



PARLIAMENT
OF THE CAYMAN ISLANDS



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OFFICIAL HANSARD REPORT

Third Meeting of the 2023/2024 Session
First Sitting

Monday
26 February, 2024
(Pages 1-32)

Hon. Sir Alden McLaughlin
Speaker

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PRESENT WERE:

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

MINISTERS OF THE CABINET

Hon. Juliana Y. O'Connor-Connolly, JP, MP	<i>Premier</i> and Minister of Finance, Education and District Administration & Lands
Hon. André M. Ebanks, MP	<i>Deputy Premier</i> , Minister of Financial Services & Commerce and Investment, Innovation & Social Development
Hon. Johany S. Ebanks, MP	Minister of Planning, Agriculture, Housing, Infrastructure and Transport & Development
Hon. Kenneth V. Bryan, MP	Minister of Tourism & Ports
Hon. Sabrina T. Turner, MP	Minister of Health & Wellness and Home Affairs
Hon. Katherine A. Ebanks-Wilks, MP	Minister of Sustainability & Climate Resiliency
Hon. Isaac D. Rankine, JP, MP	Minister of Youth, Sports and Heritage
Hon. Dwayne S. Seymour, OCI, JP, MP	Minister of Border Control & Labour and Culture

EX OFFICIO MEMBERS OF THE CABINET

Hon. Franz I. Manderson, MBE, Cert Hon, JP	<i>Deputy Governor</i> , ex officio Member responsible for the Portfolio of the Civil Service
Hon. Samuel W. Bulgin, KC, JP	<i>Attorney General</i> , ex officio Member responsible for the Portfolio of Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon. Heather D. Bodden, OCI, Cert. Hon., JP, MP	<i>Deputy Speaker</i> , Parliamentary Secretary to Tourism <i>and</i> Social Development, Elected Member for Savannah
Hon. W. McKeeva Bush, JP, MP	Elected Member for West Bay West
Mr. Bernie A. Bush, MP	Elected Member for West Bay North

OPPOSITION MEMBERS

Hon. Roy M. McTaggart, JP, MP	<i>Leader of the Opposition</i> , Elected Member for George Town East
Mr. Joseph X. Hew, MP	<i>Deputy Leader of the Opposition</i> , Elected Member for George Town North
Mr. Moses I. Kirkconnell, OBE, JP, MP	Elected Member for Cayman Brac West and Little Cayman
Ms. Barbara E. Conolly, JP, NP, MP	Elected Member for George Town South
Mr. David C. Wight, JP, MP	Elected Member for George Town West

INDEPENDENT OPPOSITION MEMBERS

Mr. Christopher S. Saunders, MP	Elected Member for Bodden Town West
Hon. G. Wayne Panton, JP, MP	Elected Member for Newlands

OFFICIAL HANSARD REPORT
THIRD MEETING OF THE 2023/2024 SESSION
MONDAY
26 FEBRUARY, 2024
11.24 A.M.
First Sitting

[Hon. Alden McLaughlin, Speaker, presiding]

The Speaker: The Third Meeting of the 2023/2024 session of the Parliament of the Cayman Islands is now convened.

I will call upon the Minister for Newlands to grace us with prayers.

PRAYERS

Hon. G. Wayne Panton, Elected Member for Newlands: Thank you, Mr. Speaker. Good morning to all colleagues. Let us pray:

Almighty God, from whom all wisdom and power are derived: We beseech Thee so to direct and prosper the deliberations of the Parliament now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy Name and for the safety, honour and welfare of the people of these Islands.

Bless our Sovereign, King Charles III; William, Prince of Wales; and all the Royal Family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Premier, the Speaker of the Parliament, the Leader of the Opposition; Ministers of the Cabinet, ex officio Members, Members of the Parliament; the Chief Justice and Members of the Judiciary that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.

Let us say The Lord's Prayer together:

Our Father, who art in Heaven, Hallowed be Thy Name. Thy Kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, the power and the glory, forever and ever. Amen.

The Lord bless us and keep us. The Lord make His face shine upon us and be gracious unto us. The Lord lift up the light of His countenance upon us and give us peace, now and always.

Amen.

The Speaker: Thank you. Please be seated.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: None.

**READING BY THE HONOURABLE
SPEAKER OF MESSAGES
AND ANNOUNCEMENTS**

The Speaker: None.

PRESENTATION OF PETITIONS

The Speaker: None.

The Premier, Hon. Juliana Y. O'Connor-Connolly, Minister of Finance, Education and District Administration & Lands, Elected Member for Cayman Brac East: Mr. Speaker.

The Speaker: Madam Premier?

Suspension of Standing Order 14(1)

The Premier, Hon. Juliana Y. O'Connor-Connolly: Thank you, Mr. Speaker, for your indulgence.

By virtue of Standing Order 86, I would move a Motion for the suspension of Standing Order 14(1) to allow the change of the business on the Order Paper so that the Government could make an important national statement.

The Speaker: The Motion has been duly moved. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 14(1) suspended.

**STATEMENT BY THE
HONOURABLE PREMIER**

The Speaker: Please proceed, Madam Premier.

Ed Bush Stadium Shooting

The Premier, Hon. Juliana Y. O'Connor-Connolly: Thank you very much, Mr. Speaker and Honourable Members of this House.

Mr. Speaker, I, like the rest of our community, am deeply troubled by the horrific shooting incident which took place at the Ed Bush Stadium last night, Sunday, the 25th of February, 2024, leaving several persons being treated for serious injuries at George Town Hospital. We are appreciative of the actions taken by the Royal Cayman Islands Police Service (RCIPS), first responders, medical professionals and many bystanders, who charged into danger and saved lives.

The Government conveys our deepest sympathy and fervent prayer for all those affected by this unfortunate incident. While our law enforcement and intelligence professionals continue to gather the facts, we appeal to all members of the community who witnessed the incident, to come forward and provide information. Anyone with information is urged to contact the RCIPS.

Mr. Speaker, as all Members would now be cognisant of, I have convened an emergency meeting with all Members of Parliament and relevant government officials at 1.30 p.m. today, which will be followed by a press briefing at 3.00 p.m. to further update the public. This level of violence is not normal in our beloved Cayman Islands, and will not be tolerated by any Member. The Government fully supports the RCIPS and all its efforts to ensure a safe and secure Cayman Islands.

May God grant us a shared vision and resolute strength to stand together as we address issues of safety and security in our communities in the face of this brazen violence.

I thank you, Mr. Speaker.

The Speaker: Thank you, Madam Premier. A very grave matter, indeed.

I recognise the Honourable Leader of the Opposition.

Hon. Roy M. McTaggart, Leader of the Opposition, Elected Member for George Town East: Thank you, Mr. Speaker.

Mr. Speaker, on behalf of the Opposition I want to thank the Premier for the statement she just delivered to this honourable Parliament.

Mr. Speaker, everyone is saddened, and deeply concerned with regard to the events that unfolded last night. I wish to assure her, her Government, and the Cayman Islands' people, that we share those concerns.

We support all the efforts that will be expended to ensure that we bring this matter to a conclusion, and the right people are soon brought to justice so that a state of calm can be returned to these three Islands. At

this point, I want to give you assurances of our support as well, Madam Premier.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Leader. Madam Clerk.

PRESENTATION OF PAPERS AND OF REPORTS

THE CONDITIONAL RELEASE BOARD – ANNUAL REPORT 2018-2022 - OFFICE OF THE DEPUTY GOVERNOR – CAYMAN ISLANDS GOVERNMENT

The Speaker: I recognise the Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, thank you.

I beg to lay on the Table of this honourable House, the Annual Report 2018-2022 for the Conditional Release Board.

The Speaker: So ordered.

Does the Honourable Member wish to speak thereto?

The Deputy Governor, Hon. Franz I. Manderson: Yes, Mr. Speaker. Given what the Premier just said, I think it's very important to give some details about the work of the Conditional Release Board as it plays a key role in our security.

Mr. Speaker, the Annual Report of the Conditional Release Board for the period spanning 2018 to 2022 aims to comprehensively encapsulate the activities and outcomes during the time frame. Over the past seven years, the Conditional Release Board has played a crucial role in decisions relating to the conditional release of prisoners on licence, both for determinate and life sentences, as well as the review of cases where licences are suspected to have been breached.

Mr. Speaker, the Conditional Release Board is comprised of dedicated lay members from across the Cayman Islands community who have worked tirelessly, in collaboration with various government agencies and private enterprises, to fulfil their statutory obligations. I extend my heartfelt gratitude to our partner agencies, especially during the challenging times of the COVID-19 pandemic, when their support has been invaluable.

Mr. Speaker, I would like to take a moment to acknowledge and express our belated gratitude for the significant contributions of Mr. Richard de Lacy, Q.C., and Mrs. Deborah Prendergast. Mr. de Lacy served as the first Deputy Chairman, providing invaluable experience until his passing in July 2017. Mrs. Prendergast has been the Board's dedicated administrator since its

inception, playing a crucial role in ensuring the efficiency of the operations of the Board.

Mr. Speaker, the workload of the board has seen consistent increase over the years, highlighting the importance of focusing on proper offender management and rehabilitative services. The Board recognises the positive correlation between the availability of support networks and the success of offenders upon release; however, the inadequacy of residential support facilities remains a significant concern, contributing to challenges in successful reintegration.

It is crucial to understand that those serving custodial sentences represent a diverse population with varying motivations, needs, and risks. Instead of opting for tougher sentences, the board advocates a holistic approach that addresses the root causes of offending behaviour and emphasises rehabilitative programmes and post-release support.

Mr. Speaker, allow me to share some of the statistics from the Board's operations.

Applications	2018	2019	2020	2021	2022
Total	64	75	75	66	76
Granted	45	51	39	31	34
Refused	5	8	16	10	12
Deferred	8	21	21	24	30
Licence reinstated	3	1	3	1	1
Licence revoked	3	10	5	13	9

In conclusion, Mr. Speaker, the Conditional Release Board emphasises the importance of understanding custodial sentences beyond mere warehousing of offenders. The Board advocates for proper investment in rehabilitative programmes, measures to combat drug usage in custody, and increased post-release support. A commitment to addressing the root causes of offending behaviour will undoubtedly benefit the entire Cayman Islands community.

I thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Deputy Governor.

Madam Clerk.

MINISTRY OF HOME AFFAIRS – CAYMAN ISLANDS GOVERNMENT – ANNUAL REPORT 2021

The Speaker: I recognise the Honourable Minister of Health and Wellness.

Hon. Sabrina T. Turner, Minister of Health & Wellness and Home Affairs, Elected Member for Prospect: Thank you, Mr. Speaker.

In accordance with section 52(8) of the Public Management and Finance Act (2020 Revision), I beg to lay before this honourable House the Annual Report for the Cayman Islands Ministry of Home Affairs for the 12-month period ending the 31st December, 2021.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Sabrina T. Turner: Thank you. Not for this one.

The Speaker: Very well.

MINISTRY OF HOME AFFAIRS – CAYMAN ISLANDS GOVERNMENT – ANNUAL REPORT 2022

The Speaker: I again recognise the Honourable Minister of Health and Wellness.

Hon. Sabrina T. Turner: Thank you again, Mr. Speaker.

In accordance with section 52(8) of the Public Management and Finance Act (2020 Revision), I beg to place before this honourable House the Annual Report for the Cayman Islands Ministry of Home Affairs for the 12-month period ended the 31st December, 2022.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Sabrina T. Turner: Very briefly.

Mr. Speaker, the Ministry of Home Affairs was established with the responsibility for furthering public safety and resilience of the Cayman Islands through continued strategic and operational improvement relevant to national security, emergency response, disaster relief, and offender management services.

The Ministry is responsible for providing policy direction and monitoring the overall performance of its six departments, those being:

- The Cayman Islands Fire Service;
- His Majesty's Cayman Islands Prison Service;
- Department of Public Safety Communications;
- Department of Community Rehabilitation;
- Cayman Islands Regiment; and
- The Cayman Islands Cadet Corps.

Mr. Speaker, as we continue to emerge and evolve from the impacts of the COVID-19 pandemic, Home Affairs remains at the forefront of our social and economic recovery. In the year 2022, we focused on an investment where we were placed to fortify the Ministry of Home Affairs with the resources to systematically review gaps in strategy, policy, and legislation to address

complex issues and ensure it can successfully support the broad remit of the six departments that fall under it.

Over the past two years, Mr. Speaker, Home Affairs' focus included leading reform in public safety by building capability, maximising resources, driving strategic legal, policy, and project initiatives, and enhancing staff wellness. This has resulted in advancements in prison reform, offender management, supporting enhanced based offender rehabilitation and empowerment, improving mental health services in the criminal justice system, and advancing urban search and rescue capabilities and tools.

In strategic efforts to fill gaps and foster partnerships across government, the Ministry of Home Affairs supported the development of six Memorandums of Understanding (MoU) and Service Level Agreements, including strategic partnerships with His Majesty's Prison Service to strengthen the health and rehabilitation services for offenders in prison.

Mr. Speaker, there have been many other accomplishments and much ground-work covered during the reporting period, and this Annual Report reflects the continuous growth of our young Ministry with a critically important remit—and if last night's event doesn't speak volumes, I don't know what else will. Therefore, Mr. Speaker, I encourage Honourable Members to review the Ministry of Home Affairs' 2022 Annual Report in greater detail whenever they have the chance.

Now, moving into 2023 and 2024, the Ministry of Home Affairs strategic directions were further refined into prioritising people development, wellness, national policies, service excellence, partnership and alignment, and public awareness, with the vision to build safer communities through innovative and effective intelligence-led solutions in public safety.

The Ministry of Home Affairs recognises, that as the strategic and operational environments are changing rapidly in these modern times, the Cayman Islands faces an increasingly complex and uncertain set of interconnected threats and risks; therefore, the Ministry will be deliberate in building capabilities, cultivating Caymanian talent and leadership, and investing in technology that positions the Ministry of Home Affairs as an intelligence-led Ministry. The purpose of this shift is to ensure that our policies are, in fact, solutions that are based on a deep and comprehensive understanding of enduring security and public safety issues that are facing our Islands.

Lastly, Mr. Speaker, I would like to recognise the Ministry of Home Affairs on their achievements in 2022, and to publicly thank its six entities for their hard work and perseverance in producing this report; for the audit to be completed, and for receiving an unqualified opinion.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Minister.

2022 ANNUAL REPORT – HEALTH SERVICES AUTHORITY CAYMAN ISLANDS - RECOGNISING THE EFFORTS OF OUR PAST, PRESENT AND FUTURE

The Speaker: I again recognise the Honourable Minister of Health and Wellness *and* Home Affairs.

Hon. Sabrina T. Turner: Thank you, Mr. Speaker.

In accordance with section 52(8) of the Public Management and Finance Act (2020 Revision), I am pleased to lay before this honourable House the Cayman Islands Health Services Authority's Annual Report and Audited Financial Statements for the 12 months ended 31st December, 2022.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Sabrina T. Turner: Thank you, Mr. Speaker.

Very briefly, to publicly thank the HSA Board, and all of the staff for responding to the incident last night. As we go into today, our hearts go out to the victims; to the country as a whole. However, when you look at the front-line staff of all of our uniformed services, and especially the toll that it takes on our medical personnel, who actually run into danger to make sure that our people are safe, it speaks volumes.

I look forward to the outcome of the meeting later at 1.30 p.m., as stated by our Honourable Premier; and definitely to the report of my very competent staff at the Health Services Authority.

The Speaker: Thank you, Honourable Minister.

NATIONAL DRUG COUNCIL CAYMAN ISLANDS - ANNUAL REPORT 2022 – PREVENTION. EDUCATION. POLICY & RESEARCH.

