PARLIAMENT
OF THE CAYMAN ISLANDS

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OFFICIAL HANSARD REPORT

First Meeting of the 2020/2021 Session

Sixth Sitting

Monday
14 December, 2020
(Pages 1-44)

Hon. W. McKeeva Bush, OBE, JP, MP
Speaker

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PRESENT WERE:

SPEAKER
Hon W. McKeeva Bush, OBE, JP, MP
Speaker of the Parliament

MINISTERS OF THE CABINET

Hon. Alden McLaughlin, MBE, JP, MP	*Premier*, Minister of Employment, Border Control, Community Affairs, International Trade, Investment, Aviation and Maritime Affairs
Hon. Dwayne S. Seymour, JP, MP	Minister of Health, Environment, Culture and Housing
Hon. Roy M. McTaggart, JP, MP	Minister of Finance and Economic Development
Hon. Tara A. Rivers, JP, MP	Minister of Financial Services and Home Affairs

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Capt. A. Eugene Ebanks, JP, MP	Elected Member for West Bay Central
Hon. Barbara E. Conolly, MP	*Deputy Speaker,* Elected Member for George Town South
Mr. Austin O. Harris, Jr., MP	Elected Member for Prospect
Mr. David C. Wight, MP	Elected Member for George Town West

OPPOSITION MEMBERS

INDEPENDENT MEMBERS

Hon. V. Arden McLean, JP, MP	*Leader of the Opposition* - Elected Member for East End
Mr. Alva. H. Suckoo, Jr., MP	*Deputy Leader of the Opposition* - Elected Member for Newlands
Mr. Anthony S. Eden, OBE, MP	Elected Member for Savannah
Mr. Bernie A. Bush, MP	Elected Member for West Bay North
Mr. Christopher S. Saunders, MP	Elected Member for Bodden Town West
Mr. Kenneth V. Bryan, MP	Elected Member for George Town Central
Mr. D. Ezzard Miller, MP	Elected Member for North Side

APOLOGIES

Hon. Moses I. Kirkconnell, JP, MP	*Deputy Premier,* Minister of District Administration, Tourism and Transport
Hon. Juliana Y. O'Connor-Connolly JP, MP	Minister of Education, Youth, Sports, Agriculture and Lands
Hon. Joseph X. Hew, JP, MP	Minister of Commerce, Planning and Infrastructure

OFFICIAL HANSARD REPORT
FIRST MEETING 2020/2021 SESSION
MONDAY
14 DECEMBER, 2020
11.05 AM

Sixth Sitting

[Hon. W. McKeeva Bush, Speaker, presiding]

The Speaker: Good morning.

I will call on the Deputy Leader of the Opposition, the Elected Member for Newlands to grace us with prayers.

PRAYERS

Mr. Alva H. Suckoo Jr., Deputy Leader of the Opposition, Elected Member for Newlands: 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 Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, 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 and 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: Please be seated.

This honourable House do now resume its sitting.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

The Speaker: None.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Passing of Pastor John Jefferson, Snr.

The Speaker: Honourable colleagues, I rise this morning to report to this honourable House the passing of one of our former members, one of our senior politicians and a keen supporter of our Commonwealth Parliamentary Association: Pastor John Delaney Jefferson, Snr.

Brother John or Chef John, as he was affectionately known to us, was elected to this honourable House in the general election of 1968; quite an extraordinary year.

Brother John defeated the late veteran, Mr. Spurgeon Ebanks, who was the Deputy President of the House and MLA [Member of the Legislative Assembly] for West Bay for many years. Brother John won two terms: 1968 to 1972 and 1972 to 1976. He was an effective MLA, man on the ground attending the needs of his people in his district of West Bay.

Brother John stood strongly at all times, for all things Caymanian, not budging on any matter he felt would cause moral decadence to the society and our values, and most certainly, there was no stronger defender of his Christian faith than him.

The church was, he felt and declared, the cornerstone of our Christian faith, and it should never be denigrated at any time. Our laws, he felt, must always be consistent and reflect our heritage and culture. Our national life, he felt and believed, should not deviate from our traditions and mores that made Cayman a special place in this world which he felt had become chaotic and lost its way.

One of the things I most remember was his stance between 1969 and 1972 on the Constitution that we received in 1972. The huge issues of the cadastral survey because we had no real safeguards in the land registration system existing at the time, the introduction of the cadastral survey resolved most of the uncertainties regarding land registrations. However, there were claims not settled and stayed in government possession and had to be adjudicated on.

The other issues of significance that he did not compromise on were: the then government's infrastructure programme, our road paving network West Bay to

East End, our then new hospital, the courthouse, this Assembly Building—now Parliament Building—and the old Administration Building or the Glass House. Those issues cost him dearly; the loss of his political career. He was smeared, deeply criticised, maligned, belittled and accused because of his buy-in to the vision and the concept of the then government's infrastructural projects. If we are fair and reasonable, we can say without the championing of the cadastral system, and those infrastructural projects, where would we have been?

As one of Cayman's renowned chefs, he hired a significant number of women who also honed their skills working with him. Many of the women perhaps, might not have had the opportunity to be gainfully employed, and do so well working with him.

Honourable Members, the body of our former colleague will Lay-in-State on Friday from 9am until 11am here in this Parliament Building. The official funeral services will be held on Saturday the 19th at 2pm at the Wesleyan Holiness Church in West Bay.

May his soul rest in peace.

May we all stand in a minute of silence?

[Moment of silence]

The Speaker: Thank you.

You may be seated.

The Premier, Hon. Alden McLaughlin, Minister of Employment, Border Control, Community Affairs, International Trade, Investment, Aviation and Maritime Affairs, Elected Member for Red Bay: The Lord giveth and the Lord taketh. Blessed be the name of the Lord.

The Speaker: May his soul rest in peace.

[Pause]

The Speaker: Honourable Members, I have to tender apologies on behalf of Minister Hew who cannot be here due to, I think, a broken heel or something on his foot; nevertheless, he's not able to be here.

We are glad that our colleague, the Honourable Minister of Finance has made it in person through that ordeal of being stuck at home for two weeks. Good to see you, sir.

Also, I must announce that the Honourable Minister of Education and the Honourable Deputy Premier are both in their constituencies in Cayman Brac with His Excellency the Governor and couldn't be here this morning.

PRESENTATION OF PETITIONS

The Speaker: None.

PRESENTATION OF PAPERS AND OF REPORTS

The Speaker: None.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: None.

STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: The Honourable Leader of the Opposition.

Hon. V. Arden McLean, Leader of the Opposition, Elected Member for East End: Thank you, Mr. Speaker.

Mr. Speaker, I tried catching your eye when the Questions to Ministers came.

The Speaker: Sorry, I didn't see you.

Hon. V. Arden McLean, Leader of the Opposition: That's fine.

I would like to ask the Government: What is happening with the Questions because it is anticipated that we will be out of here—

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Pardon me?

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Really? You have answered that?

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: I don't recall asking at least one so I don't know how it could be answered. Unless they answered them in writing but I haven't received that.

The Speaker: The Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Yes, Mr. Speaker. I have a question from the Leader of the Opposition and the answer will be sent down today.

The Speaker: One question remains [and] will be sent to the Assembly today.

[Crosstalk]

The Speaker: The Honourable Leader of the Opposition.

Hon. V. Arden McLean, Leader of the Opposition: I didn't ask any questions on the Elections. I asked questions on the registration of electors.

The Speaker: I think that's what the Deputy Governor is saying and that it's coming down to the House today. If we are fortunate to get out of here tonight then…

[Inaudible interjection]

The Speaker: Okay. I was just going to say we might have been lucky.

[Inaudible interjection]

The Speaker: Amendments. Yes, we have quite a number of Laws left on the agenda, as you can see, and a number of committee stage [amendments] which take an awful long time to get through.

The next item is the Honourable Minister of Financial Services.

Minister of Financial Services and Home Affairs

Financial Services Industry Development

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs, Elected Member for West Bay South: Thank you, Mr. Speaker.

Mr. Speaker, the Cayman Islands is a leading centre for financial services and has a robust internationally recognised regime and regulatory frameworks. Cayman has continued to be the jurisdiction of choice for global investment funds and other financial services business.

The Cayman Islands presents an increasingly attractive jurisdiction in which to reside or to establish a business. Notwithstanding the global headwinds, increased regulation, dealing with the global pandemic and other issues that the Cayman Islands has faced, the financial services industry is the strongest and most robust pillar of our economy.

Mr. Speaker, Cayman's legal framework, stable and competent Government, relatively high standard of living and low crime rate, experienced judiciary and respect for the rule of law, good infrastructure and high calibre financial service professionals, in both the public and private sectors, means that the Cayman Islands is seeing increased interest from international businesses and individuals seeking to reside and do business here.

Recent inflows include reinsurers, private equity houses and family offices. High net-worth persons and ultra-high net worth persons, need a secure and stable jurisdiction in which to domicile entities and establish other connections. Mr. Speaker, turbulence in other jurisdictions means that Cayman can continue to be a net beneficiary of these inflows.

In terms of legal and regulatory frameworks, the Government has put in place a number of measures designed to enhance our regimes and codify a risk-based approach. Regulation is not always welcomed Mr. Speaker, but our financial services industry and their stakeholders will ultimately benefit from the jurisdiction's ability to participate on a level playing field with international financial centres and to meet or exceed international standards.

Mr. Speaker, the continued inflow of registrations, the establishment of new funds and trusts, interests reported from the professional services firms regarding an uptick in the insurance business and the establishment of single and multi-family offices, are testaments to the success of Cayman's regime. For Caymanians and other residents this means stability—stability in government finances and in the provision of government services such as education, health care, social services and the like. Stability in relation to our international reputation and attractiveness as well.

Despite the fact that there will likely continue to be negative reports and/or comments published by activist organisations promoting their own agendas, those who do business with and invest in the Cayman Islands know us. They respect us for our robust, yet pragmatic, regulatory regimes.

Therefore, Mr. Speaker, my Ministry's goal is to assist the country to remain stable by creating strong regulatory and commercially responsive legislative enhancements for financial services and despite the rapid pace of global regulatory developments and unforeseen challenges such as the pandemic, we have achieved this goal.

Moreover, the Cayman Islands financial services industry has thrived and has supported our overall economy more so now than ever, given the significant toll that the pandemic has taken on the other pillars of our economy; namely tourism, including that of sports and health tourism.

Mr. Speaker, according to the Economics and Statistics Office, the financial and insurance services industry has consistently been the greatest contributor to the Cayman Islands gross domestic product or GDP. Taking into consideration the contributions of the professional, scientific and technical activities, which comprises primarily of legal and accounting services, financial services have broadly contributed to roughly 44.5 per cent of GDP in 2017, 43.8 per cent in 2018 and 43.2 per cent in 2019.

Mr. Speaker, despite the slight decline in financial services as a percentage of the GDP, which actually stems from the fact that the industry is growing slower than growth of the overall economy, the financial and insurance services industry has maintained its

dominance as the largest single contributor to the real GDP of the Cayman Islands.

In fact, Mr. Speaker, 2019 posted another year of expansion with the financial services industry growing by 2.6 per cent in 2019. The industry continues to show consistent growth with a five-year annual average growth rate of 2.2 per cent.

Mr. Speaker, in addition to being the major contributor to our economy and source of government revenues, financial services is also consistently one of the largest employers among the Cayman Islands workforce employing over 3,500 persons or 7.4 per cent of the workforce in 2019. That represents a 4 per cent increase over 2017.

