Mr. Chair.

The Premier, Hon. G. Wayne Panton: No, I wasn't finished. Thus, Mr. Chair, for me, the suggestion would be that the benefit for us would be to seek to go through the Bill, the objects and reasons and the various clauses, and discuss any amendments that are considered by indication from the Committee.

Again, I'm open to confirmation that nobody has anything else they want to discuss in terms of the evidence that we have received earlier today.

The Chairman: Thank you Honourable Member. Minister Bryan.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair.

Trying to go back to the foundation of what the purpose of the Select Committee of the whole House rule is, and what is available to us with respect to the proposed Gambling (Amendment) Bill, 2022. I think it needs to be clarified, because in order for us to start to make changes we need to know what the parameters, the realities, of those changes can be.

At the last meeting I made a suggestion [per] my understanding as to what this Committee can do, whether it may be:

- Making amendments to the penalties;
- Outright accepting it the way it is; or
- Potentially suggesting that the Bill not be sent back to the House at all—I think it's important that we confirm whether that is within our power as a Select Committee.

Once that is addressed, [and having heard] the evidence not only by the Commissioner but also by the

Member for Red Bay who gave much evidence, I think the next course of action should be [to] make a determination as to the three parameters I just [listed]. I think there is room for discussion— and potential merit— in whether or not this Bill should move forward, at all, without the input from the people of this country; and I think that needs to be examined by us as Members rather than assuming that the parameters are only to make amendments to this Bill.

That's my suggestion Mr. Chair, but again, I'm at the will of all Members of the Committee.

The Chairman: Thank you, Honourable Minister. Honourable Member for Red Bay.

Hon. Sir Alden McLaughlin: Mr. Chairman, what I would like for us to clarify and agree insofar as that is possible, in furtherance of what the Minister for Tourism just had to say, is the procedure which needs to be followed to bring these proceedings to a conclusion.

If I may invite you to have regard to Standing Order 74(3), sir. If you could kindly help us collectively to understand the process, being guided by these Standing Orders, I think we would then— in furtherance of what the Minister of Tourism is asking about, be able to see how we go about the balance of the process.

Standing Order 74(3): **“A select committee may make a special report relating to its power, functions and proceedings on any matter that it thinks fit to bring to the notice of the House.**

Standing Order 74(4):

- (a) **The chairperson of a select committee shall prepare a draft report and submit it for the consideration of the committee.**
- (b) **Any other Member of a select committee may bring up a report for its consideration...[I don't think we need to read that]**
- (c) **When all the reports have been brought up, the chairperson shall propose the reports in order until one is accepted as a basis for discussion, beginning with the chairperson's own report and proceeding with the remainder in the order in which they were brought up. The question to be proposed by the chairperson on any report shall be 'That the chairperson's (or Mr/Mss) report be read a second time paragraph by paragraph'. When this question has been agreed to it shall not be proposed on any further reports, but any portions thereof may be offered as amendments to the report under consideration if they are relevant to it.”**

Pausing there, Mr. Chair, it seems that you as Chairman, need to, at some point, prepare a draft report for consideration by this Committee.

[Standing Order] 74(4)(d), **“The committee shall then go through its report paragraph by paragraph and Standing Orders 51 (Procedure in committee on Bills) and 52 (Amendments, new clauses and new Schedules) shall, so far as applicable, apply as if the report were a Bill and the paragraphs thereof the clauses of the Bill.”**

Pausing again, it seems to me that we don't go back and draft amendments and then have them considered in the usual way by the committee on Bills but that the report itself, having been agreed, would constitute the relevant agreed amendments to the Bill which is still hanging there.