The Speaker: Again, I recognise the Honourable Minister of Health and Wellness *and* Home Affairs.

Hon. Sabrina T. Turner: Thank you, Mr. Speaker.

In accordance with section 24(3) of the National Drug Council Act (2010 Revision), and section 52(8) of the Public Management and Finance Act (2020 Revision), I wish to lay before this honourable Parliament the Annual Report and Audited Financial Statements of the National Drug Council for the period 1st January, 2022 until 31st December, 2022.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Sabrina T. Turner: Thank you, Mr. Speaker. No, I don't, except to publicly express and convey my thanks to the National Drug Council for the role that it

plays; and definitely to the Board of Directors, led by our esteemed Yvette Noble-Bloomfield, for all the work that they continue to do within our community. I just want to publicly thank them.

The Speaker: Thank you, Madam Minister.

OFREG – 2022 ANNUAL REPORT

The Speaker: I recognise the Honourable Minister of Planning, Agriculture, Housing, Infrastructure, Transport and Development. That's got to be a record number of portfolios.

Hon. Johany S. Ebanks, Minister of Planning, Agriculture, Housing, Infrastructure and Transport & Development, Elected Member for North Side: Thank you, sir.

I beg to lay on the Table of this honourable House, the 2022 Annual Report for the Utility Regulation and Competition Office (OfReg).

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Johany S. Ebanks: No, sir. It is self-explanatory.

The Speaker: Thank you, Minister.

MINISTRY OF SUSTAINABILITY AND CLIMATE RESILIENCY – CAYMAN ISLANDS GOVERNMENT – ANNUAL REPORT 2022

The Speaker: I recognise the Honourable Minister of Sustainability and Climate Resiliency.

Hon. Katherine A. Ebanks-Wilks, Minister of Sustainability & Climate Resiliency, Elected Member for West Bay Central: Thank you, Mr. Speaker.

Mr. Speaker, I wish to lay on the Table of this honourable House the 2022 Annual Report for the Ministry of Sustainability and Climate Resiliency.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Katherine A. Ebanks-Wilks: Yes, Mr. Speaker, briefly.

The Speaker: Thank you. Please proceed.

Hon. Katherine A. Ebanks-Wilks: Mr. Speaker, in Tabling this report I am recognising the work of the Ministry which was completed under the former Minister, Honourable G. Wayne Panton, and a large team of staff in the Ministry as well as our departments, and so I felt

it would only be fit for me to speak briefly on the Annual Report.

Mr. Speaker, the Ministry was established by the Cabinet following the 2021 General Election, in order to prepare our country for the complex risks and realities of climate change, and meet the needs of the present without compromising future generations through a balanced approach to environmental stewardship, social development and economic growth. The Ministry provides strategic and policy direction, advice, funding and governance support for environmental protection and enhancement, health and safety measures in preserving the Cayman Islands environment for future generations.

The 2022 Annual Report is the second report of the Ministry, and covers the period from 1st January, 2022 to 31st December, 2022 inclusive. Mr. Speaker, the Office of the Auditor General issued an unqualified opinion on the financial statements of the Ministry for the year ended 31st December. As shown on page 31 of the report, the Ministry ended the year with net assets totalling \$5,654,000 and a surplus for the period of \$507,000.

Mr. Speaker, Members of Parliament are advised that Cabinet authorised the reallocation of \$21,657,088 of the Ministry's entity-approved budget to the executive under section 11(5) of the Public Management and Finance Act (2020 Revision), for exceptional circumstances. This was in relation to the George Town Landfill Remediation Works, which forms part of Executive Assets owned by the Cayman Islands Government.

I will now turn to the Ministry's activities and operations during the period. During 2022 operations, a number of important programmes and projects were initiated by the core Ministry team, as well as by the three departments which the Ministry previously oversaw, but which have now been reallocated to our Honourable Premier's Ministry namely, the Cayman Islands National Weather Service, Hazard Management Cayman Islands and, of course, Department of Environment which remains with the Ministry of Sustainability.

Mr. Speaker, in presenting the 2022 report, I would like to highlight some of the notable activities that were carried out or overseen by the Ministry, none of which I can take the credit for, but I certainly want to highlight them on behalf of the team:

In February 2022, the Ministry launched an ambitious national tree planting project to create a living legacy that was initiated to honour the Queen's leadership and benefits future generations.

In May of 2022, the Ministry hosted a technical stakeholder workshop, a community townhall meeting and public knowledge, attitudes and practices (KAP) survey as part of the climate change risk assessment for the Cayman Islands.

In June 2022, the Ministry received two grants totalling more than \$1.2 million to improve energy efficiency in public sector buildings and Government-built

affordable homes from the Resilience Sustainable Energy and Marine Biodiversity Programme which is often referred to as (RESEMBID).

In collaboration with the Energy Policy Council, the Ministry is leading the five-year review of the National Energy Policy and Implementation Plan. Working alongside a consulting agency, the five-year review will review and assess the current policy, review global best practices, evaluate existing targets, make recommendations for capacity building, and undertake stakeholder engagement and public consultation.

In November 2022, the Government approved duty waivers on several energy efficient devices and building materials, including spray [polyurethane] foam insulation, [polyurethane] foam sheets, low e-film for windows, smart thermostats and smart home energy monitors. In parallel with the Cayman Islands Climate Risk Assessment, a technical working group spearheaded by the Ministry is progressing a parallel work plan for updating the 2011 Draft Climate Change Policy, working closely with the Climate Change Risk Assessment stakeholder group.

In 2022, the Cayman Islands Cabinet approved a Protected Area Management Plan for Meagre Bay Pond in Grand Cayman, a Species Conservation Plan for the critically endangered Sybil's Crownbeard (*Verbesina caymanensis*) plant found only in Cayman Brac, and a Species Conservation Plan for the critically endangered (*Aegiphila caymanensis*) plant, found only in Grand Cayman.

In 2022, the Ministry conducted targeted engagement with private and public sector representatives to progress efforts to prohibit the importation of certain single-use plastic products into the Cayman Islands in collaboration with the Ministry of Border Control & Labour.

The Ministry oversaw Hazard Management Cayman Islands (HMCI). Some of the activities undertaken by the HMCI leadership and staff during this time included:

- Launched the National Emergency Notification System (NENS) mobile app;
- Provided two separate Community Emergency Response Team training sessions in May and August;
- Launched the Internet of Things (IoT) flood sensor project;
- Began the process of setting up a multi-sectoral Hazardous Materials Technical Working Group (HMTWG) to develop a system wide approach;
- Participated in the "Integrating Private Sector on Multi-Hazard Early Warning Systems' Governance and Actions" Conference in Grenada.

The Ministry also oversaw the Cayman Islands National Weather Service (CINWS). Some of the activities undertaken by its staff during this time included:

- Restored the Kearney Gomez Doppler Radar to full working order;
- Continued efforts to reconfigure the site plan for a Cayman Islands National Weather Service Operations and Research Centre in collaboration with the Royal Cayman Islands Police Service— they did much; I'm losing my breath here.
- The 63rd Session of the Caribbean Meteorological Council (CMC6) was hosted by the Cayman Islands Government in November, 2022.
- In 2022 they also developed an on-call schedule for staff to better facilitate the provision of 24-hour weather monitoring and forecasting services.

Mr. Speaker, the Ministry also oversaw the Department of Environment (DoE). Some of the notable activities undertaken by DoE and its leadership included:

- Received approval for an additional 871 acres of ecologically and culturally significant habitats across all three islands;
- The (Alien Species) Regulations, 2022 came into effect under the National Conservation Act;
- A three-year protection plan to strengthen biosecurity in the Cayman Islands;
- DoE also awarded the contract to continue the culling Programme to manage the impacts of highly invasive green iguanas;
- The Grouper Moon Project which celebrated 20 years;
- The Stony Coral Tissue Loss Disease (8SCTLD) response team of DoE staff and intern treated more than 40,000 corals over the course of the year;
- The Joint Nature Conservation Committee (JNCC), supported by the Conflict Stability and Security Fund (CSSF), is supporting the Cayman Islands Government to assess how nature can support disaster resilience.

Going into 2023, the Ministry was keen to progress key activities and initiatives further, including, but not limited to:

- Developing the coastal setback reference line for the Cayman Islands;
- Commencing construction of the National Weather Service (NWS) Headquarters Building;
- Achieving financial close on the ReGen project;
- Producing an updated National Energy Policy;
- Continuing initiatives aimed at the conservation of native species and habitats; and
- Leading the multi-Agency collaboration on Climate Change-related issues.

In closing, Mr. Speaker, I would like to take this opportunity to invite everyone to visit the Ministry's website at www.gov.ky/sustainability/

I would also like to thank everyone who was involved in preparing this Annual Report, and recognise the hardworking staff of the Ministry, their team and our departments, for their contributions to this report.

Thank you.

The Speaker: Thank you, Madam Minister.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: I recognise the Honourable Member for George Town North.

QUESTION NO. 10 HOW MANY YEARS OF USE ARE LEFT FOR THE GEORGE TOWN LANDFILL AT PRESENT RATE

Mr. Joseph X. Hew, Deputy Leader of the Opposition, Elected Member for George Town North: Thank you, Mr. Speaker.

Mr. Speaker, I rise to ask question No. 10 in my name to the Minister of Health, Wellness and Home Affairs. Can the Honourable Minister advise the House as to how many years of use are left at the George Town landfill, if filling continues at the current rate?

The Speaker: The Honourable Minister of Health, Wellness and Home Affairs.

Hon. Sabrina T. Turner: Mr. Speaker, I'm reliably informed that the George Town landfill has approximately 780,000 cubic yards remaining. Based on the current rate of input, approximately 13,000 cubic yards per month, the Department of Environmental Health (DEH) estimates that there are another four to five years of landfill capacity remaining.

With this in mind, the DEH should be able to continue landfilling until construction of the facilities under the waste-to-energy project is completed. If for some unforeseen reason the landfill space was fully used before the waste-to-energy project is completed, then there would be a need to consider another option for landfilling elsewhere at a location not yet considered or determined.

The Speaker: Thank you Honourable Minister. Supplementaries?

Supplementary

Mr. Joseph X. Hew, Deputy Leader of the Opposition: Thank you, Mr. Speaker. I thank the Minister for the answer and all the information provided.

Now they are saying four to five years. If it's going to take three years for construction of the waste-to-energy facility once we have a final contract, we are cutting it close; then there will be some residual landfilling after the waste-to-energy facility has been built. Can the Minister say whether that has been considered? I know you said it has yet to be determined if you have to find another landfill, but do we even believe we have enough space for the residual landfilling once the waste-to-energy plant is completed— or are there plans to landfill somewhere else?

The Speaker: Honourable Minister for Health & Wellness and Home Affairs.

Hon. Sabrina T. Turner: Mr. Speaker, I am more than willing to provide a more detailed response, but based on presentations recently made to myself and my colleagues, there are provisions and space has been identified on the current site, for the residual waste as my colleague alluded to.

The Speaker: Thank you, Honourable Minister. No further supplementaries.

Members, pursuant to the Standing Orders I omitted to ask for the suspension of Standing Order 23(7) and (8), in order for questions to be taken after 11 o'clock. Honourable Premier, would you do the honours, please?

Suspension of Standing Order 23(7) and (8)

The Premier, Hon. Juliana Y. O'Connor-Connolly: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the suspension of Standing Order 23(7) and (8) to allow questions to continue beyond the hour of 11.00 a.m.

The Speaker: The Motion has been moved for the suspension of Standing Order 23(7) and (8), in order that questions may be taken after the hour of 11 o'clock. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended.

QUESTION NO. 11 UPDATE ON THE POINCIANA REHABILITATION CENTRE REGARDING HANDOVER TO THE GOVERNMENT BY THE END OF MARCH 2024, THE EXPECTED OPENING DATE, AND THE NUMBER OF STAFF PRESENTLY HIRED TO OPERATE THE FACILITY

Ms. Barbara E. Conolly, Elected Member for George Town South: Thank you, Mr. Speaker.

Mr. Speaker, I rise to ask the Honourable Minister Question No.11 on the Order Paper standing in my name. Can the Honourable Minister advise...

- (a) Whether the Poinciana Rehabilitation Centre, also known as Long-Term Mental Health Residential Facility, is still expected to be handed over to the Government by the end of March, 2024;
- (b) What is the expected opening date of the facility; and lastly
- (c) How many staff are presently hired to operate the facility after it opens?

The Speaker: Honourable Minister for Health & Wellness and Home Affairs to answer.

Hon. Sabrina T. Turner: The answer, Mr. Speaker:

- (a) The Ministry remains in continued communication with the Project Management Team at Public Works Department regarding the status of ongoing building inspections necessary for the handover of the facility. The last update advised of a fault being detected in the main feeders to three of the cottages during the electrical inspections, which is causing a delay of an additional six to eight weeks, thereby possibly pushing the handover date further into Quarter 2. Building Control Unit inspections remain critical to the handover of the facility.
- (b) As I alluded to, the opening date of Poinciana is contingent on the handover date of the facility to the Ministry, which at this time is possibly pushed out into Quarter 2.
- (c) I am advised that there are presently three staff members, namely: the Director and the two Human Resources (HR) personnel. Recruitment continues across various roles, however, with two senior managers anticipated to commence in March and April. The Director and team are in the process of finalising employment for some of the fifteen nursing roles that will be needed to commence operations. There is a total of 47 budgeted positions for the Poinciana Rehabilitation Centre in 2024, with an additional 15 in 2025.

Additionally, Mr. Speaker, a Trainee Psychiatric Nursing Assistant (PNA) training programme is being developed, which will be offered to Caymanians. The main aim is to provide employment opportunities for Caymanians who desire to work as PNAs at Poinciana Rehabilitation Centre. The reason for the training is due to the limited number of persons on island with this qualification or required skill set. This training will help to develop our local workforce and will provide

them with an opportunity to attain employment in the mental health services locally.

The overview, Mr. Speaker, is a 29-month programme: 5 months entry level training, 8 weeks of theory, 12 weeks of practical, 24 months on-the-job experience.

- Eighteen openings, advertised locally for Caymanians 18-plus years of age
- Certification will be issued at the end of the programme and include:
 - Internal: Poinciana; and
 - External: TVET Allied Health Level 2, First Aid, Customer Service
- Trainee PNAs on-the-job training to be done under supervision of the Registered Psychiatric Nurse and other senior staff.
- Trainee PNAs will assist in delivering therapeutic nursing care and support to residents of Poinciana while encouraging independence and participation.
- The full PNA positions will be advertised in the future and persons who successfully complete the training programme will be encouraged to apply.

Further information and details regarding this programme will be released shortly by both the Ministry and Poinciana.

The Speaker: Thank you, Honourable Minister. Any supplementaries?

Honourable Member for George Town South.

Ms. Barbara E. Conolly: Thank you, Mr. Speaker.

I want to thank the Honourable Minister for that very detailed response to my question and look forward to the opening of our mental health facility in Quarter 2. Thank you.

The Speaker: Thank you, Madam Member.

[Inaudible interjection]

The Speaker: I'm sorry, Madam Clerk. I didn't catch the eye of the Honourable Leader of the Opposition who seems to have a question.

Supplementary

Hon. Roy M. McTaggart, Leader of the Opposition: Sorry, Mr. Speaker.

Mr. Speaker, through you to the Minister: with regard to the PNA Programme, is there a time frame that you're aiming for in terms of rolling it out and having people to enrol?

The Speaker: Honourable Minister.