Financial services and insurance activities was the fifth largest employer by sector according to the Economics and Statistics Office's Labour Force Survey Report - Fall 2019. Whereas professional, scientific and technical activities, again which primarily include legal and accounting services, was the third largest employer at 9.9 per cent of the total employed workforce as reflected in that same report. Again, Mr. Speaker, taken together, financial services broadly employ approximately 8,200 people or over 17 per cent of the total employed workforce.

Mr. Speaker, notably and remarkably, the Cayman Islands has achieved this growth while responding robustly to international assessments and developments. I'm delighted to note that the most recent recognition of the Cayman Islands' commitment to adhere to and implement international standards for tax transparency, comes from the OECD's Global Forum Peer Review of our domestic and international frameworks for the automatic exchange of financial account information (AEOI).

Cayman's framework was found to be "In Place" with no recommendations made to revise our framework at this time. Mr. Speaker, this latest endorsement of our framework by the OECD was published just last week. This is the first stage of the Global Forum's Peer Review of the Common Reporting Standard. Following this positive assessment of our legal framework, the Global Forum's Peer Review is now assessing the legal framework in action. In other words, it is looking at the effectiveness of the regime.

Mr. Speaker, this peer review is ground-breaking work by the Global Forum in carrying out rigorous detailed assessments of the legal frameworks for automatic exchange and I'm very happy to report this is positive endorsement of Cayman's regime by the OECD thus far in the process.

As Members of Parliament and the public are aware, on the 6th October, the EU removed the Cayman Islands from its list of non-cooperative jurisdictions for tax purposes. Our appearance on the list was as brief as it could have been given the EU's processes. For context though Mr. Speaker, it's also important to note that since December 2017 when the list was first published and subsequently updated a number of times thereafter, over 30 countries have, at some point, been added to and removed from this particular EU list.

Cayman's removal was welcomed by the industry and clients of the jurisdiction, who in a demonstration of confidence in Cayman's stability and in our commitment to meeting regulatory standards, continued to do business with the Cayman Islands during those months in which Cayman was listed and despite the pandemic. This again, Mr. Speaker, is a testament to the strength and resilience of the country and its stewardship.

In addition, Mr. Speaker, my Ministry has actively supported the Attorney General in responding to the Financial Action Task Force (FATF) and the regional FATF style body; the Caribbean Financial Action Task Force (CFATF). The FATF sets the global standard for AML which I'll use to refer to anti-money laundering, countering the financing of terrorism and counter proliferation financing.

Based on this standard, the CFATF assessed the Cayman Islands' AML regime and in March 2019, issued its Mutual Evaluation Report (MER) in which recommendations for enhancing our regime were made. Mr. Speaker, the Ministry has made great strides in addressing its area of responsibility covered in the MER by introducing new and amended legislation for the financial services industry to strengthen Cayman's AML regime.

In summary, Mr. Speaker, as it relates to responding to various International Regulatory Assessments of the jurisdictions financial services industry, the Government has achieved success on several notable and vitally important issues over the past three and a half years. For example, since taking office in 2017, through the work of my Ministry, the Government has:

- Developed a comprehensive economic substance regulatory and reporting regime in compliance with global OECD standards;
- Created a brand new legal and regulatory framework for private funds;
- Enhanced the regulatory regime governing mutual funds;
- Created and introduced a brand new regulatory framework governing virtual asset service providers operating in or from within the jurisdiction; and
- Enhanced our beneficial ownership regime.

These are just a few of the examples of what has been accomplished during this term. Each of these significant regulatory initiatives contribute to Cayman's adaptation and compliance with global regulatory requirements and as a result, enhances Cayman's attractiveness for investors and those seeking to conduct legitimate business in or from within the jurisdiction.

Mr. Speaker, the last few years have been intense for the Ministry, the Cayman Islands Monetary

Authority (CIMA), and the financial services industry alike, having to develop, adapt and adjust to a tremendous volume of legislation. Since 2017, my Ministry produced 124 pieces of primary and secondary legislation. Thus far, for the year 2020 alone, 54 pieces of legislation have been produced by the Ministry which represent over a 150 per cent increase in legislation produced as compared to the last Government administration and 50 per cent increase over 2019 alone.

Mr. Speaker, this has been an extremely active and productive Government administration. In the interest of time, I will briefly touch on just a few notable pieces of legislation that have been passed and enacted this year alone.

Mr. Speaker, as I mentioned earlier, the Government has implemented increased transparency and oversight of investment funds through the enactment of the Private Funds Law and amendments of the Mutual Funds Law. CIMA now regulates more than 12,000 private funds and more than 11,000 mutual funds.

Similar to our funds regime, the Cayman Islands is now in a stronger position to regulate and attract persons and entities that deal with virtual assets with the phased commencement of legislation for virtual asset service providers (VASPs). The VASPs legislation, which incorporates FATF standards for AML, allows for the supervision of persons and entities who are involved in providing business services that use or rely on virtual assets on behalf of another person or entity.

Mr. Speaker, this framework better positions the Cayman Islands to welcome the new digital age that is rapidly developing around us. It is designed to bring new business and clients to our shores in an area that, according to global data, is growing significantly. The industry is optimistic about the prospects for Cayman that this new framework promotes.

In addition to the funds and VASP legislation, I am pleased to report that over the last few years the Ministry worked to strengthen and enhance the Cayman Islands centralised Beneficial Ownership Register which was first enacted on July 1, 2017. Legislative amendments have increased penalties for non-compliance by the companies which may lead them to being struck off of the Companies Register. Corporate service providers now have increased powers to pursue non-compliant clients and to report to the BO [beneficial ownership] competent authority about the steps they've taken.

Mr. Speaker, successfully orchestrating the high volume of legislative actions taken over the past three and a half years has been a significant achievement. In doing so, the Ministry consulted extensively with the industry during the various legislative development processes carried out, sometimes with multiple rounds of consultation on individual pieces of legislation. I am cognisant that consultations take a significant amount of time and effort on everyone's part but they are absolutely worthwhile to ensure that appropriate decisions are made.

Supported by the Ministry team, engagement with local stakeholders has, by necessity, increased sharply over the last few years. Not just in terms of the traditional methods of consultation Mr. Speaker, but also through the use of working groups and the introduction of Ministry Quarterly Update Meetings which was started during this administration. This work is necessary in order to build awareness and understanding of the Ministry's work programme.

As I said Mr. Speaker, dealing with this high volume of legislative actions taken over the past three and a half years, has certainly been an accomplishment and in order to support the work that was required of the Ministry, a significant investment by the Government in the form of budgetary and human resources has been necessary.

Mr. Speaker, since the very beginning of my tenure as Minister of Financial Services, I have successfully advocated for, and the Government has willingly supported, and this honourable House has thankfully approved, a substantially increased budget for the Ministry, its Departments and CIMA.

This Government's investment in financial services, related departments and CIMA has increased by 84 per cent since 2017 from $23.85 million to $43.87 million. The budget for the Cayman Islands Monetary Authority alone, has grown by 112 per cent from $13.8 million to $29.3 million.

Mr. Speaker, this investment has been critical because without it Cayman would not have a chance of meeting our international regulatory obligations, which in turn helped to build and maintain a robust commercially competitive financial services industry. The human resources capacity that this Government has built provides a strong foundation and enhances the country's ability to adapt to regulatory developments and maximise commercial opportunities. No doubt, increased investment to support the capacity and work of my Ministry, its Departments and CIMA will need to happen in the coming years as well.

I will now provide a brief overview of the enhancements of each of the financial service related departments within my Ministry and CIMA, which have taken place during this administration. The Department of International Tax Corporation (DITC) has seen an increase of 110 per cent in its 2021 budget as compared to its 2017 budget. This increase, has in large part, funded IT systems and human resources that are vital to Cayman meeting its agreements to participate in global tax information exchange, including through the OECD’s Common Reporting Standard (CRS) and the US’ Foreign Accounts Tax Compliance Act (FATCA). Still relating to global tax cooperation, the increased budget also supports Cayman’s ability to monitor the industry’s compliance with our Economic Substance Regulatory Framework.

Economic Substance was first enacted in 2019 and it is intended to ensure that for taxation purposes, companies actually do conduct business in the countries in which they're established. Due to these important regulatory oversight responsibilities, the Government has supported the development and expansion of the DITC. Staffing levels are projected to grow by 250 per cent in four years, with the head count for 2017 being eight and projected to reach 28 employees by next year.

Mr. Speaker, CRS, FATCA and Economic Substance all went live in different years which meant that the IT systems to support them were built on an as-needed basis. As noted previously, DITC's budget increase will be used in part to streamline its systems. I am pleased to say and the industry has also been pleased to hear, that the new DITC's portal is much more than an upgrade. It now covers all three compliance standards, that being: CRS, FATCA and Economic Substance Reporting. In addition to improving the reporting processes for the industry, the new portal better equips DITC to monitor compliance with our regulatory standards in order to help the Cayman Islands meet our international obligations.

Mr. Speaker, over the last few years the Cayman Islands Government, with the support of this House has significantly adapted our legislative and regulatory frameworks to meet evolving standards from various international and regional bodies such as the OECD, FATF, CFATF and the European Union. Given the demanding workload to be carried out, the Department of Financial Services Policy and Legislation (DFSPL), had a compelling need to expand its team to be able to address the various policy and legislative matters at hand.

You see Mr. Speaker, the DFSPL had a small team of only five employees including managers, when I took office as Minister in 2017. I am grateful for the support of the Government and indeed this Parliament, in agreeing to the significantly increased budgetary allocation to the Ministry for 2018 to 2021 budgets collectively, in order to help address the crucial need for additional personnel to carry out the vitally important functions of the Ministry on behalf of the government.

Between 2017 and 2021 via the approved budget and supplemental funding to support its mandate, the DFSPL is projected to have an 89 per cent increase in its budget. This is primarily attributable to an increase in headcount to 10 policy staff and 13 staff overall, which represents a 160 per cent increase in human resources for the Department since 2017, and a larger budget to support the funding of important services such as legal communications and public affairs support.

Over the past three and a half years the workload of the Ministry, and in particular, that of the DFSPL, has been enormous. There is no other way to put it, Mr. Speaker. As mentioned earlier, since taking office in June 2017, the DFSPL has produced 124 pieces of primary and secondary legislation. In reviewing the outputs of the Department thus far, as I said for 2020, 54 pieces of legislation have been produced which represent an over 150 per cent increase in legislation produced as compared to the last Government administration, and 50 per cent increase over 2019 alone. All while dealing with the impacts of the global pandemic no less.

Mr. Speaker, having persons who are familiar with and understand the legislative drafting process is integral to the work of the DFSPL. I was amazed to find that for a ministry that produces the sheer volume of legislation that it does, there was no dedicated in-house expertise to assist in providing guidance and oversight helping to pull together and rationalise the legislative development process and functions required of the Ministry.

To that end Mr. Speaker, I'm very pleased to report that the Government has supported the creation and the funding of a Senior Legislative Advisor position for the Ministry, which has recently been filled by a very able and experienced person who has worked closely with the Ministry throughout the past several years.

Having this talent as a part of the Ministry, certainly helps to increase its capacity and support to the Minister going forward. Mr. Speaker, the Ministry and the Government are of course deeply appreciative of the support given by the Attorney General's Chambers in actually drafting the various pieces of legislation as required.