[Standing Order 74(4)]

- (e) **“Upon the conclusion of the consideration of the report paragraph by paragraph and when any proposed new paragraphs have been considered the chairperson shall put the question ‘That this report be the report of the committee to the House’”.**
- (f) **The report of every select committee shall be signed by the chairperson and Members thereof.**
- (g) **The report finally to be adopted shall be such as is agreed upon with amendments, if any, by all the Members of the committee or, failing unanimous agreement, by a majority thereof.**
- (h) **A Member of a select committee dissenting from the report [this is what I think we used to call the minority report] of a majority of that committee may, by its leave, put in a concise written statement of that Member's reasons for such dissent, and such statement shall be appended to the report.**

[Standing Order 74(5)], **“The report or special report together with a copy of the minutes of proceedings of a select committee shall be presented to the House by the chairperson or other Member of the committee acting on the chairperson's behalf, and shall be recorded in the minutes of proceedings of the House as having been so presented and the chairperson or any Member may, forthwith and without notice, move that the recommendations contained therein be adopted, modified or rejected, and if the motion be seconded and unopposed the Presiding Officer may forthwith and without debate put the question thereon.”**

It seems like what is contemplated by the Standing Orders is that once the report is presented to the House by the Chairman or other Member of the

committee, there then is a motion for that either be adopted, modified or rejected. So it seems that there would then be the opportunity for another debate on the report itself. If that happens well it happens, if it doesn't, then the Presiding Officer would forthwith and without debate, put the question thereon.

Hence Mr. Chairman, I think the next logical [step], even though it's not set out here, is that these amendments which are agreed upon would then form the basis for amendments to the Bill; and you—in your other capacity as the Attorney General—would have the usual leave to make the necessary changes, if there are any, to the Bill to effect the will of this Select Committee and by extension the House.

If I am wrong in any respect, Mr. Chairman, I am sure you'll point it out, but I want us to try to understand the process that we are about to engage in before we are all over the place.

The Chairman: Thank you, Honourable Member.

I wouldn't say that you are wrong. I think what you outlined there is a little bit further down the road leading to the compilation, if I will, of the report itself but before I leave that I invite you to look at Standing Order 53(3) and see whether you can gain any assistance from what you referenced earlier about the Bill being reported back.

If you look at Standing Order 53(3) it says, **“When a Bill has been reported from a select committee, the House shall proceed to consider the Bill as reported from the select committee upon a motion ‘That the report of the select committee on the..... Bill be adopted’ and, if the motion is approved, the Member in charge of the Bill may either ask [and that's the operative section] for the House to proceed to the third reading forthwith, or may name a later day.”**

Then you have [Standing Order 53(4)], **“To the motion ‘That the report of the select committee and the..... Bill be adopted,’ an amendment may be moved by any Member either to—**

- (a) leave out all the words after the word ‘That’ and insert the words ‘the Bill be recommitted to a committee of the House’; or [as the case may be]**

Translation: It is possible for the Bill to leave this Select Committee and be recommitted to a committee of the whole House on Bills, again. There is a possibility; as incongruous, convoluted and circular as it seems, but that possibility is alluded to here.

What I wanted to get at in terms of the direction of travel, the Honourable Premier mentioned Standing Order 72(6) and this is in response to the Honourable Minister of Tourism about the scope of what can be discussed by a select committee on a Bill that [has been] referred to it.

In addition to that, my reading is that you can twin that provision with Standing Order 50(2) which

deals with the ordinary committee on Bills, and for obvious reasons. [Standing Order] 72(6) speaks about what can be done and, for the [benefit] of the public, it speaks to **“The deliberations of a select committee shall be confined to the matters referred to it by the House, and to any extension or limitation thereof made by the House and, in the case of a select committee on a Bill, to the Bill committed to it and relevant amendments.”**

When you read that together with section 50(2) this section that we are familiar with, it says **“A committee may make such amendments and additions to a Bill as are relevant to its subject matter but where a committee desires to make any amendment or addition which is not within the title of the Bill, it shall amend the title accordingly and shall report the fact specially to the House”** and I say that because—

Hon. Sir Alden McLaughlin: Mr. Chairman which Standing Order is that?

The Chairman: Section 50(2).

Hon. Sir Alden McLaughlin: Okay, got it.