Hon. Sabrina T. Turner: After publicly mentioning it at an Alex Panton Foundation event last week Saturday, I have been reliably informed that the Ministry is in the final stages of creating the link and having it posted; so, I would say within the next month, if not less.

The Speaker: Thank you, Madam Minister.

Any further supplementaries? If not, Madam Clerk...

QUESTION NO. 12 AMENDMENTS TO THE MISUSE OF DRUGS ACT TO ADDRESS THE HALLUCINOGENIC SUBSTANCES AND AMPHETAMINE DERIVATIVES WHICH ARE NOT CURRENTLY IN THE ACT

The Speaker: I recognise the Honourable Member for George Town West.

Mr. David C. Wight, Elected Member for George Town West: Thank you, Mr. Speaker.

I rise to ask the Minister, Question No. 12, standing in my name. Can the Honourable Minister advise the House when she will be bringing the amendments to the Misuse of Drugs Act to address the “hallucinogenic substances and amphetamine derivatives” which are not currently included in the Act, which she mentioned last year in responding to a question from the Opposition on stricter sentences for the importation and distribution of Fentanyl and other opioids?

The Speaker: The Honourable Minister of Health & Wellness and Home Affairs to answer.

Hon. Sabrina T. Turner: The answer, Mr. Speaker.

The Chief Medical Officer has commissioned the Pharmaceutical Council to advise him on the amendments needed to Schedules 1 and 3 of the Misuse of Drugs Act (2017 Revision).

Schedule 1 of the Act relates to the drugs that are controlled by that Act. Schedule 3 is of increasing importance, in that it deals with substances useful for the manufacturing of controlled drugs— and I am sure that we are all aware of the trends of manufactured drugs when there are effective controls on importation of controlled drugs.

This work is not simple, as in many cases the persons who manufacture synthetic drugs may take a named controlled drug, make a simple small change to the molecule making it, in legal terms, a new chemical, and escape from control under the Schedule 1 list. However, this work is progressing well and we hope to present a revision of the two Schedules to Cabinet for approval under section 13 of the Act, soon.

The Chief Medical Officer advises me that the principal changes are likely to surround certain narcotic substances, especially [the] fentanyl class of drugs which are causing so much devastation in many parts

of North America and certain new amphetamine derivatives that have no recognised clinical utility.

Mr. Speaker, the Chief Medical Officer is also working to identify appropriate definitions for a number of plant-based hallucinogenic alkaloids that we have seen being imported that are not currently listed in the Act. Currently, only psilocin, one of the important psychedelic components of ‘magic mushrooms’ is listed.

The Speaker: Thank you, Madam Minister.

Supplementaries? The Honourable Member for George Town West.

Supplementary

Mr. David C. Wight: Thank you, Mr. Speaker.

At the time, the Minister said the penalties for offences would also be reviewed to ensure they fit the circumstances of the case. Could she indicate what those harsher penalties might be? Thank you.

The Speaker: The Honourable Minister to respond.

Hon. Sabrina T. Turner: Mr. Speaker, because this is actually a work in progress, we’re looking at it from a 360 vision, and under the guidance of our legal counsel. That is part of the exercise as well.

The Speaker: Thank you, Madam Minister.

Any further supplementaries? If not, Madam Clerk.

STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: I have received notice of the wish of the Minister of Planning, Agriculture, Housing & Infrastructure and Transport & Development to make a statement.

Hon. Johany S. Ebanks

Hon. Johany S. Ebanks: Thank you, Mr. Speaker.

Mr. Speaker, Honourable Members of Parliament, on the 16th January, 2024 under section 11(5) of the Public Management and Finance Act (2020 Revision), Cabinet approved \$150,000 in supplementary funding for the management of planning applications.

This will see an increase of the Fiscal Year 2023 for PAH 14 – Management of Planning Applications in the amount of \$150,000; and a decrease in the Fiscal Year 2023 for PAH 01 – Advice and Support to Planning, Agriculture, Housing, Infrastructure, Transport and Development in the amount of \$150,000.

Thank you.

The Speaker: Thank you, Honourable Minister.

Madam Clerk.

PERSONAL EXPLANATIONS

The Speaker: None.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

MERCHANT SHIPPING BILL, 2023

The Speaker: The Merchant Shipping Bill, 2023 is set down for first reading.

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2023

The Speaker: The Local Companies (Control) (Amendment) Bill, 2023 is set down for first reading.

COMPANIES (AMENDMENT) BILL, 2024

The Speaker: The Companies (Amendment) Bill, 2024 is set down for first reading.

CIVIL PROCEEDINGS (CLOSED MATERIAL PROCEDURES) BILL, 2023

The Speaker: The Civil Proceedings (Closed Material Procedures) Bill, 2023 is set down for first reading.

SECOND READINGS

MERCHANT SHIPPING BILL, 2023

The Speaker: I recognise the Honourable Minister of Financial Services to move the Second Reading of the Merchant Shipping Bill, 2023.

Hon. André M. Ebanks, Deputy Premier, Minister of Financial Services & Commerce and Investment, Innovation & Social Development, Elected Member for West Bay South: Thank you and good afternoon, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Merchant Shipping Bill, 2023.

The Speaker: The Bill is accordingly set down for a second reading. Does the Honourable Minister wish to speak thereto?

Hon. André M. Ebanks, Deputy Premier: Yes, Mr. Speaker.

The Speaker: Please proceed.

Hon. André M. Ebanks, Deputy Premier: Mr. Speaker, I rise to present the Bill on behalf of the Government.

The Bill seeks to repeal and replace the Merchant Shipping Act (2021 Revision), (the Act); and satisfies the recommendations from the International Maritime Organization, (the IMO), which had an audit of the Cayman Islands maritime sector in October, 2021. The IMO conducted the audit virtually to ensure the Cayman Islands' adherence to its Instruments Implementation Code, also known as the III Code.

Mr. Speaker, the Bill contains updated provisions that modernise current legislation and brings it in line with international maritime standards and requirements.

Mr. Speaker, as some of the honourable colleagues may be aware, the Merchant Shipping Act was originally enacted in 1997. The Act was based extensively on the United Kingdom's Merchant Shipping Act of 1995, and thus far, revisions have been largely superficial and administrative in nature despite advances in technology and changes in trade patterns, as well as global environmental and safety concerns.

At the same time, Mr. Speaker, the world of maritime regulation experienced significant updates. Among these was the adoption of the III Code by the IMO. This code, which sets the standard for the global maritime sector, requires a jurisdiction's domestic legislation to give full and complete effect to various IMO conventions and compliance is audited on a regular cycle. As the Member State at the IMO, the United Kingdom takes part in audits of the III Code compliance as part of the mandatory Member State audit scheme and, as a UK Overseas Territory, the Cayman Islands is audited as part of that process.

Locally, participation in this audit structure necessitated a revised legal framework to facilitate compliance with international standards, and to safeguard our reputation as a global centre of excellence for the shipping industry. In March 2019, the prior administration established the Cayman Islands National Maritime Strategy III Code Compliance 2020 working group to identify and coordinate all public sector activities necessary to ensure a successful audit.

The need for modern legislation was emphasised in the results of a mock audit that was conducted from June through August of 2019. Work on a draft

modern Merchant Shipping Bill that addressed specific deficiencies commenced subsequently, but was not completed by the time of the audit. Accordingly, when the Cayman Islands received its official audit report in October 2021, modernisation of the merchant shipping legislation was, unfortunately, outstanding.

That said, whilst the results of the audit overall were positive and found that the Cayman Islands was largely compliant in the majority of the areas assessed, it did raise a number of findings related to the legislation and concluded that the Cayman Islands has not always given full effect to the IMO instruments through promulgation of laws, orders and regulations. Specifically, the IMO audit found that although draft legislation was developed, the transposition of the amendments to the applicable mandatory IMO instruments into domestic legislation had not been carried out before they could enter into force internationally.

In simpler terms, Mr. Speaker, the merchant shipping legislation did not reflect the many amendments that needed to be made to bring international conventions for maritime affairs into force in the Islands. These gaps arose because historically, to be able to implement the updates in the maritime conventions, we haven't been able to do it with the same speed and frequency in which they occur. Going forward however, Mr. Speaker, the Bill will ensure that future amendments to existing IMO conventions that have been extended to the Cayman Islands are implemented in a timely fashion. This is done through what is known by ambulatory referencing of the maritime conventions.

Mr. Speaker, an ambulatory reference is a reference in domestic legislation to an international instrument that is interpreted as a reference to that instrument as it may be modified from time to time, rather than to the version that exists at the time the domestic legislation was made. Ambulatory references therefore transpose international provisions without placing additional obligations on a country. A similar approach is taken by the UK and other governments.

Mr. Speaker, the House should bear in mind, however, that even where a convention uses ambulatory references, some level of modification is often required to cover the provisions that are not specified in the convention and may not quite fit locally; for example, provisions related to the penal provisions, and matters of technical interpretation by a Member State and, by extension, the Cayman Islands.

As such, Mr. Speaker, for completeness, I should hasten to add that the use of ambulatory references is not completely new to the Cayman Islands. The existing Maritime Labour Convention was incorporated into the Cayman Islands law and UK law partly in this manner, using a combination of legislation for penal and other provisions, as well as an ambulatory reference to the convention and regulations, and shipping notices. Furthermore, Mr. Speaker, the IMO's Casualty Investigation Code was recently similarly implemented

by way of the Merchant Shipping (Marine Casualty Reporting and Investigation) Regulations, 2018.

Notwithstanding that this is not a new concept, Mr. Speaker, we have included a clause in Part 19 to provide that the Cayman Islands has an opportunity to decide whether it is in the interest of the Islands for an Amendment to an international agreement to have the force of law under our legislation. This was astutely advised by our Honourable Attorney General.

In terms of consultations, Mr. Speaker, as part of the development process, the Ministry of Financial Services and Commerce consulted with and received support from at least twenty stakeholders across the public sector, including those who form part of the original III Code working group.

Mr. Speaker, the Bill we Table today seeks to modernise the Cayman Islands maritime legislative framework, and I now turn to summarise key provisions of the Bill.

Mr. Speaker, the overall thrust of the changes contained in the proposed legislation deals with technical and operational matters, in particular, changes to the preliminary definitions section, and throughout the Bill reflect updates to terminology and to legislation in the global maritime sector. Furthermore, the Bill gives *Force of Law* within the Cayman Islands to the conventions of the IMO that have been extended to the Cayman Islands.

It should be noted, Mr. Speaker, that the Bill mandates a certain basic standard of treatment for personnel on Cayman flag vessels. It codifies seafarers' rights and responsibilities including the right to a written contract and to free food and water. It even outlines the process to be used by the shipping master in determining a wage dispute. Mr. Speaker, with our history of seafaring it should resonate with the whole House that today's modern seafarer around the world, whenever on a Cayman Islands ship, should be treated fairly — a fair day's pay for a fair day's work.

Additionally, the Bill updates maritime surveyors' duties and responsibilities to reflect clearly the requirements of the [International] Convention for the Safety of Life at Sea. Effort was also made to streamline and clarify references to oil pollution liability so that direct reference is made to the Fund Convention, the Convention on Limitation of Liability and the Liability Convention which permits Cayman's legislation to reflect changes at the IMO with regards to the limits of liability and therefore available compensation.

Mr. Speaker, in terms of the control of persons on ships, the Bill provides for a person to be arrested under the master's power of arrest, and to approach the ship master to consider if arrest was appropriate. It also clarifies and updates the procedure for reporting births and deaths on a Cayman flagged vessel. As with the previously cited international conventions, the Bill has also been updated for various other international conventions on liability. This is expected to contribute to significant streamlining and clarity.

Mr. Speaker, the Bill also enhances and streamlines Cabinet's regulation-making power with regard to various sections throughout the Bill, including the power to implement certain specified international agreements.

Mr. Speaker, for clarity, offences are now split up into:

- Piracy and armed robbery— now clearly determined to be punishable by life imprisonment
- Hijacking and other acts endangering or likely to endanger safe navigation,
- Destroying or endangering safety and ancillary offenses; and
- Seizing or exercising control of fixed platforms.

This is the first time that fixed platforms have ever been referred to in local legislation.

The Bill also clarifies the powers of various enforcement officers, surveyors, inspectors and accident investigators.

Mr. Speaker, there are now considerable changes to the procedure for the issue of improvement and prohibition notices; and for detaining of ships, which has been included in this section— after previously being in multiple parts of the existing Act, they have now been consolidated. There's also much more of a developed process for complaints about such actions including detailed arbitration and compensation provisions.

Mr. Speaker, the Bill clarifies the specific role of the responsible Minister and the Chief Executive Officer of the Maritime Authority. There is a new provision on the Chief Executive Officer's discretionary powers where an international agreement is extended by the UK requiring a determination to be made. As I mentioned earlier, Mr. Speaker, the Bill stipulates a process by which both international agreements and UK legislation may be extended to the Cayman Islands, as well as a provision that should this not be deemed in the best interests of the Cayman Islands, it may not be adopted.

Mr. Speaker, there's no way to sugar-coat this. The Bill is massive not just in terms of what it means for international maritime standards, but its physical size. The Bill is arranged in 19 parts with a total of 466 clauses of comprehensive and intensely technical international maritime provisions, hence I deliberated on the most effective presentation. It would not do the Bill justice to present a cursory summary purely for the sake of brevity; but on the other hand, it probably would not do it justice if I recited every single one of the 466 clauses.

I would risk not just losing your attention, or the attention of Members, but more importantly, Mr. Speaker, as a practical matter, I would probably run out of time in two hours; therefore, the approach I adopted, Mr. Speaker, is to give a sufficient summary of the 19 parts to give the Members, yourself, and the listening public, an informative overview of the specific aims and

objectives of the Bill's clauses— and then close the presentation.

With that, Mr. Speaker, I don't know, in terms of time, if you're thinking of breaking for lunch now, or shall I proceed to summarise the 19 parts of the Bill?

The Speaker: Honourable Minister, this might be impossible, but can you guesstimate how long your presentation will be?

Hon. André M. Ebanks, Deputy Premier: To summarise the 19 parts of the Bill I would suggest, probably, thirty minutes.

The Speaker: Then, I think we need to take the lunch suspension now.

As the Honourable Premier has indicated, there is a very important meeting pertaining to last night's shooting, followed by a press conference; so, I propose we take the lunch suspension now for us to return at 4.15 p.m. to make up the hours we've lost.

Hon. André M. Ebanks, Deputy Premier: Thank you.

The Speaker: Before we suspend, I want to acknowledge the presence— I should have done so earlier— of two former Members of the House, Ms. Lucille Seymour and Ms. Daphne Orrett. I also see Mr. Garfield Powery, so I acknowledge him as well. Thank you all, for taking the time to come and view first-hand what transpires in the House.

We will now take the luncheon suspension until 4.15 p.m.

Proceedings suspended at 12.34 p.m.

Proceedings resumed at 4.29 p.m.

The Speaker: Please be seated.

Members, I am conscious that the Honourable Deputy Premier, who is presenting the current Bill is not here, but we have something of a technical issue if we don't resume, in that simply by attrition (the passage of time), we will reach 4.30 p.m. which is the hour of interruption. That would be the end of the day's business unless we call another Sitting, so I am going to...

Madam Premier has arrived, so if I could invite her to move a motion to suspend Standing Order 10(2) in order that the business of the House may continue beyond 4.30, we can suspend again and await the arrival of the Deputy Premier.

Suspension of Standing Order 10(2)

The Premier, Hon. Juliana Y. O'Connor-Connolly: Mr. Speaker, the temptation is great to say, *Mr. Speaker, the Motion is...*, but I won't play upon your indulgence.