The Cayman Islands General Registry has seen a consistent budget trend over the four-year period. From 2017 to 2021, General Registry will see a nine per cent increase in the budget and the head count is expected to increase from 43 to a projected 62 people in 2021 which represents a 44 per cent increase in personnel since 2017. To continue delivering a high level of performance across the various services with a constant budget, the Registry has become more efficient with its resources. The introduction of the Cayman Business Portal and Corporate Administration Platform has allowed the General Registry to deliver services to corporate service providers on-island in a cost-effective manner.

The General Registry, as the Competent Authority for beneficial ownership has the legal authority to monitor businesses compliance with providing beneficial ownership information to government as required by law. Mr. Speaker, the jurisdiction's primary financial services regulator, the Cayman Islands Monetary Authority has been allocated a 112 per cent increase in budget which translates to almost $15.4 million over the past four years since taking office in 2017 and factoring in the 2021 budget.

In addition to the budgeted increase, CIMA has consistently received supplemental funding at key intervals over the past several years to support its growth, and with the support of this honourable House, has received nearly $16 million in total supplemental

funding between 2017 and 2020 to address various changes to the legislative and regulatory frameworks in response to evolving international standards.

Mr. Speaker, the most recent supplemental funding received by CIMA for over $6 million, supported the creation and/or enhancements to the two very critical regulatory regimes, those being, the registration and supervision of Private Funds and broaden Mutual Funds Scope; and the regulation of virtual asset service providers. Again, I thank all Members of Parliament for your support in approving this additional funding to CIMA in order to ensure that CIMA has the resources necessary to implement these regulatory regimes.

Mr. Speaker, as outlined in detail, this Government has committed to actively supporting our domestic economy and the local financial services industry through legislative enhancements, but Mr. Speaker, this Government has also made available, significant financial contributions to support the financial services industry's engagements and other activities. The support made available to Cayman Finance alone, has increased by 253 per cent since taking office in 2017. Cayman Islands $750,000 per annum was allocated to support the activities of Cayman Finance in the Ministry's 2018 and 2019 budgets and again in the 2020-2021 budget. I am pleased to report that earlier this year the Government tabled a revised purchase agreement with Cayman Finance covering the revision of Cayman Finance's 2020-2021 Business Plan. I am happy to see that this business plan is now in place.

By necessity, it is flexible enough to cover global developments in financial services in real time. At a local level, Cayman Finance has designed activities to raise public awareness and understanding of our financial services industry and to create summer internship opportunities for young Caymanians. Its international activities cover engagement with international industry stakeholders and research and marketing activities that proactively seek to protect the reputation of Cayman's primary industry.

In addition Mr. Speaker, the Cayman Finance purchase agreement stipulates quarterly progress reports on the delivery of the activities and their costs. This creates an accountability framework to evaluate the delivery of value for money.

Mr. Speaker, over the last few years the Government has made a substantial investment in public affairs and communications within the budgets of various ministries to develop a strong and positive presence in key foreign markets for the jurisdiction. In terms of face-to-face international engagement efforts made, I have led several delegations to Washington, DC over the years to meet with influential policy makers on Capitol Hill as well as doing likewise with EU Permanent Representatives in Brussels. In addition to the significantly enhanced budget allocation to support Cayman Finance's research, communication and engagement efforts as I discussed earlier.

With the 2020 budget year drawing to an end and 2021 on the horizon, the Ministry will be engaging in a number of new initiatives to enhance its public affairs and communication support to strengthen its ongoing efforts in key markets, such as the UK, US, EU and Republic of China.

This will complement the engagement plans of the Cayman Islands Government Office in the UK which is led by the Cayman Islands representative and supported by my Ministry's recently hired Financial Services Attaché who will be based in the UK and will also cover the EU region. Mr. Speaker, work with the Ministry of International Trade will also continue in this regard.

From the very beginning in June 2017, when speaking with both internal—that being ministry—and external stakeholders being local financial services industry representatives, I have communicated the need for all stakeholders, Government and industry alike, to engage more proactively in addressing the perception problem about Cayman that unfortunately, still exists among some influential quarters.

Mr. Speaker, in keeping with the policy priorities in this area, which were discussed during my 2020/2021 budget debate last year, one of the key aspects of our public relations efforts has been to challenge the stereotypes that abound regarding the Cayman Islands as perpetuated by the entertainment industry.

These stereotypes exist mainly because of misinformation and ignorance about the Cayman Islands and that of our financial services industry. As such, throwaway references can be seen in television, films and advertisements without any real thought as to their validity. It is therefore up to us as a jurisdiction to challenge the stereotypes and help to educate the entertainment industry as to what the Cayman Islands is really about. Such careless throwaway comments can harm the reputation of our islands because collectively they reinforce the myth that the country operates on a shady level and when that myth is repeated consistently, it morphs into a generally accepted belief.

Therefore, Mr. Speaker, it is unacceptable for us to sit back and do nothing. As a country, we must take on each challenge as it arises. One such challenge happened earlier this year, when the Government issued a Cease and Desist Letter to AT&T, requesting that it changed one of its television advertisements that depicted the Cayman Islands in a negative light. We also used that opportunity to inform the company that the Cayman Islands Financial Services are provided in accordance with Global Financial Standards and that the OECD ranking placed the Cayman Islands on par with other countries such as Canada and England for transparency and tax Information sharing.

We stated that any insinuation to the contrary was wrong and inaccurate. We also advised them that the Government reserved its right to legal and appropriate regulatory actions should they not comply. Mr.

Speaker, I am happy to report that AT&T did in fact agree to change and remove the reference to the Cayman Islands in their popular advertisement as a result.

Mr. Speaker, there have been other challenges made by the Government during the past year which have included challenging a reference to being called a "tax-haven" in a tax textbook. As a result of our challenge, the publishing companies subsequently agreed to remove the reference in all future editions of the publication. The Government has also challenged several instances where Cayman was spuriously referenced in episodes of a few sitcoms aired on popular streaming platforms.

Mr. Speaker, to challenge every throwaway negative comment about the Cayman Islands is a formidable task but this Government believes it is vital to do so in order to help minimise such references in the future and to educate the broader public about how the Cayman Islands operates as a legitimate and integral cog in the wheel of the global economy.

It gives me great pleasure to report to this honourable House, a year after I initially indicated that moving forward the Government would "take on Hollywood" as a euphemism for mass media generally as necessary, we have done just that; and we have already seen positive tangible results as a result of doing so. I dare add Mr. Speaker, that we did so without anyone setting foot, least of all me, in Hollywood.

Despite the lack of apparent understanding of some people as to why the Government would attempt to be more proactive in this way as can be seen from the notable successes that I have just highlighted, there is great vision in taking a more proactive approach to challenging ill-informed stereotypes.

Mr. Speaker, I am not saying that as a country we will be successful in addressing, or even possibly identifying for that matter, each and every spurious reference to the Cayman Islands, but what I am saying, as I have done from the beginning, is that we must take both a defensive as well as proactive stance to defending and promoting the significant strides made by, and the reality of, the Cayman Islands. We cannot sit back and let Hollywood or any activist lobby organisation define who we are or what we do.

I'm honoured to be the Minister and a part of this Government that has helped to move the needle forward in this direction to bring about some positive results thus far. To summarise the position taken Mr. Speaker, I borrow a quote from the former US Attorney General, Robert Kennedy [*sic*] by saying: **"There are those that look at things the way they are, and ask why? I dream of things that never were, and ask why not?"**

Mr. Speaker, I will now provide a brief summary of my Ministry's priorities for the weeks, months and year ahead. As previously discussed, the Ministry is working to strengthen its engagement strategy that employs targeted public relations and communications. In doing so, the Ministry will continue to work in close collaboration with the Cayman Islands Government Office in the UK and with the Ministry of International Trade to help determine how best and effectively to deploy additional resources overseas to promote and defend the jurisdiction accordingly.

Mr. Speaker, from all accounts, the year 2021 is shaping up to be another intense year with respect to scrutiny of Cayman's legislative and regulatory regimes as part of the work programmes of various international and regional organisations. From ongoing FATF, OECD and EU reviews of Cayman's AML and tax regimes, the Ministry will continue to have a significant workload ahead. In keeping with the government's practice, the industry will be consulted as part of these ongoing initiatives and the Ministry will be issuing a more fulsome industry advisory outlining more details in the coming week.

In addition, with increased international focus on the need to attract sustainable investments to recover from the current economic recession that many countries are facing as a result of the pandemic, there is an opportunity for the Cayman Islands to begin to more prominently highlight the positives that the country can bring in this arena as an experienced, stable and trustworthy facilitator of international investments that can positively contribute to the EU's and others' sustainability and economic agenda. The Ministry's continued engagement on these subjects, both locally and internationally, will inform and help shape Cayman's response and action to be taken.

Mr. Speaker, 2020 has been a challenging year worldwide with unprecedented pressures placed upon societies all across the globe, the Cayman Islands being no exception. The fact that the Government is able to provide the level of support that we do to our people and businesses most impacted financially by this pandemic, is made possible largely because of the enduring strength and resilience of our financial services industry. That strength and resilience is predicated on an effective working relationship that has been built between the Government, through the work of the Ministry, CIMA and local industry professionals.

Cayman's international rankings are a testament to this work and the robustness of our industry and economy as a whole with Moody's reaffirming Cayman's Aa3 stable rating as of the 13th April, 2020, and the OECD's Forum on Harmful Tax Practices Global Standard on Economic Substance assessing the Cayman Islands as being "not harmful", in June 2019, the highest ranking possible. In addition, the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes marked Cayman as "Largely Compliant" in 2017, the same ranking given to countries like Germany, the UK and Canada; and has most recently assessed Cayman's legal frameworks for the automatic exchange of financial account information to be "in place" with no recommendations made to revise our frameworks at this time.

Mr. Speaker, these are accomplishments worth noting and repeating frequently as the good news about the Cayman Islands is often lost in the rhetoric and utterances of those intent on painting Cayman in a bad light. It is also important to remind the public of these accomplishments which were achieved during this Government administration to help combat the, shall we say, *selective memory syndrome* that often occurs especially around this time in the term.

The continued growth of the financial services industry year over year in real economic terms is a testament to the continued success of the Cayman Islands as a global financial centre. This success which has been consistent throughout this period of intense change over the last several years, is in turn a testament to the leadership of this Government and those at the helm of Financial Services helping the country navigate the turbulent waters.

Therefore, as a result of many hours of complex, diligent and vitally important work carried out by all involved, financial services in the Cayman Islands continue to grow. As a Government working in tandem with stakeholders, including the industry as appropriate, we are committed and prepared to proactively and reactively respond to global developments to ensure the continued success of the Cayman Islands for years to come.

Mr. Speaker, the challenges are great and yes the setbacks may come but we have proven that we are up to the task to face them head-on and to overcome. The hallmark of great leadership is not how you perform during times of relative calm and prosperity but instead how you stand up and perform during the times of great challenge, uncertainty and pressure. This Government has weathered and continues to weather the storms of the past several years.

The Financial Services legislative and regulatory landscape has changed tremendously over the past decade and the required pace of change has never been as intense as it has been over the last three years. However, given the global impact of COVID-19, geopolitical priorities, concerns and rhetoric have also intensified, so too have the international regulatory initiatives which reflect such priorities.

Mr. Speaker, year 2020 has been a year like none other; from intense earthquakes to raging landfill fires. From a worldwide pandemic to powerful regional tropical storms and hurricanes. The Cayman Islands has successfully weathered them all. Whereas the year 2021 is shaping up to be another intense year, my Ministry, its respective Departments and CIMA are all in a better position to effectively carry out the required tasks at hand and those to come.