The Chairman: I say that because in the normal course when the Bill is submitted to committee you have wide berth [*sic*] to discuss the various clauses, suggest amendments, *et cetera* and those are dealt with. When it goes to select committee, there are no less restrictions, as a matter of fact, if you ask me it's probably a much wider berth [*sic*] when it goes to select committee.

Therefore it follows, that in this setting there is the opportunity to go through the clauses of the Bill and the Bill itself, review the Bill as said here, and for Members to make suggested amendments, suggested tweaking or whatever it is, and if all of that is approved by this Committee it would then be captured in a report which is then reported to the House and of course the House has the final imprimatur.

Hon. Sir Alden McLaughlin: Mr. Chairman, I had just come around to what I thought was your earlier position which is Standing Order 74(3) and (4) which I read at some length. I mean, 74(3) begins **“a select committee may make a [special] report”** so

Initially, when I heard your presentation, I thought that you were suggesting that there was a choice between using the process set out in Standing Order 74 or the one set out in Standing Order 51. I thought what you were advising was that we can avoid a report, and just agree the amendments here and that, by virtue of the Standing Orders the Bill—assuming there were amendments— would be amended in accordance with those, rather than this convoluted process which is set out in [Standing Order] 74.

However, it seems to me that you are saying we need to use both sets of Standing Orders? If so, I am not quite sure how that is going to work.

The Chairman: I don't know if other Members have any views about what we were just discussing here? This is all new to us but...

The Premier, Hon. G. Wayne Panton: Mr. Chair, with your permission, as I noted earlier, we have not had the benefit of much practise in the operation of the Standing Orders in relation to Select Committees [on Bills] because it so rarely used.

[Inaudible interjection]

The Premier, Hon. G. Wayne Panton: In this case, it is clear that you can have a select committee which is in respect of a matter and the House can prescribe what it wants the select committee to consider, or you can have a select committee just on a Bill.

It is that provision that was exercised in relation to this Gambling (Amendment) Bill, 2022 and then [Standing Order] 72(6) gives us clarity in the case of a select committee on a Bill, which is the last line of that provision, the committee should be doing which is considering matters in relation to the Bill committed to it and relevant amendments. The first line of it of course, relates to if it was a committee in relation to some other subject matter that the House wanted the committee to consider. It is not that, it is just a committee on a Bill.

The Chairman: Premier, not to cut you, we have an example of that where years ago this Body considered a Private Members' Motion dealing with gambling. That was a *matter*, not a Bill.

The Premier, Hon. G. Wayne Panton: So it seems to me sir, as you have outlined through the provisions of Standing Order 70(4) and Standing Order 50(2) which talks about the function on a committee on Bills but there is another one.

[Pause]

The Premier, Hon. G. Wayne Panton: I don't remember the exact Standing Order, but as you read through those what was clear is that we have two courses of action open to us. One is, having had the report on the Bill, which I think is necessary in all cases, Standing Order 70(4) to report—

[Inaudible interjection]

The Premier, Hon. G. Wayne Panton: Not 72(6). I was speaking in relation to the Standing Order which allows the report... I think it is 53(3), yes. **“When a Bill has been reported from a select committee, the House shall proceed to consider the Bill as reported from**

the select committee upon a motion “That the report of the select committee on the.....Bill be adopted” and, if the motion is approved, the Member in charge of the Bill may either ask for the House to proceed to the third reading forthwith or may name a later day.”

[Inaudible interjection]

The Premier, Hon. G. Wayne Panton: [Standing Order] 53(4) reads: **“To the motion ‘That the report of the select committee on the.....Bill be adopted’, an amendment may be moved by any Member either to —**

- (a) leave out all the words after the word ‘That’ and insert the words ‘the Bill be recommitted to a committee of the House’; or
- (b) add at the end of the question the words ‘and that the Bill be recommitted to a committee of the whole House in respect of.....(a particular part or parts...)’”