[Laughter]

The Premier, Hon. Juliana Y. O'Connor-Connolly: I will merely say the Motion is, Mr. Speaker, with more seriousness, to suspend Standing Order 10(2) to allow the House to continue its business beyond the hour of interruption being 4.30 p.m.

The Speaker: Thank you, Madam Premier.

Members have heard the Motion; those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: The business of the House will continue beyond the hour of interruption.

I will suspend proceedings briefly to await the arrival of the Honourable Deputy Premier. It might be helpful if Members retain their seats for the little while.

Proceedings suspended at 4.31 p.m.

Proceedings resumed at 4.36 p.m.

The Speaker: Parliament is resumed.

[Inaudible interjection]

The Speaker: Good afternoon, Deputy Premier.

When we took the suspension to attend the meeting, and for the Premier to hold the press conference, the Honourable Deputy Premier and Minister of Financial Services was presenting the Merchant Shipping Bill, 2023. May I invite the Honourable Deputy Premier to proceed?

Hon. André M. Ebanks, Deputy Premier: Thank you, Mr. Speaker.

Let me take this opportunity to say, Mr. Speaker, for the historical context, that as we return to the debate in this House, the country has just witnessed an unprecedented show of non-partisan support in the wake of last night's events in West Bay. On behalf of the Premier, I'd like to thank all Members of the House for taking such action— unifying and meeting with the Police Commissioner, then the Leader of the Opposition facing a panel with the Premier, Her Excellency the Governor, and the Police Commissioner. Thank you all.

It is therefore somewhat jarring to then proceed with a Bill that may be perceived as more mundane but at the same time, I heard the Premier say at the press conference that the business of the country must go on and we cannot be paralysed with fear. With that, Mr. Speaker... before the break I described that as the Bill contains 466 clauses, my approach is to instead do an insightful overview of each of the nineteen parts.

Part 1 of the Bill, which contains clauses 1 and 2, provides the short title and the interpretation of certain words used throughout the legislation which include changes in the definitions to reflect updated terminology and other legislation.

Part 2 contains clauses 3 to 60, which deal with the registration of ships and matters related to registration. This part provides for the procedure for the registration of ships, including the registration of ships chartered by demise to a qualified person; registration during the transfer of ownership; registration of alterations of a ship; and the transfer of registration between the Islands and the United Kingdom, or a Crown Dependency, or a sister British Overseas Territory. This part brings the qualifications for owning a Cayman Islands ship in line with the United Kingdom's (UK's) ownership criteria. It also provides for the rules as to ships' names— a ship shall not be described by a name other than it is, for the time being, registered; a change in the name of a ship shall not be made without the previous written permission of the Registrar of Shipping.

Part 3 contains clauses 61 to 65; it provides for matters related to the national character and the flag of ships. It also specifically provides that it is an offence for the master of a ship which is not a Cayman Islands ship to do, or permit to be done, anything for the purpose of causing the ship to appear to be a Cayman Islands ship.

Part 4 contains clauses 66 to 80. It provides for the proprietary interest in ships and provides for the rights of owners and mortgages for the transfers and transmissions, and for other matters that are related to the mortgage of a ship, or of a share in a ship.

Mr. Speaker, Part 5, which contains clauses 81 to 126, deals with masters and seafarers and other related matters including the minimum requirement for seafarers to work on a ship; the conditions of employment; the provision of food and water; health protection; medical care; welfare, and social security protection. It also outlines the civil liability that seafarers may face where they have been absent without leave or if they are found to have committed an act of smuggling. In addition, where ships are fined because a seafarer is found to be present in a country in contravention of that country's laws, the amount of the fine that may be recovered from the seafarer.

Mr. Speaker, also clarified in this part is a procedure to be followed by the shipping master that preserves a seafarer's ability to seek or recover unpaid wages through civil action. Part 5 also provides for offences by seafarers in relation to the wearing of uniforms; conduct that may endanger a person or is likely to cause serious damage to a ship, its machinery and equipment, or any other ship or structure; disobedience of a lawful command; and making a false statement for the purpose of obtaining a certificate or any other document.

In matters related to the fitness of a seafarer to serve on a Cayman Islands ship, if it appears that the

seafarer is unfit to discharge their duties, or has been seriously negligent in discharging those duties, Part 5 allows the Chief Executive Officer of the Maritime Authority to give notice in writing that the suspension or cancellation of any certificate issued to the seafarer under the legislation and regulations is being considered. The proposed legislation ensures that there is due process for such matters by providing for a hearing, re-hearing, and an appeal process to the court, if needed.

Part 6, Mr. Speaker, sets out clauses 127 to 155, and deals with the prevention of collisions, safety of navigation, vessels in distress, and aids to navigation. In particular, this part provides that the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs), also known as the Collision Convention, has the force of law in the Islands. As such, Mr. Speaker, all vessels shall comply with the collision convention unless exempted by the Chief Executive Officer of the Maritime Authority.

Under this part duties are imposed on the master of a ship including:

- A duty to render assistance following a collision;
- A duty to assist a ship in distress;
- A duty to assist persons in danger at sea;
- A duty to report any accidents at sea; and
- A duty to notify of any dangers or hazards to navigation.

This part also includes the establishment and management of aids to navigation such as lighthouses, buoys, beacons, radio aids; or any other light, signal or mark established to aid marine navigation, including buildings and all other works associated therewith.

Mr. Speaker, Part 7 contains clauses 156 to 188 which provide for the safety of life at sea and maritime safety. It enshrines as law in the Cayman Islands the International Convention for the Safety of Life at Sea, 1974, (known as the Safety Convention), and therefore prescribes that vessels shall comply with the safety convention unless exempted by the Chief Executive Officer of the Maritime Authority. Under this part, ship inspections and surveys shall be carried out by a surveyor or inspector to determine whether the ship is compliant with the Safety Convention; hence, it amends surveyors' duties and responsibilities to clearly reflect the Convention's requirements.

Part 8, sets out clauses 189 to 203, which provide for matters related to the safety of a submersible craft. This Part, Mr. Speaker, provides that an owner of every submersible craft to which this Part applies must be registered under the Register of Submersible Craft, and have a Safety Certificate.

As it relates to the construction and equipment of a submersible craft, Mr. Speaker, this Part empowers the Cabinet to make regulations which, among other things, specify construction requirements and supporting apparatus; requires a submersible craft and supporting apparatus to be surveyed; and provides for the making of declarations of a survey. It also

prescribes obligations which any person concerned with the operation of a submersible craft and supporting apparatus must fulfil, and the required qualifications which such a person must hold; and provides for the detention of any submersible craft or supporting apparatus in respect of which a contravention of the regulation has, or is suspected to have occurred.

This Part also provides for the issue, duration, extension, suspension, and revocation of safety certificates in respect of a submersible craft. Furthermore, Mr. Speaker, it provides for inquiries and investigations into casualties which occur in respect of a submersible craft or supporting apparatus.

As it relates to offences, a person who causes or permits to cause, or is otherwise concerned with the launch, recovery operation, or support of a submersible craft in contravention of the legislation commits an offence, and may be subject to a fine.

Mr. Speaker, Part 9, which sets out clauses 204 to 231, speaks to load lines, which are the lines marked on a ship that indicate the maximum depth to which a ship may be loaded. It provides that the International Convention on Load Lines, 1966 and its annexes— as modified by the 1988 protocol, and as amended, modified, or replaced from time to time— extends to the Cayman Islands.

That mouthful, Mr. Speaker, is the 1966 Convention, and as the Bill confirms that it will have the force of law, prescribed vessels shall comply with the 1966 Convention unless exempted by the Chief Executive Officer of the Maritime Authority. This led to a significant amount of clarification. The new structure closely follows the recently published UK legislation to implement the 1966 Convention by reference.

Part 10, Mr. Speaker, which sets out clauses 232 to 241, provides for the carriage of grain and other bulk cargoes; the carriage of dangerous cargoes; and the making of regulations in relation to such cargoes. Unless expressly provided otherwise, this Part applies to all ships to which the Safety Convention applies, and to cargo ships of less than 500 gross tons.

Mr. Speaker, Part 11, which contains clauses 242 to 246, provides for unsafe ships and matters related to such ships. This Part provides that the Chief Executive Officer has the power to detain unsafe ships. It also provides that the owner and master are liable in respect of an unsafe ship, and further, that it is an offence to have a Cayman Islands ship or to have a ship in port of these Islands, if it's in dangerously unsafe condition. This Part also provides that it is the duty of the owner of a ship to take all reasonable steps to ensure that the ship is operated in a safe manner, Mr. Speaker.

Part 12, which sets out clauses 247 to 302, deals with wrecks and salvage and related matters. This part, Mr. Speaker, is amended to refer directly to the International Convention on Salvage 1989, and gives the Convention the force of law in the Cayman Islands as amended, modified, or replaced from time to

time, and is extended to these Islands; it should be noted, however, that certain provisions under this Part do not apply to the following structures and vessels:

- (a) Fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of seabed mineral resources; and
- (b) Warships or other non-commercial vessels owned or operated by a foreign state and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that state has decided to apply the Salvage Convention to such ships or vessels.

Therefore, Mr. Speaker, it is expected that the Wreck and Salvage Law (1996 Revision) can be repealed as a result of the updates in this Bill.

Mr. Speaker, Part 13, which sets out clauses 303 to 310, provides for the control of persons on ships, passenger returns, and the returns of births and deaths on ships. This Part provides for the master's power of arrest and provides [that] a person who is arrested under the master's power of arrest may approach the shipping master to consider if the arrest was appropriate. Finally, this Part clarifies and updates procedures in relation to births and deaths occurring on a ship.

Mr. Speaker, Part 14, which I believe is the largest portion of the Bill, sets out clauses 311 to 405. It provides for liability and compensation, and is an amalgamation of two separate parts in the existing Act which are proposed for repeal, and are governed by the liability and compensation provisions from the previous legislation. This part provides that the Athens Convention, the Bunkers Convention, the Fund Convention, the Limitation of Liability Convention, the Liability Convention and the Wreck Removal Convention have the force of law in these Islands in relation to Cayman Islands ships. Accordingly, Mr. Speaker, Part 14 sets out the extensive provisions related to all of the said conventions and their protocols.

It also provides for regulations to be made to be given to those protocols to have the force of law as they may be extended to these Islands, which includes the Athens Protocol 2002, the Fund Protocol of 2003, and the Hazardous and Noxious Substances (HNS) Protocol of 2010. Part 14 has also been updated to refer to various conventions directly. This has led to significant streamlining and clarity, in particular regarding oil pollution liability, which were previously all contained in a single chapter, which was not always the easiest to follow or interpret for policymakers and importantly, Mr. Speaker, for shipowners to follow.

Part 15, which sets out clauses 406 to 413, has significantly updated recent changes in terminology, including the definition of armed robbery; and to reflect the UN Convention on the Law of the Sea 1982. For clarity, Mr. Speaker, this Part splits up offences into

piracy, armed robbery, hijacking of ships, seizing or exercising control of fixed platforms, the destruction of ships or fixed platforms or endangering the safety of such ships or platforms; and any other act endangering, or likely to endanger, safe navigation.

The master of a ship no longer has the power of delivery. This refers to where previously, the master had reason to suspect anyone had committed or attempted to commit an offence under this Part or aided the commission of an offence, the master could arrest and deliver the person to the police in the Islands, or in another country under the UN Convention on the Law of the Sea.

Mr. Speaker, Part 16, which sets out clauses 414 to 425, has been revised considerably to clarify the powers of the various enforcement officers, surveyors, inspectors and accident investigators appointed under this Part. This Part now ensures clarity and compliance with the Cayman Islands Constitution, in particular regarding surveyors, to make it clear that they must be appointed to act as an inspector. Specific reference is made to the powers of inspectors as per the Bill of Rights in our Constitution, Mr. Speaker.

Both surveyors and inspectors are appointed by the Chief Executive Officer of the Maritime Authority, and may be appointed either generally, or in a particular case or for a particular purpose. Marine accident investigators are appointed and report to the Minister—this is an important distinction to ensure that investigations are impartial and objective.

Based on the long experience that the Maritime Authority has held, this Part provides considerable changes to the procedures for the issuance of improvement and prohibition notices, and for detaining of ships which has been included in this section after previously being in multiple Parts elsewhere in the existing legislation. There is also a much more developed process for complaints, and about actions including detailed arbitration and compensation provisions.

Mr. Speaker, this Part also provides that questions related to [the] reasons or matters specified in an improvement notice, a prohibition notice, or a detention order shall, if a person on whom a notice was served, or the owner of a detained ship so requires, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by the arbitrator.

Mr. Speaker, Part 17 which sets out clauses 426 to 430, provides for the investigations into marine and shipping casualties. The section now reflects recent changes in terminology, in particular to reflect the Merchant Shipping (Marine Casualty Reporting and Investigation) Regulations, 2018 and the IMO Casualty Investigation Code. This section on death inquiries now reflects the practical experience, and the modern terminology that suits this area of the maritime law.

Part 18 Mr. Speaker, sets out clauses 431 to 445. It deals with legal proceedings and related matters including the prosecution of offences related to a

jurisdiction, the enforcement of the detention of a ship, and special evidentiary provisions. In this Part, minor changes have been made to reflect modern procedures or where addressed elsewhere in Cayman Islands legislation. As such, the verbiage around offences committed by seafarers on Cayman Islands ships now reflects current laws and processes, in particular, our Penal Code.

There is also further clarification on the rights of non-Cayman Islands ships when transiting our waters. This means that a ship which is traveling between ports, not in the Islands but passes through the territorial waters, has the right to travel unimpeded by Cayman Islands authorities unless there is a suspicion of breaching our laws.

Finally, Part 19, which sets out clauses 446 to 466, has been updated to reflect modern administrative procedures and processes. It clarifies the specific role of the responsible Minister and the Chief Executive Officer of the Maritime Authority. As it relates to the administration of the legislation, the Minister with responsibility for merchant shipping and seafarers has the general superintendence of all matters related to merchant shipping and seafarers; and is authorised to carry out the execution of the provisions of this and all legislation relating to merchant shipping and seafarers, *except* where those provisions concern revenue, the Port Authority or the Director of Ports.

Obviously, as with all the rest of our revenue, where the provisions of legislation concern revenue they will be administered by the Minister of Finance, and the Minister with responsibility for the Port Authority will administer the provisions under the legislation concerning the matters that relate to the Port Authority and the Director of Ports.

Mr. Speaker, this Part also deals with miscellaneous supplementary matters including matters related to the administration of the legislation, financial provisions, a general regulation-making power, the making of shipping notices, the application of the Act to certain descriptions of ships, the repeal of the Merchant Shipping Act (2021 Revision) and the Wreck and Salvage Act (1996 Revision); and the application of United Kingdom legislation.

It further updates the general regulation-making power to better reflect how it should be utilised in changes made elsewhere in this new Bill. In addition, Mr. Speaker, there is a new provision on the Chief Executive Officer's discretionary powers, where an international agreement extended by the UK requires a determination to be made. It also provides for the regulation making-power to prescribe fees to be charged under the legislation.

Further, it provides that certain expenses shall be payable out of the monies provided by this Parliament. This includes expenses incurred by the Receiver of a Wreck and such expenses as the Cabinet directs for establishing and maintaining on the coast of the Islands, proper life boats with the necessary crews and

equipment and affording assistance towards the preservation of life and property in the cases of a shipwreck and distress at sea.

Mr. Speaker, the Cabinet is also empowered under this Part to make regulations as it considers appropriate, arising out of matters in this legislation or to give effect to any of the provisions of an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and as extended to these Islands.