Mr. Speaker, as a result of the investment made by this Government administration, the Ministry is now better equipped to assist the Government and country to respond to the ever-evolving global regulatory landscape and to the various international assessments of the jurisdiction in order to maintain Cayman's crucial role and position as a global financial centre. These significant enhancements were brought about during this term as a result of visionary and tenacious leadership and with support of the Government and Parliament alike.

I thank you all.

PERSONAL EXPLANATIONS

The Speaker: None

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

GOVERNMENT BUSINESS

BILLS

SECOND READINGS

PRIVATE FUNDING OF LEGAL SERVICES BILL, 2020

The Speaker: The 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 Private Funding of Legal Services Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Attorney General speaking?

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

[Pause]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, the long title is, a Bill for a law to provide for the regulation of Private Funding of Legal Services; and for incidental and connected purposes.

Sir, the purpose of this proposed legislation is to provide a statutory framework for alternative ways of funding the provision of legal services in the Cayman Islands through the utilisation of contingency fee agreements and litigation funding agreements. This is consistent with the Government's quest to ensure access to justice for persons who would otherwise be disadvantaged because of impecuniosity.

Mr. Speaker, if I may provide some background to this legislation. In February 2012, I made a request of the Law Reform Commission to undertake a review of the Law relating to conditional and contingency fee agreements with a view to having some reform in that area. This referral was triggered by the fact that there was a case before the Court of Appeal, *Latoya Barrett v. the Attorney General,* in which the Court of Appeal suggested that an examination of the legal effect of conditional fee agreements and the law of maintenance and champerty be undertaken. I'll explain those terms later.

For the benefit of Members, a conditional fee agreement, in short, is an agreement in which an attorney-at-law accepts the client's normal fee with an agreed uplift amount in the event of success so as to compensate the attorney-at-law for the risk of not being paid in the event of a failure. Contingency, is an agreement in which the attorney-at-law retains an agreed percentage of the client's recovery and is paid nothing in the event of the action being unsuccessful. Therefore, Mr. Speaker, no win, no pay, in short.

Mr. Speaker, the Court of Appeal noted that when discussing the applicability of the conditional fee agreements, complex issues of public policy were involved, and therefore a full account must be taken of all the relevant interests and most importantly, the need to provide access to justice for those who otherwise would not be able to afford it.

Mr. Speaker, though an examination of the law in this area had been requested, it should be noted that the conditional fee agreements had been used informally in the Cayman Islands for some time before, but the validity has been acknowledged by the courts in a number of cases, to the extent that the court has provided Practice Directions which attorneys-at-law would be required to follow in putting together these conditional agreements.

Mr. Speaker, this practise is accepted, notwithstanding the fact that the common law offences of maintenance and champerty have never been repealed and therefore still form part of the Common Law of the Cayman Islands.

Mr. Speaker, champerty and maintenance usually go together to describe instances whereby a person, usually a stranger and sometimes an attorney, actively encourages someone to pursue a lawsuit in court that usually the stranger has no interest in. In some instances, not only is the person encouraged verbally to pursue these lawsuits, but the person encouraging them agrees to fund it on the condition that if the case is successful then the stranger/attorney will get a share of any of the money awarded or the property recovered as a result of the case. It's basically inciting, encouraging and in some instances agreeing to fund case go-ahead even though they have no other interest in the merits of the case itself.

Mr. Speaker, as I said, champerty is an aggravated form of maintenance whereby the parties kind of struck up an agreement to split the proceeds. These arrangements are or were frowned upon because it's said to be contrary to public policy because they were seen as encouraging frivolous litigation and indeed unnecessary lawsuits. Accordingly, the concept of buying into someone else's lawsuit or someone's case was strictly forbidden and was made a crime to our Common Law and was also called a civil wrong or tort.

Mr. Speaker, it is still a common law offence and a tort in the Cayman Islands. However, like most things with the passage of time, things and thinking have evolved and continue to do so. Therefore, a number of developed countries, including the UK, Canada, Australia and others have abolished these crimes and the tort champerty and maintenance. The UK did so via the Criminal Law Act 1967, and Canada did so back in 1953, I think.

Although Cayman hasn't formally abolished these things—as I said, it was accepted that times have changed and there is a need to provide greater flexibility in allowing litigants with genuine claims to be able to access justice to litigate those claims. Therefore, our Chief Justice took the view that with proper safeguards in place, the balance of public policy should weigh in permitting some form of such agreement for the otherwise would-be disadvantaged litigants.

Accordingly, Mr. Speaker, in 2002 the learned Chief Justice had this to say—and I'm going to quote from what he said which was reported in the Court of Appeal Judgment of Latoya Barrett in 2012. Mr Speaker, I will provide you with a copy.

[Pause]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, if you turn to paragraph 12 of the judgment, I think I flagged it there for you [it's] just to add some context: **"The Chief Justice went on to consider whether agreements with a success fee were unlawful as being champertous maintenance and void on the grounds of public policy. He rejected the argument that the court should regard any attenuation of the common law position as being a matter for the Legislature. In his view, this overlooked the mutable nature of the common law itself as it changes to meet the needs of society. It also overlooked the peculiar or particular duties and responsibilities of the court in Cayman.**

"The Chief Justice put the issue of public policy (2002 CILR 161, at paras 36-37): If a lawyer anywhere has too much at stake in the success of litigation he may be tempted to conduct that litigation in a manner which is unethical. The ultimate concern is that the administration of justice could be impaired by improper conduct of litigation motivated by the self-interest of lawyers becoming commonplace. It follows that a situation should not be encouraged in which lawyers would be exposed to temptations which might lead them to behave

other than in accordance with their best traditions. Improbable though such a scenario might seem in an environment where professional honour remains the norm, those who fear have only to look to the experiences in other places where contingency fees are routinely allowed, to find cause.

"There is, however, another equally important and competing public interest: that of ensuring that everyone has access to justice. For many, such as the plaintiffs in this case, that access would be denied for want of legal representation, were it not for the willingness of some lawyers to undertake litigation on the risky basis of conditional fee agreement."
[2012 (1) CILR 131]

Hon. V. Arden McLean, Leader of the Opposition: When was that?

The Attorney General, Hon. Samuel W. Bulgin: He said that in 2002, but the Court of Appeal repeated it in 2012.

Mr. Speaker, the existence of these common law offences within the laws of the Islands raises a number of issues mainly as you heard because of the potential ramifications involved for both the attorneys and the client who may choose to fund legal services through alternative ways.

Mr. Speaker, following on from the referral to the Law Reform Commission, the Commission produced and made available for public consultation an issues paper entitled, "A Review of Litigation Funding in the Cayman Islands - Conditional and Contingency Fee Agreements" dated 29th December, 2015; and they also provided a supporting Private Funding of Legal Services Bill, 2015 and the Private Funding of Legal Services Draft Regulations, 2015.

Mr. Speaker, the consultation process of the Commission was informed by comments received from the Judiciary, the legal associations as well as the public. The process culminated in the submission of a final report on Litigation Funding and the supporting Private Funding of Legal Services Bill, 2020 and the draft Private Funding of Legal Services Regulations, 2020. The final report of the Commission detailed a comprehensive examination of the law as well as the history, the advantages, disadvantages and the social impact of similar types of agreements in jurisdictions such as the UK, Australia, Canada and the USA.

The Commission confirms that conditional and contingency fee agreements have been viewed by proponents as essential routes for persons of limited financial means to access justice, especially in cases relating to personal injury and medical malpractice. However, Mr. Speaker, notwithstanding the prevalence of and the advantages offered by such agreements, the Commission pointed out that they do present an incentive to excessive litigation and may promote a compensation culture. That is part of the public policy concerns that I spoke about earlier, Mr. Speaker—whether they could promote frivolous lawsuits or excessive litigation for want of the wrong reasons.

Mr. Speaker, the Private Funding of Legal Services Bill, 2020, which is now before this Parliament, seeks therefore to balance those competing benefits and address the concerns. Generally, the Private Funding of Legal Services Bill provides for contingency fee agreements which comprise the US style approach, that is, no win, no fee agreements, as well as a conditional fee style agreement with the success fee uplift.

Mr. Speaker, [with] the success fee uplift you take on the risk [of] not getting paid [if] you lose the case; however, if you win, you can get a fee agreement of 33 and a third per cent over and above what your normal fee would be. That is part of the compensation for the risk of you taking on the case and possibly not getting paid because if the case is unsuccessful you're not being paid.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: It can't exceed 100 per cent but usually it's about 33 and a third per cent.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Above.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Well, Mr. Speaker, just [to] make sure, the agreement itself is supervised by the court. It has to be approved by the court. It has to be put in writing. It has to be agreed by the court, signed off and so on, so there are safeguards there.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, the Bill also provides the ability to support third-party litigation funding agreements. A litigation funding agreement is an agreement under which third parties can fund litigation in return for a share of the proceeds. Mr. Speaker, the Government considers this legislation to be timely as I said, in light of the reforms to the legal aid system as more and more government resources are being called for in order to ensure that persons are guaranteed proper access to justice.

Mr. Speaker, it also comes on the heel, if you recall, of the Government recently enacting the protective cost order law which also provides persons with the comfort, if you will, of being able to challenge certain decisions without having to be looking over their shoulder of being saddled with prohibitive cost orders.

Contingency fee and litigation funding agreements have been considered by many as an effective way of ensuring that the legal aid system is not overburdened, while at the same time ensuring that persons can obtain effective legal representations; and so, given the considerable cost of the high quality legal representation—the Honourable Leader of the Opposition spoke about that a couple of days ago—Members will agree that all too often the most well-financed party wins the case or obtains the favourable settlement.

Accordingly, Mr. Speaker, both types of agreements benefit the legal system by levelling the playing field for underfunded litigants. The agreements have the added benefit of incentivising attorneys to work diligently on their client's case.

Mr. Speaker, if I might just touch on the clauses of the Bill quickly.

As usual, clause 1 deals with the short title and the commencement provisions.

Clause 2 is the definition clause which features several important definitions such as: "client", "funder", "legal services", "normal fees", "proceedings", "quasi-criminal proceeding", and "success fee".

Mr. Speaker, "legal services" is defined as **"any advice or representation provided by an attorney-at-law to a client in proceedings, or in anticipation of or in contemplation of proceedings".** This definition was inserted to ensure that legislation makes it clear that the funding under the law was available not only for persons who are conducting legal proceedings but also for persons who are contemplating bringing proceedings and where deliberations or meetings culminate in an agreement prior to the court action.

Clause 3 defines contingency fee agreement to encompass both conditional and contingency fee agreements. In particular, Mr. Speaker, the clause states that **"an attorney-at-law may enter into a contingent fee agreement with a client in which it is agreed that the remuneration paid to the attorney-at-law for the legal services provided to or on behalf of the client is contingent, in whole or in part, on the successful** [outcome] **of the matter in respect of which [the legal] services are provided".**

Mr. Speaker, the clause also delimits the proceedings to which contingency fee agreements will relate. For example sir, a contingency fee agreement cannot be entered into in relation to proceedings under the Penal Code, that is for criminal matters, or any other criminal or quasi-criminal proceedings—traffic matters and so; those are not covered.

Quasi-criminal proceeding is defined in clause 2 as one dealing with a **"non-criminal offence that carries a penalty similar to that of a criminal offence, but which is subject to less complex court procedures…,** [as I mentioned] **traffic and workplace health and safety offences"**.