Therefore it seems that we do need to have a report with respect to the Bill, which is the purpose for which the Bill has been committed to the Select Committee and at the end of that we may:

- Have a proposal to send the Bill directly to third reading; or
- Have a motion from anyone which recommits it to Committee Stage considerations.

The Chairman: Thank you, Premier; and that's all fine, but we haven't reviewed of the Bill yet.

The Hon. Sir Alden McLaughlin: Mr. Chairman, just to make sure— it is clear, I think the Premier has conceded that or said that.

If you look at Standing Order 49(1) and then 49(2) which says **“When a Bill has been referred to a select committee, no further proceedings shall be taken thereupon until the select committee has presented its report to the House”**. So a report has to come from this Committee. I think that's beyond question now.

The Chairman: Thank you.
Minister of Tourism.

Hon. Kenneth V. Bryan: Thank you Mr. Chair.

I think [we] recognise that a report will have to be done, the substance of which will obviously be the deliberations and views of each Member with respect to the topic; and I think we recognise per the Standing Orders, that there is a reasonably “wide berth” *[sic]* with respect to the discussion outside of the particular clauses themselves.

After the evidence given today, I think we recognise that the one missing component is the lack of consultation of the people's views in deciding to go forward because we have to recognise that constitutionally, the process is that a Government will:

- Discuss through Caucus;
- Agree to a Bill;
- Carry a Bill to Cabinet;
- Agree to it in Cabinet;
- Gazette the Bill;
- Go out to public consultation; and
- Though the Government has agreed to the position of this Bill, the 28-day period allowed each Member of Parliament to reflect back with their people.

Obviously, the fact that we are here now, in a Select Committee of the whole House is a reflection that there was no majority agreement as to the current lay of the Bill in support therefore, one would question where is the public involvement, and the acknowledgement of a referendum coming.

The question is inevitably going to be, should this Bill be deferred until after a referendum which is being proposed by the Government is done, which would give all members of this Committee, and of the House itself, a clearer direction as to what the will of the people would be surrounding the changes within it.

At some stage I think it is important that more Members add their voice. That will eventually become a part of the report, but eventually— through you, Mr. Chair— I will be asking for a motion to be considered [on] whether this Bill should be deferred until after a referendum.

The Chairman: Thank you, Honourable Minister. We will, as you rightly said, cross that bridge when we get there—thank you; but eventually it will be a matter for the Committee to resolve whether that should be the report that is sent back to the House.

In terms of the review of the Bill, the usual course in Committee would have been that we go through the Bill clause by clause; but I am sure, unless I am advised otherwise, that there is nothing to prevent me from asking whether there is any particular provision in the Bill itself that Honourable Members wish to move straight to at this stage, or whether you want me to deal with the Bill as if it was in the committee of the whole House.

Hon. Kenneth V. Bryan: Mr. Chair, if I were to be unsuccessful in that attempt, there is one clause that I think can be amended and that's in the short title and commencement, clause 1(2) which says, "**this Act shall come into force on such date as may be appointed by Order made in Cabinet.**" I would suggest an amendment to say that, "This Act shall come into

force on such date as may be appointed after a referendum by the people"— and you can add the Cayman Islands just for clarity.

Hon. W. McKeeva Bush: Mr. Chairman, if you have the set of amendments that I Tabled, you would note that they begin with clause 1. While that was Tabled, I thought we would begin there.

The Chairman: Can I ask whether Members have your amendments?

Hon. W. McKeeva Bush: They should; they were passed out.

[Pause]

The Chairman: Can I just say, Honourable Member for West Bay [West] that what you are proposing here, your beginning, you are starting with clause 2, really. Minister Bryan...

Hon. W. McKeeva Bush: *That the Bill be amended by inserting immediately after clause 1 the following clause.*

The Chairman: So you're picking up after clause one. Minister Bryan is...

Hon. W. McKeeva Bush: I need your guidance on that aspect of it.

The Chairman: Minister Bryan is interested in discussing clause 1.