Further, this Part provides for application of the legislation to non-Cayman Islands ships, Government ships, ships chartered by demise to the Government and to certain structures. As it relates to the application of United Kingdom legislation, this Part provides that Cabinet may, after consultation with the Secretary of State for Transport of the United Kingdom, by Order, apply to the Islands as part of the law of the Islands, subject to such exceptions, adaptations and modifications as may be specified in the Order, any legislation of the UK to which this section applies.

It should also be noted that any regulations made under this legislation shall be made after notification of the regulation is given to the Secretary of State for Transport of the UK. There's also a Schedule at the back which deals with the instruments and documents for which forms are to be prescribed.

Mr. Speaker, as I have said a mouthful, I will take this opportunity to pause and any gratitude to staff and other votes of thanks, I'll deal with by exercising my right of reply.

Thank you, Mr. Speaker; I now commend the Merchant Shipping Bill, 2023 to this honourable House for its Third Reading [*sic*].

The Speaker: Thank you, Minister. Does any other Member wish to speak? [*Pause*]

The Honourable Leader of the Opposition.

Hon. Roy M. McTaggart, Leader of the Opposition: Thank you very much, Mr. Speaker.

Mr. Speaker, I rise very simply to indicate that the Official Opposition supports this Bill in its entirety. We understand that it is really a repeal and replacement of an Act that has existed for some time. It is clear from my own discussions with people in the industry that much time and effort has gone into updating and revising the legislation.

Merchant shipping is an area none of us have real experience with; or knowledge and understanding of all aspects of its operation, so my comments are limited to confirming that we will support the Bill. I thank the Member for his introduction of it, and for his explanation of its various sections.

Thank you.

The Speaker: Thank you, Mr. Leader.

Does any other Member wish to speak? [*Pause*] Does any other Member wish to speak?

[Pause] If no other Member wishes to speak, I would invite the Minister to exercise his right of reply.

Hon. André M. Ebanks, Deputy Premier: Thank you, Mr. Speaker. I'd like to thank the Official Opposition for supporting the legislation.

I think the Leader of the Opposition indicated that it is exciting for those who practice in this industry. They've been waiting for this for quite some time. It also potentially provides new avenues of business for the Maritime Authority that they're quite excited to try to capture and attract to the Cayman Islands and add more ships to the shipping register.

It is a very large Bill. There are many people to thank, including all of the Ministry staff, all of Legal Drafting, in particular the formidable Ms. Cheryl Neblett, First Legislative Counsel who painstakingly went through the Bill. As usual with a Bill this large, there would be clauses that would go back and forth and to-ing and fro-ing, and she handled it expertly.

In addition, there are key staff in the Maritime Authority— Mr. Angus McLean and Mr. James Hatcher, both experts in their field who could breakdown, in extraordinary detail, the history of the provisions and the future trends for the maritime sector. To be able to bring this to fruition will leave the outstanding item on the Ill Code audit, if passed by this honourable House, ticked.

Of course, the incredible Ministry staff led in this particular case by the Deputy Chief Officer of the Ministry, Ms. Kathryn Dinspel-Powell. Their support and guidance to drive it to its presentation in this House has been incredible, and I immensely thank them.

The Maritime Authority as a whole is wonderfully led by Mr. Joel Walton, a recent recipient on Heroes Day. His efforts in this area have taken a small shipping registry and made it a global powerhouse— 60 per cent of the world's yacht registrations is on the Cayman Islands Shipping Register and the register celebrated its 120th anniversary, which is extraordinary. I would, therefore, like to thank Mr. Walton and all of his staff, and all of the wider staff that helped with the Ill Code audit, because this legislation would have only gotten so far, even if it was completed, but *all* the other work that had to be done in the audit...

Deputy Governor, a special mention goes to the Cabinet Secretary who I think led the Working Group and moved this process through the audit as smoothly as he could; and the single point of contact, Ms. Tannya Mortimer of the Maritime Authority, really deserves a special mention.

Lastly, Mr. Speaker, as I indicated, there is a historical link for the Cayman Islands on this legislation. I think all of us can picture the purpose of the Seafarers Association's Seafarers Hall. If you remember, one of the purposes is to have young Caymanians pursue a career in a maritime-related field. At the moment, I can think of no other way we can assist in that able goal than by expanding legislation to provide opportunities around the world for our Caymanians.

I think the Maritime Authority, has 39 employees, nearly 60 per cent of which are Caymanian. If this now opens up new avenues and new opportunities for our Caymanians to participate in an area that carried the country for such a historic amount of time, this is a way to, in part, repay that debt.

With that, Mr. Speaker, I conclude my right of reply and commend the Bill for passage in the House.

The Speaker: Thank you, Minister.

The question is that a Bill shortly entitled the Merchant Shipping Bill, 2023 be given a second reading. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Merchant Shipping Bill, 2023 was given a second reading.

The Speaker: Before we move on to the next Bill, I was reminded by having received a Notice of Committee Stage Amendment from the Honourable Minister who just spoke— quite an appropriate one. I say that because I am conscious that six of the eight Ministers here are Ministers for the first time; there are things that you just do not automatically know.

This is only my second Meeting in the Chair as Speaker, but at the last Meeting, there was a Bill— I'm not trying to put blame on anyone, so I'm not going to say which Bill or which Minister it was— but there was a very important Bill which had so many, comprehensive-in-nature Committee Stage Amendments, that once combined, they fundamentally altered the Bill. The importance of that, is that section 77 of our Constitution requires that all Bills be published in a Government Notice at least 28 days before the Bill is introduced to the House.

The purpose of that is to give a minimum period of consultation and opportunity to the broader populace to consider what is being proposed. If, then, once we come here and the Bill gets referred to the Committee, the fundamentals of that Bill are so altered in nature that they bear little relation to what the public has had the opportunity to consider, we are really not operating in a proper, transparent and democratic manner as a Parliament.

If you have regard to Standing Order 49(1), "**Committal of Bills**",

"49. (1) When a Bill has been read a second time, it shall stand committed to a committee of the whole House, [which is what we've just done] unless the House on motion made refers it to a select committee [which is not the case here]."

That is how the process it is initiated. **“Function of a committee on Bills”**, that’s Standing Order 50(1),

“50. (1) A committee to which a Bill is referred shall not discuss its general merits and principles, but only its details.”

The inference to be drawn from that is that any discussion about the principles of the Bill and the policies which underpin it, is to occur during the Second Reading debate. Members will have no opportunity to debate, in a broad and general way, changes that are proposed at the Committee Stage level.

I just referred to the notice period... Standing Order 52(2),

“52. (2) Notice of any amendment, new clause or new Schedule proposed to be moved to the Bill shall be given in writing not later than two days before that on which the Bill is to be considered in committee; and, except with the leave of the Chairperson, no amendment of which notice has not been given may be moved.”

In practice, because of the way we have to get things done, often that notice period is waived because the Minister has not had an opportunity to get the notice to the Speaker in time.

“52. (3) Every amendment shall be relevant to the subject matter of the clause to which it relates.

(7) The chairperson may refuse to put an amendment which appears to the chairperson to be intended to vary the basic substance of a clause if, in the chairperson's opinion, the proper course is to negative the clause and propose a new one.”

I am appealing to Ministers to make my life easy. You know I like to be a nice person all the time; but I have to do my duty, under the Constitution, to ensure that the process for the introduction and passage of legislation in this House is in accordance with what the tenets of the Constitution require.

If I had been the Chair a bit longer, having reflected and actually spoken with the Attorney General about what transpired in the last Meeting, I would have said to the Minister— quietly, I hope— *“You need to start over; if what you propose when you come here is so different, you need to draft another Bill and publish it again so that the consultation process can start over.”*

I have no indication that such is going to happen this time, but having received notice of an amendment from the Deputy Premier, who just spoke,

reminded me of my concerns. Your Amendment is perfectly fine, Deputy Premier. I have no issues with it.

Madam Clerk.

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2023

The Speaker: The Honourable Deputy Premier.

Hon. André M. Ebanks, Deputy Premier: Thank you, Mr. Speaker. I beg to move the Second Reading of a Bill entitled the Local Companies (Control) (Amendment) Bill, 2023.

The Speaker: The Bill is duly moved. Would the Honourable Deputy Premier wish to speak thereto?

Hon. André M. Ebanks, Deputy Premier: Yes, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government. It seeks to amend the Local Companies (Control) Act (2019 Revision), referred to hereinafter as the principal Act; to remove the prescription of fees from the principal Act; and to provide for this and other related matters to be addressed in subsidiary legislation through regulations passed by Cabinet.

Mr. Speaker, the Local Companies (Control) Act, the existing principal Act, provides a legal framework for local resident companies to execute business in the Cayman Islands. Section 51 [*sic*] of the Act states that the requirements with which these companies are required to comply are as follows:

- “(a) it is Caymanian controlled;**
- (b) at least sixty per cent of its shares are beneficially owned by Caymanians; and**
- (c) at least sixty per cent of its directors are Caymanians.”**

Notwithstanding this, the Act makes provision for companies that do not comply with these requirements to apply to the Trade and Business Licence Board for a licence; such licence is subject to the fulfilment of other specific requirements in the legislation. Where an application is submitted, section 10 of the Act provides that the application is to be accompanied by a processing fee of CI\$200 and an annual licence fee of CI\$2,500. Where the licence is granted, section 13(1) provides for the payment of said \$2,500 on an annual basis based on the anniversary date on which the initial licence was granted. Mr. Speaker, the fees for said licences, commonly referred to as Local Companies (Control) Licences (LCCLs), has not been revised for 17 years.

There is no doubt that companies doing business in the Cayman Islands have experienced many changes over the last two decades, whether it's the type of activities they undertake; the complexity involved; technological advances; changes in operational

cost or regulatory requirements. Against that background of our evolving economy, with greater local expertise which has significantly developed over time, the Trade and Business Licence Board must continue to review licence applications for legislative compliance, which is getting more and more rigorous.

Mr. Speaker, the practice of prescribing fees only in the principal Act stands in contrast to the country's modern legislative convention where fees are prescribed in Regulations. The fact that the existing principal Act contains the historical convention of including fees in primary legislation is further evidence of the length of time since this legislation has been examined and enhanced. The modern legislative convention of permitting the executive to set fees has the clear benefit to make efficient adjustments as to policy, budgetary concerns, market forces and operational demands.

Accordingly, Mr. Speaker, the intention of the Amendment presented today is to remove the direct references to fees from the principal Act, and instead insert a provision that gives Cabinet the power to prescribe, in Regulations, all matters that are required or permitted to be prescribed under the Act, including fees, as it is evident that the wider regulation-making power goes beyond just the prescription of fees that relates to matters similar to other legislation— as painfully described in the last Bill in relation to merchant shipping— for other administrative processes that fall under the Act and in the hands of the department.

This allows for more effective administration of commerce policy, and capability to respond more swiftly to changing circumstances now and in the future. The policy of our Government is to encourage commercial enterprise by fostering a business environment that enables the private sector to flourish, Mr. Speaker. We welcome businesses that seek to enhance the development of the Cayman Islands and its people. The Local Companies (Control) Licence allows companies to conduct business in the Cayman Islands that would not ordinarily be able to do so; however, Mr. Speaker, it's worth noting that as of December 2023 there are approximately 217 licensees on record, so there is another policy ground for making this change.

The fact of the matter is that not only does the Government consider the current fee structure woefully inadequate, but there are also important policy considerations because the irrefutable fact, is that for quite some time now, there are Caymanians who have either the experience and/or the qualifications and/or the capital, either on an individual basis or as a group, to conduct a wide variety of businesses that as a people, we were not necessarily in a position to do so decades ago. Thus, Mr. Speaker, if it is truly the case that a proposed business is deemed fit to be exempt from having at least 60 per cent Caymanian directorship and beneficial ownership in this day and age, then it is the Government's view that on policy grounds, there should be a far heavier price to pay for someone to have a licence

for a business that is exempt from the 60/40 Caymanian rule.

The Commerce Ministry also takes this opportunity to review processes for LCCLs, and to make ratifications to reflect current realities. As such, the Commerce Ministry has been instructed to commence public consultation with stakeholders to get their initial feedback to aid Caucus, and onward to Cabinet, in determining the revised final fee structure, and any application processes that are ripe for adjustment. Accordingly, the Bill, Mr. Speaker, is arranged in five clauses.

Clause 1 has the usual short title and commencement.

Clause 2 provides for the amendment of section 10(2) by deletion of the words “**a processing fee of two hundred dollars, a licence fee of two thousand five hundred dollars**” and substituting it with “**the prescribed fees for the processing of the application and for the licence**”.

Clause 3 provides for an amendment to section 11 which deletes the reference to the fee prescribed in section 13, and replaces it with “**the prescribed annual licence fee**” referred to in section 13. This is consistent with the fees now being prescribed in regulations in other legislation.

Clause 5 provides for the Amendment of section 13(1) which deletes the words referring to a specific fee, “a fee of two thousand five hundred dollars” and replaces it with the words “the prescribed annual fees”, similarly consistent with regulations in other areas of our statute book.

Clause 5 provides for the Amendment of section 22 which addresses the regulation-making power of Cabinet and expands it by specifically giving the Cabinet the power to prescribe all matters that are required or permitted to be prescribed under the Act including fees. The Cabinet's power to prescribe fees and regulations was not specifically stated in the current Act, given that they weren't in place when the Act was initially enacted. Moving the fees to regulations now requires these amendments to be made to establish the link between the two, and give Cabinet the power to make these regulations.

In closing, I wish to thank the Legislative Drafting Department, for their efforts with respect to the development and preparation of the Bill; and the Ministry's staff, for their ongoing efforts to have appropriate consultation so that fees are set in a way that is suitable for our current framework.

Mr. Speaker, this concludes my presentation. I therefore commend the Local Companies (Control) (Amendment) Bill, 2023 to this honourable House for its Second Reading.

The Speaker: Thank you, Honourable Deputy Premier. Does any other Member wish to speak? *[Pause]*

The Honourable Leader of the Opposition.

Hon. Roy M. McTaggart, Leader of the Opposition: Thank you very much, Mr. Speaker.

Mr. Speaker, a very simple Bill before us this afternoon, the Local Companies (Control) (Amendment) Bill, 2023. I understand that the fees that are spelled out in the Act will be repealed, or changed, and it will give Cabinet the ability to set the fees going forward. From the Opposition side, we don't have any problems with the Bill as drafted and what is being contemplated, so I would once again voice our support.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Leader of the Opposition.

Does any other Member wish to speak?
[Pause] Does any other Member wish to speak?
[Pause]

If no other Member wishes to speak, I'll invite the Honourable Deputy Premier to exercise his right of reply.

Hon. André M. Ebanks, Deputy Premier: Thank you, Mr. Speaker.

Only to thank the Official Opposition for their support of this relatively simple Amendment Bill, and to thank my colleagues in Caucus and Cabinet for supporting it.

Thank you.

The Speaker: Thank you, Honourable Deputy Premier.

The question is that a Bill shortly entitled the Local Companies (Control) (Amendment) Bill, 2023 be given a second reading. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Local Companies (Control) (Amendment) Bill, 2023 was given a second reading.

COMPANIES (AMENDMENT) BILL, 2024

The Speaker: The Honourable Deputy Premier.

Hon. André M. Ebanks, Deputy Premier: Thank you again, Mr. Speaker.

I beg to move the Second Reading of a Bill entitled the Companies (Amendment) Bill, 2024.

The Speaker: The Bill has been duly moved. Does the mover wish to speak thereto?

Hon. André M. Ebanks, Deputy Premier: Yes, thank you, Mr. Speaker.