Mr. Speaker, the exclusion of criminal and quasi-criminal proceedings is in keeping with legislation in other jurisdictions such as the UK and Canada and a long established public policy, a third party should not be able to profit from defending or assisting in the defence of persons charged with crime.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Likewise, clause 3 prohibits the formation of contingency fee agreements for legal services concerning matrimonial proceedings relating to child care custody matters and matters with respect to parental contact or access to a child. Mr. Speaker, that's understandable as proceeds from those should really go to the benefit of the child.

This limitation is based on the notion of having regard to the best interest of the child as a paramount consideration as well as a long-held view of promoting and preserving marriage which has best served the legal system by prohibiting attorneys from making divorce cases and contingencies.

Mr. Speaker, clause 3 does however, provide an exception for services relating to matrimonial financial disputes which do not involve the care of a child, where an attorney-at-law gains the approval of the court. The reason for this exception, Mr. Speaker, is that if there are no children concerned in the matter, a spouse wishing a substantial lump sum should not be prevented from entering into a contingency fee agreement with his or her attorney.

Clause 4 sets out the conditions which are applicable to contingency fee agreements. In particular, Mr. Speaker, clause 4 sets out the maximum fees which can be charged for contingency fee agreements. For example, the clause states that if a contingency fee agreement is an agreement under which the attorney-at-law is entitled to a success fee for any legal services rendered, the success fee shall not exceed the normal fees of the attorney-at-law by more than 100 per cent. However, the attorney-at-law and the client can apply to the court to seek an exemption from that limit.

Mr. Speaker, if you have a lawyer who charges $900 an hour for a particular matter and he does the case on a contingency basis or a conditional basis, he is not allowed to charge more than $1,800 an hour as an agreement; but usually it is capped at 33 and a third per cent.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Again, it is compensating the lawyer for the risk of taking on the case without ensuring whether he will get paid at the end of the day if he is unsuccessful.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, the draft regulation in support of the legislation would provide for further guidelines with respect to

maximum fees in contemplation in the case of claims sounding in money. The total of any success fee payable by the client to the attorney-at-law shall not exceed—

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Sorry?

[Pause]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, on the other hand where the contingency fee agreement involves a percentage of the amount or of the value of the property recovered in an action or proceedings, the amount to be paid to the attorney-at-law shall not exceed 33.3 per cent of the amount or the value of the property recovered in the action or the proceeds. Again, if you're talking about an insurance claim, $1 million, then you should…

Mr. Speaker, with regard to the form and content of the contingency fee agreement, this is set out in clause 5 which provides, among other things, that such an agreement shall be in writing and must be signed by the attorney-at-law and the client or by an authorised person on behalf of the client. The contingency fee agreement must also state certain prescribed matters. Should this legislation be passed, Mr. Speaker, the proposed draft regulation would provide prescribed matters to ensure that the form and content of the contingency fee agreement could easily change with the evolution of the law.

The provision would entail further contents which contingency fee agreements should contain generally as well as for litigious matters. They would further prohibit provisions that require the consent of the attorney before a claim may be abandoned, discontinued or settled at the instructions of the client—in other words, the client should still have the say as to whether they want to pursue the claim, whether it can be abandoned or discontinued—or which prevent the client from terminating the contingency fee agreement with the attorney-at-law or if you want to change attorneys. All of those safeguards will be put in place.

Clause 6 deals with the awards of costs and provides that a contingency fee agreement does not affect the award of cost as between party and party. For example, I sue you and I have a lawyer doing it on contingency. It doesn't prevent you [from] having to pay me my costs if I'm successful. You're still liable to have to pay the cost. The unsuccessful party [would] still have to pay my costs.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Clause 7 prohibits an attorney-at-law who is a party to a contingency fee agreement from claiming more fees than the agreement provides, unless such extra fees are expressly permitted and agreed to. The intent of this is to ensure that legal fees remain fair and reasonable.

Similarly, clause 8 renders invalid any agreement which seeks to relieve an attorney-at-law from negligence or from liability for any action for which the attorney-at-law would otherwise be liable in their capacity. Translation, Mr. Speaker, even though the attorney is working on a contingency fee basis, he cannot negligently handle the matter. He's still on the hook if he acts negligently. This provision seeks to ensure that the standard of care expected of legal professionals is upheld with dealings between an attorney-at-law and a client, and an attorney-at-law bears responsibility for the quality of his or her legal services.

Mr. Speaker, on to clauses 9 and 10 of the Bill: no action may be brought upon any contingency fee agreement since the agreement should reflect the will of the parties embodied in their contractual agreement. However, an application can be made to the court to determine the validity or the effect of the contingency fee agreement and to set this aside or enforce the contingency fee agreement where necessary.

In addition, Mr. Speaker, under clause 11, the court may order the reopening of the contingency fee agreement upon application by a person who has made all payments under the contingency fee agreement if it appears to the court that there are special circumstances of the case requiring the contingency fee agreement to be reopened. If it is so determined, the court may order the whole or any part of the amount received by the attorney-at-law to be repaid by the attorney to the client on such terms and conditions as the court deems just.

Clause 12 provides the Clerk of the Court with a supervisory role over contingency fee agreements. The Clerk of the Court must examine a contingency fee agreement before payment is made under the agreement where the client is in a fiduciary position such as a guardian, an attorney or a trustee under deed or a will. Again, to provide some safeguards there.

Clause 13 provides that if the client pays the whole or any part of any amount due under the contingency fee agreement without the previous allowance of the Clerk of the Court or the direction of the court, the client may be redirected by the court to account to the person whose estate or property is charged, with the amount paid or any part of it for that amount so charged. The attorney-at-law who accepts the payment may be ordered by the court to refund the amount received.

Clause 14 prohibits an attorney-at-law from purchasing all or any part of a client's interest in a case which the attorney-at-law intends to bring or maintain on behalf of the client.

[Inaudible interjections and laughter]

The Attorney General, Hon. Samuel W. Bulgin: Clause 15 states that except or otherwise permitted by the legislation, a bill of an attorney-at-law arising on a contingency fee is not liable to taxation by the court.

Clause 16 of the Bill provides for litigation funding agreements, which as I explained earlier, permits third-party funding of litigation in return for share of the proceeds. The authorisation of such agreements seems sensible, Mr. Speaker, as they are well known and are growing in the United Kingdom and elsewhere, and would be a valuable option for potential users and funders alike in this jurisdiction.

Mr. Speaker, I'm sure Members here would have seen this, sort of a growing business now, where you have third parties whose business it is to provide a loan for example, to someone who would want to bring an action but doesn't have the money and they would have this litigation funding service where the money is loaned to the litigant, he pursues actions, recovers and then pays back the loan with whatever other conditions are imposed there.

Mr. Speaker, it may be worth noting though, that there is no perceived need at this time to limit the fees being charged or the measures of compensation payable to litigation funders under such agreements. This [is] so because given the nature of the litigation funding business, it is not foreseen that potential funders were likely to be interested in funding any cases other than the real high-value commercial cases. In any event, the Grand Court already has the power under section 24(3) of the Judicature Act to make adverse cost orders against non-parties including, in time, third-party litigation funders.

Mr. Speaker, there will also be, as it relates to this particular area, a Code of Conduct which will set out different conditions for the operation of the litigation funding agreement.

Mr. Speaker, I mentioned earlier about champerty and maintenance. Clauses 17 and 18 of the Bill would abolish the common law offences of maintenance and champerty and will also abolish the tort using the approach taken in several jurisdictions and made clear that embracery is enforceable. Mr. Speaker, that's another aspect of it. It's e-m-b-r-a-c-e-r-y and that is an act where someone seeks to corrupt a jury, for instance, by offering to pay a jury to return a particular verdict in a particular way. That will remain a crime, Mr. Speaker, that's not being abolished at all. That will remain an offence.

However, Mr. Speaker, while the offences and torts would be abolished under the Bill, the abolition of criminal and civil liability for maintenance and champerty will not affect any rule of law as to the cases in which a contract is to be treated as contrary to public policy or otherwise.

Finally, Mr. Speaker, clause 19 provides for the making of regulations relating to litigation funding agreements and contingency fee agreements by the Cabinet after consultation with the Chief Justice and the legal profession. The clause also provides that the Rules Committee of the Grand Court may make rules of court to give effect to the legislation.

Mr. Speaker, the Government believes that this Bill would substantially enhance the justice system for the reasons that I offered earlier including the need for greater access to justice.

Mr. Speaker, the Court of Appeal in the Latoya Barrett matter had this to say when disposing of the case at the time in February, 2012.

Mr. Speaker, hopefully we'll get the context but I'll just read a very short aspect of what they had to say. Paragraph 70 of the judgment says: **"The Attorney General's assurance that the matter will be referred to the Law Reform Commission and may, thereafter, be addressed in legislation is a further reason for taking the view, in this court, that it would not be appropriate to decide either the question whether the Chief Justice was entitled to take the course that he did in *Quayum*** [case] **or the question whether (if so) the conclusion that he reached on the substantive issue (whether or not public policy requires that conditional fee agreements be struck down) should be upheld. It is more sensible, as it seems to me, to leave the position as it now is until the Law Reform Commission has considered what, in its view, the public interest requires and the legislature (or, perhaps, Rules Committee) have had the opportunity to respond to its recommendations".**

Mr. Speaker, in context, what the Court of Appeal had been advocating in the Latoya Barrett matter is that you had three cases; Chief Justice, Justice Henderson and Justice Quin, all three of them seem to be saying something different in three different cases, one of them being a Bank of Credit and Commerce International (BCCI) matter. The Court of Appeal's position was, *listen this is an area that cries out for reform but rather than the court attempting to do so it should be left to the legislature,* and so the assurance that the Attorney General gave that—

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Well it started in 2002 and culminated in the Court of Appeal judgment in 2012 and the Law Reform Commission has been looking at it since then.

The point that they were making there, Mr. Speaker, is that rather than us trying to bring some order to this by way of different courts having different opinions, the best thing to do to bring clarity to this was to put it in legislation. Let the legislature deal with the matter and that will then address the appropriate framework going forward as to how it should be treated. Hence, Mr. Speaker, that's how we landed here.

Mr. Speaker, I think this is very timely. It is something that should be welcomed and as I men-

tioned before, the conjoined effect of the legal aid, protective cost order and this, it should provide some relief to those who would seek to pursue justice in the courts but would otherwise be deterred because it is cost prohibitive, they can't afford it.

Therefore, Mr. Speaker, I commend the Private Funding [of Legal Services] Bill to Honourable Members of this Parliament for safe passage.

Thank you.

The Speaker: The Honourable Member for George Town Central.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

I rise to give my contribution to the Private Funding of Legal Services Bill, 2020. I want to say firstly, thank you so much to the Law Reform Commission and Attorney General for bringing this Bill. Like he rightfully said, this is about time that we brought some sort of legal framework to offer the people of this country better access to justice, particularly on suits that have results ending with funding matters.

I just want the Government to recognise that there could be some adverse effects to this and hopefully they will monitor and keep a close eye on this because rightfully so, Mr. Speaker, like the Attorney General has highlighted, this is somewhat big business in other jurisdictions and ultimately, we could find that there may be added pressures on our court systems and our court spacing.

As you know we've already had the ongoing problem with court space in the Cayman Islands, so if there are many more persons trying to take this opportunity of what this law provides you may find yourself with more access to the courts. No one can quantify that at this moment but to keep a close eye on it because they may create that pressure. That's the only negative that I find with it but it'd be important, doing my job, to highlight.