Hon. W. McKeeva Bush: And if his [amendment] is such, then what happens to my amendment? Does it still have a chance to be voted for or against?

The Chairman: We will go through all the discussions, Honourable Member, we were just trying to take them in order of the various clauses. We will get to your discussion draft [and] that would be Clause 2. And in effect, what you are proposing here if I understand it is a new clause? Ms. Julie[sic], [Honourable Member for Cayman Brac East] is it in effect a new clause?

[Pause]

The Chairman: Minister Bryan.

[Pause]

The Premier, Hon. G. Wayne Panton: Mr. Chair, I know the Member has stepped out, but just for clarity one question would be: A provision which either doesn't have a date, or a typical commencement provision, which would be that it would commence by Order of Cabinet, is there any question around uncertainty or a

similar concept in relation to a future event which hasn't happened [and] might not happen, for one reason or another?

[Inaudible interjection]

The Premier, Hon. G. Wayne Panton: I am not speculating as to what reason it would be, I am just saying there is uncertainty because it hasn't happened yet.

The Chairman: Thank you, Honourable Premier. Well, Members heard... Minister Bryan, can I impose upon you to articulate the suggested amendments that you want to be discussed?

Hon. Kenneth V. Bryan: Thank you, Mr. Chair. My suggestions were to amend the short title and commencement [clause] 1(2) which currently says, "**This Act shall come into force on such day as may be appointed by Order made by the Cabinet.**" I am suggesting the amendment to say, "This Act shall come into force on such date as may be appointed by Cabinet after a referendum on the subject matter of the Gambling Bill."

The Chairman: Thank you, Honourable Minister. Members heard the proposed—

Hon. W. McKeeva Bush: Mr. Chairman.

The Chairman: Members heard the proposal. Does anybody wish to speak on it?

Hon. W. McKeeva Bush: Yes, Mr. Chairman, just a question, and I am gonna ask Members to please speak into the mic; you're not in Sunday school, please talk loud enough so we can hear on this end. And Mr. Chairman, no insult to you but please speak into the mic, because you speak softly— but you carry a big stick, I know.

[Laughter]

Hon. W. McKeeva Bush: Mr. Chairman, for my edification: There are matters going to a referendum.

According to what the Minister is proposing, it gives it a different title, right, and says what must happen, but we don't know what is going to happen in the referendum. Am I right? So how do you propose the Bill? While it is a good proposition, I would think that would come after the referendum and a Bill is proposed at that time.

The Chairman: Member, can I just clarify that the Chair is not answering these questions. I am facilitating these questions. I mean, I know you are directing them at me but...

Hon. W. McKeeva Bush: Through you, Mr. Chairman.

The Chairman: Thank you very much.

Hon. W. McKeeva Bush: Yes, no, unless I'm directing asking you. I have been here long enough to ask you directly, but when I speak it is to ask one of the Members of Cabinet because, really, it is a Cabinet position that he is asking to be changed.

The Chairman: Thank you, Member. To go back to the beginning, the Honourable Member proposed the amendment so I was going to ask him whether he wishes to elaborate on what he said.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair. I am glad to elaborate.

I see that the Member for West Bay West is having difficulty with what I proposed by way of understanding how it would work, so I am going to try to elaborate.

There are two parts to this: One, you heard me propose that we should just put the Bill aside, period, rather than making any amendments and come back to Parliament once the referendum has happened. There is still a possibility of just saying put the Bill on hold.

Hon. W. McKeeva Bush: Sorry, Mr. Chairman; you are asking firstly for that to be done? Is that what you are saying?

Hon. Kenneth V. Bryan: No, sir.

Through you, Mr. Chair: What I suggested was that it is at my disposal and I will reach for that option available to me as a member of this Select Committee, if necessary; but in the interim, when you raise the point of any particular part of this Bill, which is the clauses that I seek to amend, then I went straight to the very first one which suggests the amendment that I proposed, which ultimately means the same thing, but in two different routes, if I dare say.