Mr. Speaker, I rise on behalf of the Government to present a Bill to amend the Companies Act, to provide commercial private-sector-suggested amendments to this important financial services legislation; to

provide new modifications and innovations which relate to how you vary the procedure for varying share capital; to provide for the repurchase or redemption of fractional shares; to provide for the conversion of a limited liability company or foundation company to an exempted company; for an exempted company to re-register as an ordinary resident company; and other connected purposes.

Mr. Speaker, in line with the Government's strategic broad outcome of **"enhancing competitiveness while meeting international standards"**, the Bill aims to maintain our best-in-class financial services. It is critical Mr. Speaker, that the Companies Act is continually enhanced for the Cayman Islands to maintain a competitive advantage in the international market and to ensure that the Act functions for the benefit of legal practitioners and their clients and related stakeholders alike.

The Bill results from proposed amendments that were considered advantageous to the country by the Financial Services Legislative Committee and its Company Act subcommittee. The Financial Services Legislative Committee is still chaired by the very able, though retired, Charles Jennings and the subcommittees are made up of current practicing practitioners.

Mr. Speaker, the proposals were subject to extensive legislative process by the Ministry of Financial Services and Commerce. It included stakeholders beyond the Financial Services Legislative Committee and its subcommittee, and went out to industry-wide consultation because we valued the entire industry's input. I will now summarise the key amendments in the Bill.

As it relates to the reduction of share capital Mr. Speaker, under English Common Law, on which the Cayman Islands legal system is of course based, capital maintenance rules require that the share capital of a company be preserved. This stems from a cardinal principle that the share capital of a company belongs to a company and not to its shareholders. It provides protection to the company's creditors, and the company's capital may not be returned to its shareholders except under procedures which safeguard the interests of creditors.

Our adherence to this principle in our law is one of the structural reasons why the Cayman Islands remain so popular in financial markets; however, in practice, Mr. Speaker, there are reasons why a company may need or wish to reduce the amount of its share capital including as a means of returning surplus capital to shareholders; to buy back or redeem its own shares, or to create distributable reserves to pay a dividend.

In our companies' regime, Mr. Speaker, the only way to effect a reduction of capital, is through confirmation by the court. It is unnecessarily expensive and impractical to go to court each time seeking court approval for capital reduction of a solvent company—a company which has sufficient assets to meet its liabilities. In such circumstances, creditor protection is not required. This Bill introduces the option of capital

reduction without the need for court approval in certain circumstances where it's a solvent company.

Mr. Speaker, where authorised by the company's Articles of Association, the company will be able to reduce its capital by special resolution supported by a solvency statement. A solvency statement is defined in the Bill with the meaning **“that a full enquiry into the company's affairs has been made and to the best of the directors' knowledge and belief the company will be able to pay its debts as they fall due in the ordinary course of business [commencing on] the date of the statement”**. Where the reduction of capital is supported by a solvency statement, the Bill requires the company to deliver to the Registrar of Companies a copy of the solvency statement, and the minute showing the specified information within 15 days of the passing of the special resolution. Upon receipt of the copy of the solvency statement and the minute, the Registrar shall register them. On registration by the Registrar, but not earlier, the special resolution for the reduction of capital shall take effect.

As it relates to conversions and re-registration Mr. Speaker, conversions are intended to afford flexibility to persons who have established Cayman Islands structures to deal with changes in circumstances. Conversions may be useful in many instances including providing a procedure to facilitate initial public offerings. They do not create a new legal entity, so they do not affect the continuity of the converting entity or its property. Additionally, appointments made and resolutions passed will not be affected nor will any legal proceedings being conducted by or against the entity be rendered defective.

Mr. Speaker, the Bill will also permit the conversion of a limited liability company, known informally as an LLC, or a foundation company to an exempted company. Additionally, the Bill will also permit an exempted company to re-register as an ordinary resident company.

Presently, Mr. Speaker, the principal Act permits an ordinary non-resident company which is a company which does not or has no intention of carrying on business within the Islands to re-register as an exempted company; however, we don't have the reverse for an exempted company primarily conducting its business outside of the Cayman Islands, to be able to re-register as an ordinary company if it wants to move a substantial part of its business to the Islands.

Mr. Speaker, you will be familiar with the economic substance rules that came in by way of the Organisation for Economic Co-operation and Development (OECD) and the European Union (EU) years ago. In an interesting turn, it has provided the opportunity where businesses are bringing substantial presence to the Islands and having a more significant footprint here. This is now attracting very sound businesses to the island; it's providing economic growth, local job and educational opportunities, and boosting the global reputation.

As such, the Bill seeks to make it efficient to re-register as an exempted company by operation of law rather than a tedious unnecessary process where you would have to transfer the assets of an existing exempted company, move it over to a newly formed ordinary resident company, then liquidate the exempted company. All of this would now happen by operation of law. It makes it neat and efficient and if the exempted company, now having a more substantial presence in the island, then falls within the remit of the local companies regime just like any other ordinary resident company, it will have to comply with the relevant regulations and legislations as they relate to ordinary resident companies.

Mr. Speaker, the Bill is arranged into 20 clauses.

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 provides for the general amendments to the principal Act to remove the use of roman numerals in Part headings.

Clause 3 provides for the insertion of new definitions into the principal Act including the definitions of “high net worth person”, “solvency statement” and “sophisticated person”.

Clause 4 provides for the amendments to section 14 of the principal Act to, among other things, permit companies limited by shares or guarantee to reduce their share capital by Special Resolution supported by a solvency statement. The clause also provides for the Amendment of section 14 to refer to a special resolution as a “special resolution for reducing share capital”.

Clause 5 provides for the insertion of sections 14A and 14B into the principal Act. The new section 14A provides for the reduction of share capital which is supported by the solvency statement. The new section 14B provides the procedure for registration where both the solvency statement and the minute of reduction are delivered to the Registrar within fifteen days after a special resolution for reducing share capital is passed. Where the solvency statement and a minute of reduction are registered, the Registrar shall publish this in the *Gazette*.

Clauses 6 and 7 provide for the amendment of section 15(1) and section 16(2) of the principal Act respectively, to refer to the resolution for reducing share capital as a “special resolution for reducing share capital”.

Clause 8 provides for the amendment of section 37 of the principal Act to empower companies limited by shares or limited by guarantee if authorised to do so by their articles of association, to issue fractions of shares.

Clause 9 provides for the amendment of the meaning of the words “special resolution” in section 60 of the principal Act— I'll come back to that in a moment, because it relates to the Committee Stage Amendment you referred to before this presentation.

Clause 10 provides for the repeal and substitution of section 88(1) of the principal Act and the insertion of a new subsection (1A) in section 88 of the principal Act. The amendments are to clarify that shares held by the transferee company or its nominees or subsidiaries are not to be included in the calculation of the “ninety per cent in value” of the shares for which an offer has been made. The insertion provides for the transfer of shares from shareholders to the transferee company.

Clause 11 provides for the amendment of section 201 of the principal Act to enable bodies corporate with or without a share capital under the laws of any jurisdiction outside the Cayman Islands to apply to register by way of continuation as an exempted company limited by shares under the principal Act.

Clause 12 provides for the deletion and substitution of the Part heading for Part XIII.

Clause 13 provides for the insertion of sections 211A and 211B in the principal Act. The new section 211A provides for the re-registration of an exempted company as an ordinary resident company where the company passes a special resolution in support of the re-registration and an application for re-registration to be delivered to the Registrar together with the necessary documents and fee.

The new section 211B sets out the effects that follow where an exempted company is re-registered as an ordinary resident company. The new section 211B provides that the issue of a certificate of re-registration shall not operate to create a new legal entity, affect the property of the company, affect any appointment made or any resolution passed nor does it affect the rights, powers, liabilities or obligations of the company. The section also provides that the issue of a certificate of re-registration shall not operate in such a manner as to render defective any legal proceedings by or against the company.

Clause 14 provides for the deletion and substitution of the Part of the heading for Part XVI.

Clause 15 [provides] for the amendment of section 232 of the principal Act by the insertion of the definitions of the words “foundation company” and “LLC Agreement”.

Clause 16 provides for the amendment of section 233 of the principal Act which deals with mergers and consolidations. The new subsection (13) in section 233 provides for the determination of the effective date of a merger or consolidation.

Clause 17 provides for the insertion of sections 233A and 233B. The new sections 233A provides for the conversion of a limited liability company to an exempted company. The new section 233B provides for the conversion of a foundation company to an exempted company.

Clause 18 provides for the variation of the procedure under section 238 of the principal Act for exercising a member's entitlement to a payment of fair value for shares where that member dissents from a merger

or consolidation. Within twenty days, immediately following the date of the authorisation, the constituent company is required to give written notice of the authorisation received for the plan of merger or consolidation to each dissenting member who made a written objection within the objection deadline.

Clause 19 provides for the amendment of section 239 of the principal Act as a consequence of the amendment to section 238 to introduce the objection deadline. As such, the amendment provides that the rights relating to dissenters under section 238 shall not be available on the expiry of the objection deadline.

Finally, clause 20 provides for the amendment of section 252(5) by the repeal of the definitions of the words “ordinary non-resident company” and “ordinary resident company” as the definitions are proposed to be inserted in section 2 of the principal Act by virtue of the amendments contained in clause 3 of the legislation.

Mr. Speaker, that provides an overview of the arrangement and purpose of the clauses as the Bill was published; but there is the Committee Stage Amendment to which you referred. After publication of the Bill, there were teams within firms that I think have a practice area that represent more minority shareholders, so they asked for additional time for the Financial Services Legislative Committee to delete section 9 [sic], which relates to allowing a special resolution to be passed in writing not unanimously, but by two-thirds. They thought that it might be too onerous on the minority investor hence, there will be notice of a Committee Stage Amendment to delete that; to revert to the existing status quo in the legislation where special resolutions can only be passed unanimously if they're done in writing, unless there's a meeting— and then, who turns up to make the two-thirds turns up.

From the Ministry of Financial Services' perspective, if the industry would like a bit more time to contemplate it for sort of narrow practice areas, we have no difficulty because this entire Bill is driven by their desire for enhancements and innovations; so there will be a small amendment to delete that section, and a couple of consequential amendments that flow into the Bill to delete at least three more clauses.

To provide the Opposition with an opportunity, if they have any questions or require further elucidation on the Committee Stage Amendments, I'm happy to take questions and answer them when exercising my right of reply.

The Speaker: Honourable Deputy Premier, before you resume your seat, you referred to section 9, I presume you meant clause 9.

Hon. André M. Ebanks, Deputy Premier: Clause 9, yes, sir.

The Speaker: Thank you. Does any other Member wish to speak? [Pause]

The Honourable Leader of the Opposition.

Hon. Roy M. McTaggart, Leader of the Opposition:

Thank you, Mr. Speaker.

Mr. Speaker, I thank the Minister for his able presentation on the Bill and its purpose and rise, on behalf of the Opposition, to indicate our support for the legislation and the amendments to the Bill.

Mr. Speaker, I spoke with the Minister last week about the Bill because I had actually received representation from a couple of people in the financial services industry who did not fully understand, I believe, the clauses and what the Bill was attempting to achieve. There was some concern expressed to me with regard to the ability of an exempted company to be able to convert and re-register as an ordinary resident company.

Mr. Speaker, I sat down with the Minister and his team in the Ministry of Financial Services and talked through the issues and I fully understood and appreciated what it was they were trying to achieve. Personally, I don't see any issue whatsoever with the concern that was being expressed in limited places in the industry where I had received representations and I had communicated that to those who had expressed it to me. I think once I explained it, they were grateful for it and I think they were concerned that an exempted company converting to an ordinary resident company was going to be gaining some advantages that they would not normally have.

When I explained what the process is of re-registering, that all of the benefits and all of the rights that they would've enjoyed as an exempted company would cease to exist, and they would have to acquire all the rights and obligations of an ordinary resident company, it made perfect sense to them.

I think, Mr. Speaker, there's not really much that I can add to the debate here today, but just let the Minister know that we fully support the Bill.

The Speaker: Thank you, Honourable Leader. Does any other Member wish to speak? *[Pause]*

The Honourable Member for Newlands.

Hon. G. Wayne Panton: Thank you very much, Mr. Speaker.

I would like to join the Honourable Leader of the Opposition in commending the Deputy Premier for his able presentation on the Companies (Amendment) Bill.

I have to say, Mr. Speaker, that the issue which the Leader of the Opposition just spoke to in terms of a conversion from an exempted company to an ordinary resident company was one that I had questions put to me as well and of course, I explained as has been noted that this doesn't mean that an exempt company is going to be able to get some kind of special advantage by converting like that. They have to comply with all of the requirements and a company in a

scenario like that, converting to an exempt company, would have additional obligations in ensuring that it is able to do business.

I did think that I was going to have to slightly bemoan some of the changes, and the Deputy Premier would probably understand where I'm coming from, the proposed changes to the definition of a special resolution, but having seen the amendments that are proposed, obviously it takes that issue away at least for the time being. I can't say that I had a strictly principled position in respect of it, but there were just some concerns because it's one of those things that you understand that a special resolution is a resolution that can change many significant things in a company and having notice to attend a meeting and to be able to participate is an essential sort of reflection of the rights of shareholders to have their voice heard, so I have to say it is somewhat of a relief to see that there is a proposed further review of that.

Mr. Speaker, as the Deputy Premier noted, the work of the Financial Services Legislative subcommittee is to be commended. Over the years, they have done really good work in ensuring that the Cayman Islands laws in the financial services area are up-to-date at least, but mostly leading edge, by working with many of the leading practitioners in the onshore centres that we serve and deal with. Certainly they deserve our support and I agree with the Deputy Premier in noting the value that they contribute.

Mr. Speaker, with those few words I will say thank you and I look forward to the further contributions from the Deputy Premier as we move through the consideration of the Bill.

Thank you.

The Speaker: Thank you, Honourable Member.

Does any other Member wish to speak?
[Pause] Does any other Member wish to speak?
[Pause] If no other Member wishes to speak, I'll invite the Honourable Deputy Premier to exercise his right of reply.

Hon. André M. Ebanks, Deputy Premier: Thank you, Mr. Speaker.

Taking them in turn, I thank the Leader of the Opposition for his comments. Also, it was a good start to 2024 when I mentioned at the 2024 Chamber Forum that we needed to do more of this— if there was a question on financial services or commerce legislation, to pick up the phone, talk to me, talk it through and, ironically, when the Leader of the Opposition contacted me, the Ministry team and I thought he was going to pick up on the point that the Member for Newlands picked up on, in relation to special resolutions.

The point you picked up on Leader of the Opposition, in relation to an exempted company converted to an ordinary company took us slightly by surprise because we didn't really see a danger; but it shows the value of different people looking at it from different

angles and getting feedback. Inviting the Leader of the Opposition into the Ministry so that he could understand the rationale and see where the Bill was going, was a refreshing show of constructive work as legislators, so I thank him for raising his questions and taking the time to meet with the Ministry staff.

In relation to the comments made by the Member for Newlands: Yes, I think you're absolutely right in terms of the special resolution. There may have been practitioners who are a bit more assertive in certain transactions, or perhaps maybe ordinarily represent the majority shareholder, but I think it shows the robustness of our consultation process and the reason for green-billing. When it went firm wide to some of the smaller niche areas, a concern was raised that, "*Hang on a second; Let's think about this a bit more. We're not saying no, but maybe there's another way to do this.*" It was also good and constructive to have the industry resolve within itself, and not have a large debate to say, "*That's fine, let the rest of the Bill proceed because all the rest of it we need, and it keeps the Cayman Islands ahead of our competitors.*"

I will also echo one more time, the great work of the Financial Services Legislative Committee; the Member for Newlands would also know not just their value that he spoke to, but the amount of work that they've done. I think ten years ago, the list of proposed legislation was maybe twelve or fourteen items long, and through the years they've been whittled down to maybe only two or three remaining items. Hence, the challenge when we last met with them was, "*Folks, we need additional ideas*"; because government has done its part over the years through successive administrations, to reduce the number of new ideas. Now the onus is on them to bring further ideas to the Government.