Mr. Speaker, I also agree with the Attorney General by saying that inadvertently, I think this is going to force us all to be better behaved under the law in fear of being sued due to the ease that this Bill creates for persons to have access to justice. The fear or the notion in the Cayman Islands where if you ever wanted to take someone to court you have to have big money, created this attitude of people being lackadaisical with how they handle a person's legal rights in the Cayman Islands. I think this law will force us all to tighten up our belts so to speak because at this particular point a person could be penniless and be able to have the opportunity to hold someone accountable for their damages financially.

Again, I'm going to give my full support to this, and I thank the Attorney General and the Law Reform Commission. This is so timely in a day and age like this and I [will] be honest with you, I wish it was five years ago because there are so many people who have been unable to get their justice.

Interestingly enough, [and] I'll close with this Mr. Speaker, I think this may have been a resolution to another problem that I was planning to bring to this honourable House with respect to land disputes and beneficiaries of wills. Whereby the law does not protect them well enough and persons who did not have the opportunity to take the administrators of a will to court, due to lack of monies, now have that option. Maybe I could feel less burdened to say if the administrators are not doing their job, they can now hire a lawyer and say, *listen these persons can be held responsible.* I won't get into the details of that because it's not related to this Bill but this helps in other areas as well, so I thank the Attorney General and this Administration for bringing the Bill forward and I will be supporting it.

Thank you, Mr. Speaker.

The Speaker: Proceedings are suspended until 2.15 p.m.

Proceedings suspended at 12.52 p.m.

Proceedings resumed at 2.34 p.m.

The Speaker: Please be seated.

Proceedings are now resumed.

The Honourable Leader of the Opposition continuing on the Private Funding of Legal Services Bill, 2020.

Hon. V. Arden McLean, Leader of the Opposition: Thank you, Mr. Speaker.

Mr. Speaker, I rise to make a contribution to the Bill that is before us, the Private Funding of Legal Services in the Cayman Islands.

Mr. Speaker, I have been a champion of such from my life before politics. I recall quite specifically, two occasions in which this was a subject of discussion between myself and the Premier—then Alden McLaughlin, the Attorney—wherein I petitioned him to —this is before politics, Mr. Speaker—assist someone with what this will correct and he said as lawyers they couldn't do it. Of course that started a very heated argument between he and I, and I told him we have to be creative in how we do it but of course he was fearful of being disbarred when the law prevented it and then he was fearful of the possibility of looking at stripes and stars for a while. That is in Northward, when you look through the bars, you see stripes and stars.

Mr. Christopher Saunders, Elected Member for Bodden Town West: Possibility to end up in Northward you say?

Hon. V. Arden McLean, Leader of the Opposition: Possibility yes.

Then on another occasion I retained him and I had to pay him a dollar because he said I needed to pay him a dollar. It was on the spur of the moment. I'm sure he will recall that one specifically. One night we were out on our social haunts...

Anyway, Mr. Speaker, that means it has been around in my mind for a long time because of the lack of justice for many in this country. We have heard so often of the rich prolonging these things especially if they know they're at fault, and break the other person. I've seen it. I recall a friend of mine who had a very good case against an accountant and because the accountant was of such means that he could hire the best, it exhausted my friend's resources and he had to bow out.

Thus, that person took my friend's property; not only his property but his family home. Today, that accountant has more than many or all of us put together in here, and lives in a close to $100 million house. Be that as it may, there were no provisions in this country for that at the time so that the other lawyers from the other side could continue to fight because my friend, being their client, had to come up with the monies. Suffice it to say, Mr. Speaker, the children of that man have no assets now. All of their family assets have gone.

Now, Mr. Speaker, the Attorney General, in his presentation of this Bill, I think he said, justice has been out of the reach of many for many years, something to that effect. Unfortunately, this is not the only place that justice has been out of the reach of many for many years. There are other areas as well. Now I'm just glad that we're trying to correct this one.

Mr. Christopher S. Saunders: Better late than never.

Hon. V. Arden McLean, Leader of the Opposition: I guess better late than never.

My little story of how I came into play with this was more than 20 years ago. The Attorney General said in 2002 was when it first emerged in the courts to a degree where it warranted attention by the judges and then was not complete until 2012. That is 10 years later, and now we are bringing it eight years later; that's 18 years it has been languishing somewhere out there. What they say? The wheels of justice grind slow but they grind almighty fine? I understand how long it takes for those wheels to reach one full cycle but still this has been languishing, I believe, for a little too long.

Mr. Speaker, despite my support for this, I fear that this is going to create another creature wherein there are certain lawyers in this country who will *press the envelope,* so to speak, with this, in that everyone who comes before them to look [for] representation, instead of being honest with them, they will take up the cause and they will be in the court looking [for] relief. The good thing about it is, now they'll have to work much harder than they were doing before. I can think of at least one who thinks he's the guru on everyone's rights and makes his public pronunciations of such. That's not to say that that's any reason for us not to do it because I'm sure others will benefit as a result.

Now, Mr. Speaker, there are a few things that I'm sure the Attorney General will explain to me. He knows how inquisitive I am and how much I review these things and come up with questions that are unresolved in my mind, as a result of my reviews. Now he said that under clause 3(2) of the Bill that **"an attorney-at-law shall not enter into any contingency fee agreement if the attorney-at-law is retained in respect of a proceeding under the Penal Code (2019 Revision) or any other criminal or quasi-criminal proceeding".**

I wonder, Mr. Speaker, if the Attorney General can explain to us, in instances where a person sues an insurance [company] as a result of a traffic offence, would that be a civil suit against the insurance?

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Pardon me? That would be covered because that came as a result of a traffic offence which is a criminal or quasi-criminal proceeding.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: It would be a negligence claim but that's criminal too.

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: No it's not? Civil? Civil negligence but resulting…

What happens when the person who caused the accident defends that or counters that and looks for cost? It was caused by that traffic offence, could that person then go into an agreement to recover costs from the petitioner? That is where I'm concerned. It may be [that] there's some explanation for that.

The other one is under clause 4 where there's a child in matrimonial financial disputes. Now, Mr. Speaker, I wonder if that cannot be separated. In that, there are prescribed provisions for maintenance in matrimonial disputes but then there are those who have much means which could be separated and if the person who is without, or not within sufficient financial resources to fight it, would that not be one that could be carved out and differentiated?

I don't want to take anything away from the children or child, whichever, but then, if that person could go into an agreement for their lawyers on contingency to fight for property, particularly the ones that are hidden or get hidden afterwards—and this is, I guess unisex, it's whether it's the wife or, let's use the word *partner.* Whichever partner has the means and the other one walks away with mere child support, I'm just wondering if there is a way to differentiate those two things. I'm sure the Attorney General has gotten that one.

Mr. Speaker, the other one I want the Attorney General to explain in his wind-up is, he talked about this 33 and a third per cent prescribed. Is that intended to be placed in the regulations? What I'm seeing here is that in clause 4(1), **"...the success fee should not exceed the normal fees of an attorney by more than 100 per cent."** Now he explained that if an attorney is $900 an hour, that success fee could look like $1,800 an hour.

I don't know how we're going to protect them at $900 an hour then you're telling them you can go to $1,800, and with that 33 per cent. For the benefit of this honourable House, the Attorney General needs to tie all those in for us as to how it's going to work because later on in the Bill in clause 4(6), I believe it is, it says, **"The Grand Court in determining an application under subsection (4), shall not approve a contingency fee which exceeds forty per cent of the total amount awarded, of any amount obtained by the client or of the value of any property recovered in the action or proceeding, however the amount or property…"**

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Pardon me? Clause 4(6).

Clause 4(4) says, **"Notwithstanding subsection (1), (2) or (3), an attorney-at-law may enter into a contingency fee agreement where—**

(a) the amount paid to the attorney-at-law is more than the prescribed maximum percentage of the amount or of the value of the property recovered in the action or proceedings; or

(b) the success fee exceeds either of the percentages set out in subsection (1) or (2)…"

One of those is the 100 per cent, one is prescribed by regulations, and then we talk about the 40 per cent. At the very least it's confusing because then the Attorney General introduced another percentage, which is 33 and a third per cent, yet the lawyer can get up to 100 per cent of his daily hourly fee. At the very least that is confusing to me when it comes to these numbers; as to where is this prescribed 33 and a third and the 40 per cent that will be prescribed in regulations.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I don't know that.

Mr. Speaker, the Attorney General is saying that will be the percentage they use in the regulations but the regulations are not in front of us.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I understand that the Cabinet can make regulations but when we say prescribed fee and then we have the taxing thereof, and the Courts are going to do the taxing because the courts are now the regulator of these agreements, may I say?

I believe this was written… I don't know if it was written for the lawyers, but I can tell you we spoke recently about the mistrust amongst them but more importantly, another set of confusion that will cause further mistrust between them and their clients is not going to make us any better off.

I trust that the Attorney General understood what I was trying to get across here, Mr. Speaker, with regard to the confusion all those numbers have created and I'm sure he is capable of—.

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, he just named out 'bout 20 fees that those lawyers put on you. See what I tell you? You see what I tell you?

If you don't have it in clear black and white, it's an opportunity for them to confuse… They would confuse Einstein to their uplift, I should say. Anyway, Mr. Speaker, I would like the Attorney General to at least help us in that regard.

Mr. Speaker, if I may move on, the other one is in Regulations. Clause 19 says, **"The Cabinet, after consultation with the Chief Justice and the legal association…"** I want to pay particular attention to the last entity that we talked about there—the legal association. Are we saying that they aren't associations?

You see why I stay up late at night when my brain is young and fresh or get up early in the morning at 4 o'clock and do it when my mind is clear and I look at every word? I wonder, what's the purpose of "the association"? Are we recognising Cayman Islands Legal Practitioners Association (CILPA) only?

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Oh yeah? So what about the other duly-registered one, Association of Legal Professionals and Advocates (ALPA); or any other legal association that has the constitutional right to register as lawyers, as associ… Are we to jettison them, or are we not going to recognise—.

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: *I'm politicking?*

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Oh, *point taken.* I thought you said I was politicking because this is where we resolve all the politics, you know. This is not the place that has a steeple on the top. This is the place where we resolve the politics, Mr. Speaker, and all of these matters are politics.

The Attorney General, Hon. Samuel W. Bulgin: I didn't say that. I said, "point taken".

Hon. V. Arden McLean, Leader of the Opposition: Oh, I misunderstood you. I do apologise Mr. Attorney General. I thought you said… because that's a common thing to be said in here that I'm playing politics. I was elected on the 8 November, 2000 and that's what they asked me to do.

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Oh no no, you can't… You want [to] get a point of order, get up. Get up, Mr. Prospect man; get up. You want a point of order? Go 'head. Make sure you know what you're doing though. I promise you that.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Prospect, go ahead sir.

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: He wants me [to] give way? You can't be directing the Speaker.

An Hon. Member: I wasn't directing the Speaker, I was direct—.

Hon. V. Arden McLean, Leader of the Opposition: You were. You were asking the Speaker, where am I going with this. You have no right, neither do I, to direct the Speaker. No one in here, not even the Premier can direct the Speaker.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah, but people need to learn this thing, Mr. Speaker, and if you don't know, zip it. Come on, you and I have come much further than that.

Mr. Speaker, I ain't going to get in that with the Member for Prospect because he'll be the loser on that one. I can assure him of that. I don't want to do that because he and I have gone too far beyond that now.