To resolve the issue of the question asked about but what happens if the referendum says one way or the other. I would like to elaborate on that by saying that if the referendum comes back in favour of a national lottery, which in my view is very similar and has the opportunity to assume that it is also talking about numbers— because they are practically the same thing, with just a different ratio of outcome— that if it does come in favour of allowing that, then it gives the Government the opportunity to figure out how they're going to implement that, and whether or not at this particular point these changes for increasing penalties are worth doing.

If it does not come back in favour for a national lottery, i.e. numbers, then the Government can implement it right away because that would be a signal from the people to say, whether it has been accepted or not, that they still feel strongly, they still believe, there should be a penalty for this illegal activity, and therefore the Government can enact by the will of the people.

I think it accomplishes exactly what we are here to do, which is to represent the people's will and if the Government has already agreed to that, I think what we should do is get the date announced so that people know when we are going to do it; put this Bill aside until that day; let the people choose and then we act from there.

I think we are being pre-emptive, if I dare say, and for what reason I cannot understand, because the peoples say and people's will is what we are here to deliver and, again, I am going to try to go at it two different ways and see if I succeed in at least one.

The Chairman: Thank you, Honourable Minister. Any other Member wish to speak on the proposal?

Hon. Sir Alden McLaughlin: Mr. Chairman.

The Chairman: Honourable Member for Red Bay.

Hon. Sir Alden McLaughlin: I do believe that we do need to hear now from the Premier on this issue. This is a fundamental point. I didn't intervene earlier because I wanted to hear what Minister Bryan had to say and to determine whether the Government has changed its position, but since no one else spoke, I thought I need to raise this point because it's a constitutional and very fundamental point.

The Government published the Gambling (Amendment) Bill, 2022 on the 7th November, 2022. I do believe that we are all entitled to presume that the proper processes for the approval of this Bill by Cabinet for transmission to this House for consideration have been followed.

Section 44 of the Constitution, which establishes a Cabinet in and for the Cayman Islands, provides in subsection (3) **"The Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government except those matters for which the Governor has special responsibility under section 55,—and then Mr. Chairman, the critically important bit—and the Cabinet shall be collectively responsible to the Legislative Assembly—for which we now read Parliament—for such policies and their implementation.**

This, Mr. Chairman, which I need not school you on, embodies, codifies, the principle of collective responsibility of Cabinet. Hence, the Cabinet has collectively decided that this Bill, in this form, should come to this House. It was presented, it was debated and it was then sent to Select Committee—nothing wrong with that; but the Government now needs to indicate whether or not it still stands by this Bill, for it has one of its principal Ministers having articulated a position which I think is entirely reasonable and should be taken into consideration, and I certainly support.

However, we really can't proceed without an indication from the Government as to whether or not they

have now collectively changed their position. I don't think we can go further in this Committee until such has been done.

Hon. Kenneth V. Bryan: Mr. Chair.

The Chairman: Thank you, Member for Red Bay. Honourable Minister of Tourism?

The Premier, Hon. G. Wayne Panton: Mr. Chair.

The Chairman: Premier.

The Premier, Hon. G. Wayne Panton: Thank you.

Mr. Chair, the Member for Red Bay has noted the constitutional issues under Section 44. I do think that there is a matter that we need to get clarified not necessarily on the view of Cabinet on the Bill as a whole, but a question has been raised around this particular commencement provision and it is something that we need to have a further discussion on.

At this point, I am not able to indicate anything further in terms of the Government's position until we do that, so I would suggest that we adjourn for a subsequent date which will give us an opportunity to clarify this particular point.

The Chairman: Thank you, Honourable Premier.

For what it's worth, can I just indicate that I— and I am subject to correction—haven't read or understood the Minister to be saying that he is against the Bill or has a change of heart. What he is proposing is an amendment to the Bill as to the timing of the commencement of any legislation that is agreed.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair. Considering the fact that principal discussion seems to be around me, I could potentially—

The Chairman: Honourable Minister.