As always, I thank the Ministry team, ably-led by Chief Officer, Dax Basdeo; and [the] Legislative Drafting [Department]. With that, I commend the Bill for its Third Reading.

The Speaker: Thank you, Honourable Deputy Premier.

The question is that a Bill shortly entitled the Companies (Amendment) Bill, 2024 be given a second reading. Those in favour, please say Aye. Those against, No.

AYES.

The Speaker: I believe the Ayes have it.

Agreed: The Companies (Amendment) Bill, 2024 was given a second reading.

CIVIL PROCEEDINGS (CLOSED MATERIAL PROCEDURES) BILL, 2023

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Civil Proceedings (Closed Material Procedures) Bill, 2023.

The Speaker: Does the Honourable Attorney General wish to speak thereto?

The Attorney General, Hon. Samuel W. Bulgin: Yes, Mr. Speaker. Thank you.

The Speaker: Honourable Attorney General, I hope you're not going to read that whole binder.

[Laughter]

The Attorney General, Hon. Samuel W. Bulgin: No, Mr. Speaker.

The Speaker: Otherwise, I would ask for a suspension now.

[Laughter]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, I will try to be as concise as possible, but it is a Bill that requires a bit of clarification so I think, in fairness to members of the public, and honourable colleagues in this House, I will be a little granular, if I might put it that way.

Mr. Speaker, I rise on behalf of the Government to present the Civil Proceedings (Closed Material Procedures) Bill, 2023. As set out in the memorandum of objects and reasons, the Bill seeks to provide for the use of what are known as closed material procedures (CMPs) in civil proceedings, and to provide for the appointment of attorneys, known as special advocates, for such procedures. The Bill consists of 17 clauses which I will speak to in due course; but before doing so Mr. Speaker, I would, with your leave, wish to provide some background to the Bill and what it seeks to achieve.

Mr. Speaker, the genesis of the Bill was a legal challenge brought by two prisoners who in 2016 were transferred to the UK to serve their respective sentences pursuant to the Colonial Prisoners Removal Act 1884, which is a UK statute which was extended to the Cayman Islands as well as other overseas territories. Some, if not all Members of this House, may recall the circumstances leading up to the transfer, and for what it is worth, I will touch briefly on some of the facts, and will do so by what was outlined in the Privy Council ruling, which was issued on 3rd March, 2023.

Mr. Speaker, this was a case where the two prisoners who were involved had been convicted of a murder that was committed at a bar in George Town, Grand Cayman. They were convicted of murder in May, 2016. The murder was described by the trial judge, the late Justice Quinn, as "**A very public execution of the most evil nature... chillingly clinical in its planning and execution.**"

Mr. Speaker, the Court of Appeal, in the judgment appeal form observed that, **“the facts of the murder bear all the hallmarks of...a notorious local gang...”**

In December 2016, the appellants were sentenced to life imprisonment with a minimum term of 35 and 34 years— one was given 35 years, the other one was sentenced to 34 years. Understandably, they were sent to HMP Northward which is the only male prison in the Cayman Islands, to serve their sentence. Their appeals against conviction and sentence were dismissed by the Cayman Islands Court of Appeal in December, 2018.

Mr. Speaker, in June 2017, following Warrants of Reception signed by the Lord Chancellor in the United Kingdom, orders were signed by the United Kingdom Secretary of State for the Foreign and Commonwealth Office which caused the prisoners to be transferred to the United Kingdom pursuant to powers conferred by the Colonial Prisoners Removal Act 1884, as I mentioned.

In June 2017, Mr. Speaker, Notices of Concurrence were signed by the then Governor of the Cayman Islands, and it is the Governor's decision to concur with the Secretary of State, that was challenged by the application for judicial review, and resulted in an appeal.

They were both transferred to United Kingdom prisons in June 2017, Mr. Speaker. The transfers to the United Kingdom were effected in accordance with the colonial legislation and it was on the ground that there was no local prison in which the prisoners could properly undergo their sentence. The removing authority under the Act is the Secretary of State acting with the concurrence of the Governor. Mr. Speaker, in practice, the act of concurrence is issued by the Governor, who is also empowered to direct removal by warrant.

What resulted, Mr. Speaker, was a series of court hearings; so, after having been removed to the UK in December 2017, both prisoners were granted permission by the Grand Court to apply for judicial review of the Governor's decision to concur with the Secretary of State's decision to remove them to the UK. What followed was a lengthy course of legal proceedings which included hearings of preliminary issues such as where was the best place for the matter to be heard, and the availability of closed material procedures in the Cayman Islands; also, whether certain material could be withheld from the prisoners on the grounds of public interest immunity, as well as a determination of the substantive grounds of challenge, Mr. Speaker.

Mr. Speaker, on the 2nd July, 2020, the Grand Court of the Cayman Islands ruled that because there was no legislation, there was no jurisdiction, to hold a closed material procedure in the Cayman Islands— and I will explain later what a closed material procedure entails— there could not be such a procedure and so, in October 2020, the Governor's Office applied to withhold certain material from the applicants on public interest immunity grounds.

Now, these materials are some of the material— information, mostly intelligence— that the Governor would have seen and which informed his decision to remove the prisoners to the UK, so the Governor applied to withhold some of these material on public interest immunity grounds which simply means, that it would not be in the public interest for this material to be disclosed, Mr. Speaker, because it would be injurious to national security and, of course, it could also potentially lead to harm to third parties.

The application was upheld by the Grand Court on the grounds of national security and threat to third parties. The application for judicial review by the prisoners then proceeded to the Grand Court, and the Grand Court dismissed the application for judicial review. The prisoners then appealed to the Court of Appeal, Mr. Speaker, and the Crown also appealed to the Court of Appeal against a decision by the Grand Court that they could not have closed material procedures because there was no legislation, so there were two sets of appeals before the Court of Appeal.

The prisoners' appeal was dismissed in April of 2022; but on the issue of the availability of closed material procedures, the Court of Appeal disagreed with the Grand Court and held that such procedure was available in the Cayman Islands, even though there was no legislation to facilitate it. The Court therefore ruled that the closed material procedure should proceed.

Mr. Speaker, what resulted then was an appeal to the Privy Council. The prisoners appealed to the Privy Council, which is the final appellate court for the Cayman Islands and, during that historic sitting in the Cayman Islands, in November 2022, the matter was argued before the Privy Council here— so it was argued when the Privy Council sat here, in November 2022.

The Privy Council pointed out that in the UK, the statutory authority to hold a CMP is conferred by sections 6 to 14 of the Justice and Security Act 2013, and that, conversely, there is no statutory basis for a CMP in the Cayman Islands because there is no such or similar legislation. Thus, the Privy Council disagreed with the Court of Appeal that you could have a CMP proceedings in Cayman, in the absence of legislation. The Privy Council's position is that you will need legislation before you can have a CMP proceeding.

Mr. Speaker, the Privy Council went on to make it clear that it is simply not open to the Court of Appeal to invent a CMP for the Cayman Islands, under the guise of the development of the common law. The Court said this would be considerably more than an incremental development. It would be a major change involving an inroad into fundamental common law rights. The Court continued that, **“such a step should be taken, if at all, by the legislature which is better placed than is the judiciary to assess the policy considerations relating to the necessity for such a procedure and the practicalities of its operation. It would also be open to the legislature [Parliament] to**

define with precision the scope of the exception and to make detailed procedural rules to regulate the procedure". This is paragraph 51 of the Privy Council ruling, Mr. Speaker.

The Privy Council then sent the matter back to the Grand Court for hearing on what is called an open basis— that is, Mr. Speaker, that some information has already been disclosed to the two prisoners, and the Court thinks that there was sufficient material there on which a proper hearing could be conducted even if the other materials were not disclosed to them.

Mr. Speaker, in November 2023 the matter came up for hearing before the Grand Court for determination of the remaining substantive issues which include the proportionality, and the fairness of the appellant's removal for the purposes of section 9, which is the Bill of Rights section dealing with the right to family; and Mr. Speaker, we are awaiting that judgment from the Grand Court— so there was a rehearing and we are awaiting the outcome of that. The hope, Mr. Speaker, was that we would have had the legislation in time for the rehearing, but of course, the appellant and the Crown were happy enough to go ahead with the hearing without the legislation being in place.

Mr. Speaker, for the most part, the Bill before this House is in line with the provision of Part 2 of the United Kingdom Justice and Security Act 2013. It mirrors, in large part, what is contained in that UK piece of legislation. The explanatory memorandum for that legislation, Mr. Speaker, summarises the objective of this exercise as follows:

"The Green Paper noted an increase in the number and diversity of judicial proceedings which relate to national security-related actions. In many of these cases, the facts cannot be fully established without reference to the sensitive material. However, this material cannot be used in open court proceedings without risking damage to national security. Difficulties arise both in cases in which individuals are alleging Government wrongdoing, and in cases in which executive actions or decisions taken by Government are challenged. There have been occasional cases resolved by the use of a closed material procedure with the consent of both parties. However, the [UK] Supreme Court ruled in [a case named] *Al Rawi and others v Security Service and others [2011]*, that a court is not entitled to adopt a closed material procedure in an ordinary civil claim for damages. The Court [in *Al Rawi*] held that it was for Parliament to decide whether or not to make a closed material procedure available in such proceedings".

Mr. Speaker, with your leave, **"The Green Paper considered that in cases involving sensitive material, the court may be prevented from reaching a fully informed judgment because it cannot hear all the evidence in the case. Under the current system, the only method available to the court to protect material such as intelligence from disclosure**

in open court is through [what is called] public interest immunity. A successful public interest immunity application results in the complete exclusion of that material from the proceedings. Any judgment reached at the end of the case is not informed by that material, no matter how central or relevant it is to the proceedings".

Mr. Speaker, the public interest immunity procedure is, where the Government has information that is extremely sensitive concerning, for example, national security issues, and during the trial, the government would like to rely on it, but it is so sensitive that it cannot be disclosed to the other side. Therefore a government is faced with a choice: either you disclose the material, which would then damage national security, or you discontinue the case.

If it is too sensitive to be disclosed, what the government usually does is go to the Court and apply for what is called a "Public Interest Immunity" to protect the material (document or information) that is not in the public's interest to disclose, and if the court agrees with the application, it means that information, that material, cannot play any part in the hearing at all so it is not available to the Government (the Crown), nor the accused. Therefore, no reliance can be placed on it by either side— that information has no role in determining the case.

In respect of closed material procedures, Mr. Speaker, which of course is not available in criminal cases— it cannot be used in criminal cases because the position is that in a criminal case, if you're going to convict someone, they must be able to see all the information that you are going to rely on to convict them, and if it is too sensitive for you to show it to them, then you can't use it in the trial, so it is different; the closed material procedure is not available in criminal cases.

It is available in judicial review cases. For example, if someone is in the Cayman Islands who is not a Caymanian, and the Government wishes to deport that person on national security grounds, and in seeking to do so, the Government is relying on certain intelligence provided to it. If the intelligence is such, that if shown to that person, it will cause damage to national security, then that information cannot be disclosed to that person for the purpose of the deportation hearing.

However, what will happen is that during the hearing— assuming that the person tried to judicially review the decision to deport them— the material, the sensitive material it is called, can be shown to the judge. To protect the person's interests, a special advocate, a special lawyer who is independent, is also appointed (usually by the Attorney General, but independent of the Attorney General), to protect the person's interests. He will then be able to look at the material although he cannot show it to his client.

The Speaker: Honourable Attorney General, I'm sure you mean he or she.

The Attorney General, Hon. Samuel W. Bulgin: He or she, yes. I better say, *that person*. Thank you, Mr. Speaker.

That person's interest is protected by what is called a special advocate. The special advocate cannot show the material to that person, however, he can make submissions to the judge about the use of the material including whether he agrees that it is too sensitive not [*sic*] to be disclosed. The person's interest is protected in that regard.

If the judge concludes that information is relevant, but it is too sensitive, the Court will use the material to make a determination as to whether the person should be deported or not so it is a compromise, so to speak, because what it means is that the Court will have the best information available to it— sorry.

Point of Elucidation

Mr. Christopher S. Saunders, Elected Member for Bodden Town West: Point of Elucidation, Mr. Speaker.

The Speaker: Please proceed— if the Honourable Attorney General is prepared to give way.

Mr. Christopher S. Saunders: Thank you very much, Honourable Attorney General. For my own clarification, you said the special counsel is appointed by the Attorney General? Okay.

The Attorney General, Hon. Samuel W. Bulgin: Yes, Mr. Speaker. Thank you, Honourable Member.

In the UK they have a panel with a number of persons— like 10, 15, 20— called Special Advocates. They are appointed by the Attorney General, so he would look at the list and determine who should do it. Once appointed, that attorney is no longer answerable to the Attorney General. He is completely independent of the Attorney General. He doesn't report back to him, has no connection or interaction with the Crown.

Just to clarify that it also happens in cases where the Attorney General is not a party to the proceedings. It can be any civil matter where the Attorney General is not involved but that person is appointed, and the person has to be provided by the State with all the resources to be able to carry out his or her job independent again, of the Attorney General's intervention. There is a list of special advocates who carry out that role, and as I said, he or she is required to make submissions on behalf of the person and the interaction is between that attorney, that advocate, and the court and the judge.

Mr. Speaker, what happens in the closed material proceedings is that the intelligence is available to the court and so the court will be able to see, for example, whether what the Governor says he saw and acted on is credible. A judge will be able to make that assessment. However, as I mentioned before, if it was a Public

Interest Immunity application it wouldn't be available to the court to make any decision on because public interest immunity, once upheld, means that neither side can rely on the information; it's not a benefit to either side.

This is sort of a compromise where information is available, but it cannot be shown to the opposite party, it can only be shown to the judge and the special lawyer who is appointed on his or her behalf. That is the distinction between the two. It is understandably not without a bit of controversy.

As I mentioned before, if you have a situation where someone is in the Cayman Islands legitimately but is not a Caymanian, and is involved in subversive activities, terrorism or whatever it is, and the person needs to be deported based on intelligence because he or she is a threat to national security. The question is whether the state should have the ability to remove that person without having to disclose certain information to the person, which then would jeopardise national security. Although a judge might disagree having looked at it. A judge might take the view that "*I don't agree that this rises to the level that it could jeopardise national security, and therefore I'm ordering you to disclose it to the accused person of the opposite party.*"

Mr. Speaker, closed material procedures and special advocates have also been used in some family proceedings and this predated the use of it in the UK. One example is in 2010, a case involving a child who was made a ward of the court following his abduction by his father. The central focus of the case in considering the child's welfare was an allegation that the father had allegedly taken out a contract for the murder of the child's mother; however, the police wished to withhold information, and the source, in order to protect the investigation. A special advocate was used to test the underlying material including by way of cross examination and is a case of wardship.

The use of the closed material procedure is also permitted in proceedings before employment tribunals in the UK pursuant to the Employment Tribunals Act and Regulations made under that Act.

What the Justice and Security Act 2013 did in the UK, Mr. Speaker, was to allow the closed material procedure to be used in civil proceedings more generally including proceedings for damages such as negligence or breach of contract actions for injunctive relief and in judicial review cases. I mentioned that it is not just cases where the Attorney General is involved or the state is involved, it can be a purely private matter but that person, the special advocate, is appointed by the Attorney General from a panel.