Like I said Mr. Speaker, I support the Bill and its intent but I would prefer if the Attorney General could give us some indication of those points. There may be some simple explanation for it, which I haven't seen or which I know nothing of, and I trust that the Attorney General can enlighten me, so to speak, and thus, it will enlighten the rest of the Members of this honourable House.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? *[Pause]* Last call.

The Honourable Deputy Leader of the Opposition, the Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Thank you, Mr. Speaker.

Mr. Speaker, I will be brief because I do believe all the important points have been covered so far but I wanted to rise to give my support to this Bill as well. It is, I think, timely legislation that is being brought because as referred to by the Member for George Town Central, it does go a long way in enhancing and affording people access to justice in this country.

Mr. Speaker, I can think of many, many examples where people have felt somewhat short changed at the outcome of a court proceeding because they have been unable to take things to the extent that they could have, had they been able to afford proper representation, or not just that, but the ability for that representation to go to the maximum that it should have. Therefore, I'm pleased to see that this is now being done. I think a great many people in this country will benefit from this.

Mr. Speaker, while I hear some of the concerns about frivolous lawsuits and individuals being encouraged to pursue lawsuits just for the sake of pursuing them, I did set my mind at ease because that was a concern of mine as well, but I think that there is a self-balancing mechanism here that will eliminate that because before entering into one of these agreements, an attorney is going to consider and weigh the possibility of success. If there's a low degree of possible success, I don't think any right-thinking attorney is going to enter into one of these agreements because they lose in the long run. I think that balances itself out, Mr. Speaker, and alleviates some of that concern about people just filing endless lawsuits in court based on these contingency agreements.

Mr. Speaker, in thinking back to what I was saying earlier about access to justice, there's also, I think, some grey area that this legislation will clear up. I'm thinking of one example that came to my attention recently where an individual employed an attorney to deal with a settlement. That individual had been paying the attorney legal fees but when the settlement came in, that individual was told that the settlement was going to be used to pay for some of those legal fees which she was unaware of.

Again, that to me is extremely unethical for an attorney to do, and I don't think it is an indictment on

the legal profession here. I think that's an extreme example; however, those cases do come up from time to time. Having this legislation is going to make the rules extremely clear, abundantly clear [on] what can and cannot be done; what agreements can be entered into, and, of course, requiring the client to agree to these sorts of arrangements. An attorney shouldn't make an assumption on behalf of their client when it comes to payment of fees, so I'm pleased to see that we're going to eliminate some of those grey areas that some people may have taken liberties with in the past.

Mr. Speaker, I have questions on just one clause, clause 19. I'm hoping that in his wind up, the Honourable Attorney General can just give some clarity on why this is needed. Clearly there's a clause there which allows exemption from the regulation. Clause 19(2)(d) says, **"exempt persons, actions or proceedings or classes of persons, actions or proceedings from this Law, regulations made under this section or any provision in those regulations".** Just to clarify why we would need those exemptions and maybe give some examples of cases where you would need to rely on those exemptions.

A suggestion, I know it's clear, but to make it even clearer, [clause] 17(2), **"For the avoidance of doubt, embracery is not repealed".** My suggestion would have been to put the words "the offence of embracery" but you know that's not too troubling a clause, Mr. Speaker.

Part 3 – Litigation Funding Agreements, again, I think, provides transparency that is needed in the industry [and] in the legal profession. I'm glad to see that that is actually coming forward now in this Bill.

I did have another question under **"Determination of disputes under this agreement"**, clause 9(3)(c) where it says, **"a person who is or claims to be entitled to be paid the fees or disbursements in respect of which the contingency fee agreement is made"**. My question is whether or not that would apply to creditors generally, or is it just within the scope of the particular matter that would be before the courts.

Mr. Speaker, those were the only sections that I had questions on or any sort of concern, but again, I am wholeheartedly supporting this Bill and I look forward to its passage.

Thank you.

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

I call on the Honourable Attorney General to wind up.

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

If I may just briefly touch on the 19(2)(d), the exemptions. Mr. Speaker, the mystery there, if I might call it that, is because of the public policy implications involved in these kinds of arrangements. What that is aimed at, is to give the Cabinet the flexibility of either delineating certain persons, classes of persons or proceedings that should not be covered by the contingency or conditional fee agreement depending on the circumstances. It is really sort of providing some kind of a latitude, Mr. Speaker. It might happen that at some stage along the way, either the court or someone brings something to the attention of Government to say, *as a matter of public policy I think either these classes of cases should or should not be included*.

The Honourable Leader of the Opposition spoke about quasi-criminal, which I mentioned as traffic matters, where at some stage along the way the Cabinet takes the view and reflection that things have evolved, and I now think that these quasi-criminal matters should be included in the policy dealing with the contingency fees or conditional fee arrangements. That's really the mystery behind that.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, on the issue of the various fees the Honourable Leader of the Opposition was trying to seek clarification on, "success fee" is defined in the Bill. Success fee means **"any fee under a contingency fee agreement which is higher than the normal fees of an attorney-at-law but does not include a percentage of the amount or of the value of property recovered in an action or proceedings".**

Just to clarify there, you have the fee which is the attorney's charge-out fee, but that fee does not include the pay-out from the proceeds; that fee would not include a sum from the amount recovered by the victim of the traffic accident. Therefore, if the insurance company pays $1 million, that is the value or the proceeds from the claim itself, that's not the fee, that's a different thing. Usually the attorney wouldn't get any of that. What the attorney would get is his charge-out fees which is money that he spent having conducted the case: disbursements, reasonable expenses, plus what we call his professional fees which would be like his $900 an hour and so.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Then on top of that, he would have what is called an uplift on that.

Hon. V. Arden McLean, Leader of the Opposition: You never lose under any condition. Can't trust *unna yuh know*. They never lose under any circumstance.

The Attorney General, Hon. Samuel W. Bulgin: Well, yes and no. I say yes and no, Mr. Speaker, because the whole purpose here is that when he is doing this case, he will not know whether he's going to be successful or not, and if he is unsuccessful all his efforts

are unrewarded. He will never be able to get any fees, won't be able to recover anything; not a dime. Hence, it is a risk that he's taking, and the reason why that uplift is there is to compensate him for that risk that he took.

Hon. V. Arden McLean, Leader of the Opposition: Uplift is defined as over and above his normal fee. Most of them going kill the million dollars in the *[INAUDIBLE].*

The Attorney General, Hon. Samuel W. Bulgin: Well no, again, I told you it has to be approved by the court and once the agreement is signed, then that's it. If it is going to be revisited, it can only be revisited with the approval of the court. The client, in fairness, knows what he or she is entering into before the case starts and it works both ways. If at the end of the day, it turned out that somehow the agreement was unfair or lopsided and the client should have recovered or should have retained more the court can re-open an agreement that says, *listen you need to be able to pay back this amount to the client.*

[Crosstalk]

The Attorney General, Hon. Samuel W. Bulgin: There's a Practice Direction for example which sets out some lawyers' fees. More than 15 years up to CI$300 or US$365; between 10 and 15 years CI$275 or US$335, and so on depending on years of call. You also have other fees which we call refresher fees.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Well, that's the nature of the business, so if you come and you retain a lawyer and he has to be calling you every second [because] he needs money to buy paper or to mail out something, it doesn't work that way. You basically initially put in funds so that he has some money to do things like those. If you need to send something by FedEx he doesn't have to be calling you to come in to give him $50.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: However, there's a normal fee that all lawyers would charge which is a reasonable fee depending on the complexity of the case, the length of it, number of hours put in and all of that, so it is written down somewhere.

[Pause]

The Attorney General, Hon. Samuel W. Bulgin: They do, so they have to balance that. It's a professional thing.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: It's not all that bad though because what the lawyer is doing is really putting your funds in circumstances where you may not have recovered anything at all because you would not have been able to access justice because of the prohibitive costs.

Hon. V. Arden McLean, Leader of the Opposition: I'm just trying to make sure that they don't take more than they are entitled to.

The Attorney General, Hon. Samuel W. Bulgin: They will not be able to take more, as I said, because in addition to what is going to be in this law, the Grand Court Rules Committee will be issuing rules that will help to guide the process as to entitlements and so on. Mr. Leader, I'm confident that there will be enough safeguards to ensure fairness in the circumstances.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Oh sorry, yes. The point about the legal association, point taken. We will address that too. I think what happened [was], the other association came on the scene late, so when some of these papers were going out and the consultations being done, we only had one at the time. Instead of prescribing one association it will probably just say association representing lawyers.

[Crosstalk]

The Attorney General, Hon. Samuel W. Bulgin: Point taken. It will be open to, if later down the road you have three more associations then they are all included as part of the *[INAUDIBLE].*

[Crosstalk]

The Speaker: Honourable Members on both sides, can these things be discussed in Committee rather than across the aisle?

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, sorry about that. My apologies, but I think we're there now, and so thank you very much.

Mr. Speaker, it only falls for me to thank Honourable Members for their contribution to the Bill and to also—.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, I suppose we'll have to give that some more thought because the whole idea here as I articulated earlier was to ensure that whatever proceeds flow from this process where a child is involved, then of course, paramount importance and consideration is that the child benefits from this in a maximum way.

There are clearly going to be some matrimonial matters where no child or children are involved where a contingency agreement would be appropriate but I mean, I can't stand here and think of all the possible scenarios where that would be. Hence, as I said, the benefit of that omnibus clause at the back there, which allows the Cabinet to add to or remove cases that they think might benefit from this contingency arrangement.

Mr. Speaker, I thank all Honourable Members for their debate and support of the Bill, and I just want to also thank the Law Reform Directorate and the Law Reform Commissioners over the years and current ones for their hard work and their clearly detailed consideration of all these issues. I commend the Bill to Honourable Members, again.

I certainly will ask the Law Reform Commission to look at the first two issues raised by the Honourable Leader of the Opposition about whether there can be carve-outs for these instances.

The Speaker: The question is that a Bill shortly entitled the Private Funding of Legal Services Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Private Funding of Legal Services Bill, 2020 was given a second reading.

REGISTERED LAND (AMENDMENT) BILL, 2020

[Deferral thereof to end of Second Readings]

The Premier, Hon. Alden McLaughlin: Mr. Speaker.

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, the Honourable Minister of Lands is absent today on constituency business in Cayman Brac.

With your permission I would like to move the relevant Standing Order—I'm not sure which one it is—to allow the Order Paper to be reconfigured so that those two Bills which she has carriage of: the Registered Land (Amendment) Bill, 2020 and the Prescription (Amendment) Bill, 2020, to put them at the bottom of the list and hopefully by then I shall have some indication as to whether she wishes to proceed with them at this Meeting or whether they should be withdrawn.

The Speaker: The question is, honourable Members, that items (2) and (3) under Second Readings be shifted to the bottom of that section on the Order Paper.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Items (2) and (3) under Second Readings will be moved to the end of that section on the Order Paper.

VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2020

The Speaker: Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill shortly entitled, the Virtual Asset (Service Providers) (Amendment) Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Honourable Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government. It is a Bill that seeks to amend the Virtual Asset (Service Providers) Law, 2020, in order to give Cabinet the power to make regulations to provide for a transitional period to be applied to the coming into operation of any provision of the Virtual Asset (Service Providers) Law, 2020.

The amendment Bill also makes necessary changes to the Virtual Asset (Service Providers) Law which serve to ensure a definition aligns with the Financial Action Task Force global standards and to revise certain provisions to clarify and facilitate a gradual phased commencement of the law.