Hon. Kenneth V. Bryan: Thank you, Mr. Chair.

It is quite saddening that we have come to this point now where it is trying to seem rather political. I see the Member for Red Bay trying to either create controversy between myself and my Government by way of suggesting that I have constitutionally moved away from my Government's position, but I don't recall us taking a vote, at least not yet.

I question whether we recognise the purpose of this Select Committee. If we are not here to make an amendment to the one thing that we have agreed to, does any Member of Cabinet making a proposal for an amendment then, as such, suggest that we are moving away from collective responsibility? Is that what we are saying, or are we discussing it, because the freedom and ability to have a discussion and debate about the Bill has to be established in the Select Committee. Otherwise, therefore, if no Member would say, *I am going*

to change the Bill at all, then there is no point of having a select committee in the first place.

Hon. W. McKeeva Bush: Mr. Chairman, just as a Member of the House but with some knowledge.

The Chairman: Thank you, Member for West Bay West.

Hon. W. McKeeva Bush: I think the Premier is right for the sake of the Government, and if I were the Members of Cabinet, I would jump at that, to have that discussed within themselves because, regardless of whatever is said, when a Bill comes here, it is the Bill of the Cabinet and there is a collective responsibility, you cannot get away from that, which is a constitutional position. So I think the Premier is right in saying let's get another date and they will have time to discuss amongst themselves because *it is a Cabinet matter*.

The Chairman: Thank you, Honourable Member. Premier.

The Premier, Hon. G. Wayne Panton: Thank you, Mr. Chair.

Mr. Chair, I think it will result in more constructive discussion for us if we do adjourn at this point and come back on a subsequent date. It's not just around the issue of an amendment. I think it goes a little wider and it requires us to have clarity.

As I said several times previously, part of the problem is [that] obviously probably very few, if any of us, have any experience with the Select Committee process; and of course, we have recognition that the Standing Orders are also in need of updating, so we have a number of factors that are working against us in terms of us having clarity around the way forward here. I think it will be very instructive and helpful for us to have a discussion and then also take the opportunity to be very clear about the process.

Mr. Chair, I would move the adjournment.

[Pause]

The Premier, Hon. G. Wayne Panton: Mr. Chair, I think the safest course of action is for me to move the adjournment to a date which is to be decided by yourself as Chair of this Committee and that way we can work out what is the most appropriate, convenient date. I know that Members of the Opposition indicated that they had certain dates that they were concerned about as well, which we did give a commitment that we would not hold a meeting over. With that, I so move.

The Chairman: Thank you, Honourable Premier.

In that vein I just bring Members' attention to Standing Order 72(7) which confirms that the proposal about a date to be determined is in order; 72(7) says, "**The first sitting of a select committee shall be held**

at such time and place as the chairman or, if the Presiding Officer has not appointed a chairman, the Member with the longest continuous membership of the House, shall appoint.—and this is the operative aspect, it says—**Subsequent sittings shall be held at such time and place as the committee may determine but if the committee fails so to do, the chairman shall, in consultation with the Clerk of the committee, appoint such time and place.**"

So it is permissible for the Chair and the Clerk to discuss the date, get Members' consensus around it, and then we determine when is the next meeting of this committee, so we adjourn and—

Hon. Sir Alden McLaughlin: Mr. Chairman.

The Chairman: Member for Red Bay.

Hon. Sir Alden McLaughlin: Thank you sir. If I can just indicate that Members of the Opposition will be unavailable from 29th January to the 4th of February.

The Chairman: 29th January...

Hon. Sir Alden McLaughlin: To 4th February.

The Chairman: January 29th to 4th February. Thank you, Honourable Member. Noted.

So we adjourn, Members. Thanks again for coming. Thanks to the Clerk. Thanks to persons at GIS who are assisting with covering this. Thanks to members of the public who have been following. Thank you all and have a good evening.

Thank you.

At 4p.m. the Select Committee on Gambling (Amendment) Bill, 2022, adjourned sine die.