Mr. Speaker, I think I explained already what a public interest immunity (PII) is and I would not propose to repeat it, but there is also the possibility of providing a gist of the allegation; a synopsis if you will, 'gisting' it is called, to the other side without having to disclose the entire material.

Mr. Speaker, significantly, and a point which I touched on earlier, the result of a successful claim to

PII is that the evidence in question is wholly excluded from the proceedings and neither party may rely on that and neither can the judge. That was exactly the position in the prisoner transfer challenge. Considerable material relevant to the Governor's concurrence with the transfer decision was withheld from disclosure on public immunity grounds for national security reasons. The confidentiality of the material was preserved, but the Crown could not rely on that material as part of its defence that the concurrence was lawful.

In other words, Mr. Speaker, even though the Governor had credible material about the reason for removing these two prisoners, there was some of it that the court could not use because of the public interest immunity decision that was made by the Grand Court. Whereas if there was a closed material procedure (CMP), the court would have been able to look at it and concur with the Governor. In this case, of course, the Court of Appeal and the Privy Council said, well, notwithstanding the other material that was not disclosed there was sufficient other information which was provided to the other side which allowed the proceedings to proceed in a way that would not cause any injustice as such.

Mr. Speaker, the question is whether such a procedure is compatible with human rights. Where material must be withheld on PII grounds, a properly authorised closed material procedure is not incompatible with the right of access to a court under section 7 of the Bill of Rights, which is the right to a fair hearing. The Cayman Islands Constitution Order 2009 and Article 6 of the European Convention [on Human Rights] provide for a right to fair hearing. The European Court of Human Rights, a case law, supported the use of this procedure, Mr. Speaker. Those cases also provide that safeguards may be required, but these will be dependent on the context, notably the nature of the right that is engaged and what exactly is at stake in the individual and particular interest in withholding the material. Therefore, a special advocate may be required and where more fundamental rights are engaged such as those under the right to liberty, which entitles a person to challenge the lawfulness of his or her arrest, the disclosure of the gist of the material is permissible.

Mr. Speaker, just to point out that closed material procedures are not unique to the United Kingdom. Similar procedures from which a party or parties to the proceedings are excluded while sensitive material is under consideration by the court, are used in a number of European Union countries as well as in Canada. In the case of Canada, Mr. Speaker, these procedures are permitted by laws such as the Immigration and Refugee Protection Act and the [Canada] Evidence Act and that has been held to be compatible with the Canadian Charter of Rights and Freedoms.

Mr. Speaker, against that background, I mentioned before that the Bill mirrors the UK legislation and I would just like to touch on a few areas in the Bill itself, some of which have to do with definitions. I mentioned

before that it is not available for criminal proceedings; in criminal proceedings, everything must be disclosed or it can't be used at all. The closed material jurisdiction is intended to apply to relevant civil proceedings before the Grand Court or the Court of Appeal, and of course, the Privy Council and does not include criminal proceedings.

Mr. Speaker, the definition of "sensitive material" is also in the Bill. The UK Justice and Security Act defined the term "sensitive material" by reference to "**material the disclosure of which would be damaging to the interests of national security**". Under the Bill before this House, the definition goes further to include "**other public interests**" and this is to avoid being overly prescriptive. Mr. Speaker, I mentioned to you before that you could have instances where third parties could be at risk if such third party, for example, provides the state with intelligence.

Mr. Speaker, in terms of procedure, clause 3 of the Bill deals with what is called a declaration as to proceedings. Clause 3 provides for the starting of the CMP process. The first stage of bringing closed material proceedings in the case of a relevant proceeding is by way of an application under clause 3(1) for "**a declaration that the proceedings are proceedings which a closed material application may be made...**"

Translation, Mr. Speaker, depending on the intelligence that one party has, if he doesn't want to disclose it to the other side, that party will make what is called an application to the Grand Court for a declaration for the Court to look at the nature of the proceedings and to say, *I agree that this is a case in which a closed material proceedings would be appropriate and so I am going to grant you the declaration*. Once that is granted, the party will then outline to the court the nature of the material that it has in its position, which cannot be disclosed. If it gets to that stage, then a special advocate would be appointed to also look at the material that the party is declining to disclose.

Mr. Speaker, may I just point out that in the hearing itself, the only part of it that is closed is the part of the hearing that deals with such material; the rest is an ordinary hearing where witnesses are called, [there's] cross examination, everything else is disclosed and discussed. The only aspect of it that is closed procedure are those aspects of the case dealing with the sensitive material. Once that is out of the way, then the trial proceeds as normal in a normal adversarial way. It's not the entire proceedings that is closed.

Mr. Speaker, the Grand Court will be guided by rules that are drafted by the Grand Court Rules Committee. The Grand Court Rules Committee comprising the Chief Justice, the Attorney General, and two lawyers from private practice will craft rules that will set out the procedure as to how the entire proceedings should be conducted and those will be what will guide the court throughout the proceedings, and to ensure that there is, in fact, fairness in dealing with the closed material or the sensitive material, Mr. Speaker.

Mr. Speaker, I touched on clause 11, the appointment of persons who may act as special advocates. I mentioned that among other things, the Attorney General is required to ensure that the special advocates are provided with adequate administrative support and resources to carry out their role. In the UK they have what is known as a special advocate support office and they act independently in providing support to the special advocates.

I imagine similar arrangements will have to be made in this jurisdiction, but the scope will likely depend on the frequency of closed material procedures taking place here. I suspect, Mr. Speaker, that this is a provision that is likely to be hardly used at all. I suspect most of it will be used, if at all, perhaps where we're dealing with deportation cases where persons might be required to be deported from the island for national security reasons.

Thinking about it, Mr. Speaker, I recall many, many years ago a particular gentleman was deported to Jamaica from here and it was very credible intelligence that they had which could not have been disclosed to him. He went to court and the judge at the time was persuaded by what was made available to him, such as could be shown, that there was a basis to have his exclusion from the jurisdiction on national security grounds. So we have had instances of that Mr. Speaker, albeit it was not dealt with by way of closed material procedure, but we have had that some time ago.

Mr. Speaker, the Bill also provides for a review of certification. Clause 10 provides that a party can challenge the decision of the Governor to declare material sensitive where he does so under section 9(3). Any such challenge will be dealt with in accordance with the principles which will be applied in judicial review proceedings. Therefore, Mr. Speaker, it is not just a matter of a Governor or a party for that matter, suggesting that this is sensitive material and so it can't be disclosed. The other side is at liberty to challenge the characterisation of the material as too sensitive to be disclosed, and the court can decide as to whether or not it ought to be disclosed and to be relied on by both sides or be available to both sides.

Clause 12 deals with the making of regulations. This clause provides for Cabinet to make regulations for such matters as may be necessary or convenient for carrying out or giving effect to this Act. It includes regulations for transitional or savings provisions.

Clause 13 speaks about the Rules Committee I mentioned before. The Rules Committee referred to in the Bill is the Grand Court Rules Committee constituted under section 19(1) of the Grand Court Act. The matters falling within its rulemaking powers are set out in section 19(3). These include prescribing forms to be used, making rules for the taking of evidence and rules regulating pleadings and procedures for the conduct of civil business.

Mr. Speaker, the special advocate will enjoy immunity under clause 14. [It] provides an immunity for special advocates in respect of any acts done or omitted in the discharge or purported discharge of that function. Of course, there is no personal liability except where it can be shown that the special advocate acts in bad faith.

Mr. Speaker, clause 15 contains a reporting mechanism under which the Attorney General is required to Table a report in Parliament, initially for a 12-month period from the date on which clause 3 comes into force and annually thereafter, including information such as:

- The number of applications in the reporting period;
- The number of declarations made by the court;
- The number of revocations made by the court— that is where the court having granted an order, and having examined the issue, has a change of heart and decided to disallow the use of closed material procedure; and
- The number of closed judgments.

All of these will have to be contained in a report to be Tabled in Parliament every 12 months, or for a 12-month period.

Clause 16 of the Bill establishes a framework for the conduct of an independent review of the operations of clauses *[sic]* *[sections]* 3 to 8 of the Bill. That must be done as soon as reasonably practicable after five years from the date on which clause 3 comes into force. The reviewer is appointed by the Governor who may compensate the reviewer for any expenses incurred in carrying out his or her function as well.

A copy of the reviewer's report must be laid before Parliament by the Attorney General; however, before doing so, the Governor may exclude from the copy any material that the Governor considers to be too sensitive— again, only if it would be damaging to national security or will endanger the life or safety of any person who is included.

Clause 17 is a transitional provision the effect of which is that, in relation to any proceeding which is currently pending, the legislation will enable a closed material procedure to be held; so Mr. Speaker, if the current prisoner transfer challenge continues after this Bill is enacted— say there's an appeal and they wish to avail themselves of the provision of the Act, it would be available to them. I mentioned to you that the matter has been reheard before the Grand Court and a judgment is pending. Whatever the outcome, I don't know whether there is likely to be an appeal, however, if there is an appeal from that judgment, either side might seek to avail themselves of the provision of this legislation.

Most likely a court would accede if it thinks that the material that the Governor and the Secretary of State had basically crystallised their view about the

danger of these prisoners being kept here, but it was not available because of the public interest immunity. The court would want to see that material to satisfy itself that yes, there was credible intelligence which informs the position that they should be sent abroad. As it is now, some of that material was available to both the court and the prisoners. There are others that were cogent but were too sensitive to be disclosed, so the court was not able to use it—the Governor nor the prisoner could rely on it, so it is excluded from the procedure altogether.

Mr. Speaker, hopefully that explains the purpose of this Bill. As I said, my expectation or anticipation is that it will be extremely sparingly used, but like in other cases, the Cayman Islands is not afraid, to take the lead as an Overseas Territory (OT) in the enactment of this sort of legislation; and we know what usually happens—assuming that they face similar challenges, once it happens here, other Overseas Territories tend to follow suit.

All in all, it is a very useful piece of legislation to have on the books in the event that it is required. I keep saying that we have a very transient population here. We do have undesirable persons who make their way here from time to time and might be involved in activities which require their removal on national security grounds. It might well be that the information, the intelligence that is available to inform that decision is so sensitive, that it cannot be disclosed because it will compromise national security as well as the safety of others. If that is the case, then this piece of legislation would facilitate a process where the court can look at the information and make a determination one way or the other.

Mr. Speaker, I would like to thank those who have been involved in the drafting of the Bill: the Legislative Drafting Department, Solicitor General, Deputy Solicitor General, as well as legislative counsel, and I'm happy to answer any questions arising.

Mr. Speaker, I commend the Bill to Honourable Members.

The Speaker: Thank you, Honourable Attorney General.

Does any other Member wish to speak?
[Pause] The Honourable Leader of the Opposition.

Hon. Roy M. McTaggart, Leader of the Opposition: Thank you, Mr. Speaker.

Mr. Speaker, I rise to indicate that from the Opposition's standpoint we support the Bill now before the honourable House.

I do have to admit that when I first saw the draft I had great misgivings about it, more so because I just simply did not understand it and what it was really seeking to achieve as a result of seeing it. The Attorney General has alluded that the UK has similar legislation. I think they've probably had it since 2012?

[Inaudible interjection]

Hon. Roy M. McTaggart, Leader of the Opposition: Since 2013. Okay, close enough. Anyway, they have the legislation in place, but I know it wasn't without its controversy. When it was introduced, there were misgivings about it, but the government of the day succeeded in getting it passed. For all intents and purposes, just as we have indicated, it is used very rarely, in very rare cases, but it has been found to be extremely useful in circumstances when it has been used.

Mr. Speaker, last week Monday, the Attorney General kindly arranged for the Opposition to be briefed on this Bill by his Office. We met with him and the Solicitor General for a good while to talk through the basics of the draft Bill and what they sought to achieve, and we left with a much better understanding and feeling much better about the Bill and its contents.

Thank you to the Attorney General and the Solicitor General for meeting with us; for enlightening us on the provisions of the Bill and providing us with the explanations that we required. As a result, Mr. Speaker, we are able to come this evening and indicate to the honourable House that we fully support it, and I commend it as well.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Leader of the Opposition. Does any other Member wish to speak?
[Pause]

The Honourable Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you very much, Mr. Speaker.

My comments on this Bill are quite brief. Similar to the Honourable Leader of the Opposition I, too, had certain reservations about it, but I accept—especially in light of what we are dealing with right now—that there are times within our own community that we require certain legislation to be in place to deal with certain issues that may arise from time to time.

What caught my attention about this Bill was actually what prompted it—it went back to the Colonial Prisoners Removal Act of 1884; and it jumped at me, that to deal with something in this day and age we have to rely on laws that are over a hundred-years old. When you consider that the Colonial Prisoners Removal Act was enacted in 1884, Mr. Speaker, and you look at what was happening in 1884, it sets the tone for why that Act came about to begin with.

For the listening public and for Members: It was actually the year of the Great Berlin Conference, where the European powers got together and decided to divide up Africa amongst themselves. I guess anyone in Africa who was giving trouble, they shipped them to the UK to deal with them. That was the genesis of that Law when it was enacted in 1884, bearing in mind that at

that time many colonies didn't have a proper prison and so forth.

I do understand that in this day and age that we have terrorism, et cetera, and you're relying on the public to provide certain information, some level of national security or protection is needed. We do understand the need for this legislation to be on the books, and while it is sad that it is necessary in this day and age, nonetheless, it is actually a resource that members in the law enforcement community will need.

With that said, Mr. Speaker, I also support this Bill. I think it is needed. It is just the signs of the times that we are living in now.

Thank you.

The Speaker: Thank you, Honourable Member for Bodden Town West.

Does any other Member wish to speak?
[Pause] Does any other Member wish to speak?
[Pause] If not, I invite the Honourable Attorney General to exercise his right of reply.

The Attorney General, Hon. Samuel W. Bulgin: Thank you, Mr. Speaker.

Mr. Speaker, to begin with, thanks to all Honourable Members of the House for their support, in particular to the Honourable Leader of the Opposition. As he quite rightly pointed out, we met and clarified the objectives as set out.

Mr. Speaker, I find the Honourable Member for Bodden Town West's observation quite appropriate. The timing of the Bill is quite fortuitous as we are in a period when the provision of intelligence is quite important. Given current happenings, we, as a Parliament, would certainly want to encourage the provision of intelligence by those who have relevant information, on the understanding that their safety will not be jeopardised should they be brave enough to come forward and provide it.

Mr. Speaker, just to point out that this Bill was approved by Cabinet in August of last year, and it has been in the public domain since then by way of public consultation. It has run its course, 28 days and over, so members of the public would have had an opportunity, if they wished, to provide comments or feedback; and we got some feedback which was quite welcome.

Mr. Speaker, I thank all Honourable Members for their support of the Civil Proceedings (Closed Material Procedures) Bill, 2023.

I thank you, sir.

The Speaker: Thank you, Honourable Attorney General.

The question is that a Bill shortly entitled Civil Proceedings (Closed Material Procedures) Bill, 2023 be given a second reading. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Civil Proceedings (Closed Material Procedures) Bill, 2023 was given a second reading.

The Speaker: Madam Premier, may I invite you to move the Motion for the adjournment of this House until 10.00 a.m. tomorrow morning.

ADJOURNMENT

The Premier, Hon. Juliana Y. O'Connor-Connolly: Thank you, Mr. Speaker.

Mr. Speaker, I move that this honourable House be adjourned until 10.00 a.m. tomorrow morning.

The Speaker: The question is that this House do now adjourn until 10.00 a.m. tomorrow, Tuesday, 27th February. All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

At 7.07 p.m. the House stood adjourned until 10.00 a.m. Tuesday, 27th February, 2024.