Mr. Speaker, the Virtual Asset (Service Providers) Law was passed by the Legislative Assembly on May 25th, 2020 as part of the regulatory framework for the Virtual Asset Services in the jurisdiction. This framework was drafted in order to implement the global standards pertaining to the supervision and regulation of Virtual Asset Service Providers and Services which were adopted in June 2019 by the Financial Action Task Force and to implement a regime that would protect the user and clients of Virtual Asset Services.

Mr. Speaker, since the passing of this framework, I am pleased to report that the Caribbean Financial Action Task Force has acknowledged the legislation and the steps Cayman has taken towards the implementation of the revised FATF standards for Virtual Asset Services. It was important to commence the framework in 2020 in order to meet the commitments made to the CFATF and to ensure the jurisdiction was in a position to report on these positive developments at the 2020 CFATF Plenary. This information collected will also help prepare the jurisdiction for the FATF's next 12-month review of the Virtual Asset Service Providers.

The Ministry of Financial Services and Home Affairs therefore consulted with the Cayman Islands Monetary Authority in order to develop a strategy regarding the commencement of the framework and necessary regulations to enact the law. During these consultations, the Authority acknowledged that very specific technology and highly specialised expertise is necessary for the effective supervision of Virtual Asset Service Providers and that new industry guidance would need to be developed. Additionally, it was noted that a progressive approach to the commencement of the law would also help market participants by granting them more time to adapt to the requirements of the framework. The Ministry therefore adopted a phased approach to the commencement of the framework and with an initial focus on AML/CFT supervision.

Mr. Speaker, the Ministry therefore proposed this phased commencement to Cabinet in late October and the necessary legislation was published in the Gazette on October 29, 2020. The commencement of the framework will take place in two distinct phases. The first phase began on October 31st, 2020 and commenced provisions of the legislation which pertain to the Anti-Money Laundering and Countering of Financing of Terrorism Supervision only and creates a registration and notification requirement for VASPs at this time.

The second phase is expected to begin in June 2021 and will commence the framework's elements which focus on consumer protection, including the licensing requirement for Virtual Asset Custodians and Virtual Asset Trading Platform operators.

Mr. Speaker, certain changes are required to be made to the Virtual Asset (Service Providers) Act, 2020 in order to facilitate this phased commencement, foremost of which is the addition of a transitional provision to the Act. A transitional provision will allow persons conducting for Virtual Asset Services the additional time to comply with the requirements without incurring a penalty as provisions of the framework are gradually commenced. The Ministry is therefore presenting this Bill to this honourable House in order to give Cabinet the power to make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into the operation of any provision of the law.

Mr. Speaker, another change to the Virtual Asset (Service Providers) Law which is included in this Bill, pertains to the term "obliged entity". This term defines foreign persons or entities engaged in Virtual Asset Services as ones who are registered or licensed in another non-high-risk jurisdiction. It was noted during the CFATF review of the legislation that the term did not include foreign financial institutions.

Mr. Speaker, this definition is therefore being revised to include these foreign entities expressly in the definition in order to comply with the recommendations made as a result of the review of the legislation when it was presented to the CFATF. This change will ensure that information regarding the person sending a virtual asset transfer is sent to appropriate foreign entities when necessary and as directed by the Anti-Money Laundering Regulations and in accordance with global standards.

Another change included in the Bill relates to virtual asset issuances. There have been a number of such issuances taking place from within the Cayman Islands and an important part of the Virtual Asset Regulatory Framework is to ensure that these issuances are supervised for AML and CFT purposes. Mr. Speaker, as currently drafted, section 7 of the Virtual Asset (Service Providers) Law could be misinterpreted such that virtual asset insurers [*sic*] are only required to seek approval from the Authority for an issuance only for a certain type of virtual asset issuance.

Therefore, the proposed change clarifies that all issuances taking place from within the Cayman Islands are required to seek approval prior to issuing virtual assets to the public, as was intended by the law. Mr. Speaker, this regime helps protect the reputation of the Cayman Islands by ensuring that only legitimate issuances are taking place from within our shores and also helps to protect any participants in these issuances by providing essential oversight of these activities. Mr. Speaker, the amendment Bill amends section 9 to allow for VASPs engaging in securities investment business to also be registered under the Securities Investment Business Law and directs an existing licensee engaging in virtual asset services to comply with the requirements of the VASPs Law as directed by the Monetary Authority.

Mr. Speaker, the amendment Bill which is presented to this honourable Parliament today makes certain small changes which will facilitate the coming into force and the proper implementation of the Virtual Asset Regulatory Framework. The commencement of the framework is crucial for the continued progress to be made in compliance with emerging global standards and will enable the Cayman Islands Government to collect and analyse valuable information on the type and nature of virtual asset services and activities that are taking place in the jurisdiction, which in turn will allow us to ensure that these activities are taking place in a manner which is conducive to the well-being of its users and the financial services industry in this jurisdiction.

Mr. Speaker, the Bill is arranged into six clauses. Clause 1 of the Bill provides for a short title and commencement of the legislation.

Clause 2 amends section 2 of the principal Law to amend the definition of the term "obliged entity" to include as an obliged entity, a financial institution that provides a virtual asset service that is licensed or registered and is supervised for virtual asset services by a government regulatory body in another non-high-risk jurisdiction.

Clause 3 amends section 7 of the principal Law to clarify the requirements for a registered person in relation to the issuance of virtual assets.

Clause 4 amends section 9 of the principal Law to include the requirement for a virtual asset service provider to be registered under the Securities Investment Business Law (2020 Revision) in order to engage in securities investment business.

Clause 5 amends section 15 of the Law to require an existing licensee to comply with any relevant provisions of the Law as the Authority may require.

Clause 6 amends section 39 of the principal Law to give the Cabinet the power to make Regulations to provide for savings, transitional and consequential provisions.

Mr. Speaker, this concludes my presentation of the proposed Bill; and I therefore commend the Bill to this honourable House for its second reading.

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

The Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, just to say that I rise to lend my voice in support of the Bill being proposed by the Honourable Minister and to observe that this is an evolving issue as it relates to FATF standards, as you would have heard me mention on a number of occasions.

Mr. Speaker, when the Cayman Islands was first evaluated when we had had our Fourth Round Mutual Evaluation, virtual asset was not one of the standards under the FATF framework. After we were evaluated Mr. Speaker, our reports prepared and everything was done, we were under discussion with the FATF and the CFATF and EU and others, the FATF subsequently came up with a requirement for virtual assets to be regulated. It was done post Mutual Evaluation of the Cayman Islands and not only was it done

Mr. Speaker, it was then imposed upon us as a requirement, something to address. When we spoke about the rules changing mid-stream that is probably a classic example of the rules changing as we go along. They came up with this requirement now that virtual assets, I think it is Recommendation 15, has to show that we have a sufficient legislative and administrative framework in place to address virtual assets and to regulate virtual asset service providers. I can tell you as I stand here, they are holding our feet to the fire.

That was what prompted the legislation which the Government moved on very quickly thanks to the Ministry of Financial Services and all the other pieces, all the other framework [and] supporting aspects being put in place to ensure that when we are reviewed against that particular recommendation as it relates to virtual assets and virtual asset service providers we would have met the standard. We must be able to demonstrate that we have met the standards set by the FATF as it relates to virtual assets.

That is one of those rules that was changed mid-stream, literally on the fly. Of course, for whatever reasons, there are a number of literature around the place, publications that mention the amount of traffic that is passing through the Cayman Islands as it relates to virtual assets and so we are understandably in the crosshairs, if you will, of the rest of the world and certainly the standard setters as it relates to this particular product.

Therefore, the legislation is timely [and] the amendments are understandable and this is all in a bid to meet the ever-evolving standards by the FATF.

Thus, I also commend the Bill to honourable Members.

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

I'll call now on the Honourable Minister to reply.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Just to thank the Honourable Attorney General for his elucidation of the history of the original legislation and as he underscored, the fact that as we move to meet the global standards as set, they continue to evolve during that process, so certainly the Government is doing all that we can to try to ensure that we stay compliant with this ever-evolving global regulatory landscape.

I do thank the rest of the Chamber for its tacit support of this Bill moving forward in this way.

The Speaker: Question is that a Bill shortly entitled the Virtual Asset (Service Providers) (Amendment) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Virtual Asset (Service Providers) (Amendment) Bill, 2020 was given a second reading.

COMPANIES (AMENDMENT) (NO. 3) BILL, 2020

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Companies (Amendment) (No. 3) Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I rise to present this Bill on behalf of the Government. It is a Bill that seeks to amend the Companies Law (2020 Revision) to include the Customs and Border Control Service in the list of entities which may request information from the Registrar; to adjust references to the list of equivalent jurisdictions published under the Anti-Money Laundering Regulations (2020 Revision); to repeal the sections of the Law relating to bearer shares; to require companies to maintain and file with the Registrar, information on the nature of its business; and for incidental and connected purposes.

Mr. Speaker, this amendment to the Companies Law (2020 Revision) is again responsive to the jurisdiction's assessment by the Caribbean Financial Action Task Force that was published in March 2019. Accordingly, this Bill makes an amendment to extend the obligation to file the nature of business activity to non-exempted companies on an annual basis. This will demonstrate to the Caribbean Financial Action Task Force that the Cayman Islands is meeting Recommended Action 27 which said that the Cayman Islands needs to implement these measures to allow for basic regulating powers on legal persons to be publicly available.

Mr. Speaker, it should be noted that amendments to the Law were made previously during the year in the May 2020 sitting to require all companies including the resident and non-resident companies to file their nature of business upon registration. Exempted companies and limited liability companies were also required to submit the nature of business information annually with their annual returns. At that time the annual return obligation was limited to the exempted companies and limited liability companies, but all companies including the resident and non-resident companies had the obligation from earlier this year to file their nature of business upon registration of such companies.

Mr. Speaker, this amendment Bill extends the requirement to submit the nature of business annually to local companies, that being resident and non-resident companies as well, and once commenced this introduces an obligation on the company to select a primary nature of business from what is a drop down list essentially. With respect to the filing system, the Registrar attempts to make the process as user friendly as possible by allowing for the selection of a category as listed in the drop down menu.

It should also be noted Mr. Speaker, that the Bill, once it is passed into Law as an Act, would require an Order by Cabinet in order for the provisions of the Bill to commence, and as such when it comes to this particular provision, it is not anticipated that the requirement would be commenced upon gazettal given the timing of when the annual returns are due for January 2021, and therefore the legal obligation to file this on an annual basis will not apply to the annual returns due in January 2021.

However, local companies, that being resident and non-resident, still are able to file their nature of business voluntarily as some have been doing up until this point, until of course, it is then going to be legally required for their annual returns due in the January 2022 cycle.

Additionally, Mr. Speaker, the Bill removes the legislative penalty where there is default with complying with a request for information from the competent authority. This breach is now captured by the beneficial ownership administrative fines regime and this amendment is in line with advice received from the Attorney General's Chambers. This Bill also clarifies the competent authorities with whom the Registrar is obligated to provide and share information upon requests within 48 hours. The manner in which section 26A(2)(f) of the Companies Law was drafted Mr. Speaker, inadvertently excludes the Customs and Border Control Services from requesting information.

Specifically, Mr. Speaker, the Customs and Border Control Service is now identified as one of the competent authorities and the provisions clarify that information may be requested by a competent authority as defined under section 2(1) of the Proceeds of Crime Law (2020 Revision).

In addition, this Bill makes amendments for changes deemed consequential to the changes made in the Proceeds of Crime Law and the Anti-Money Laundering Regulations. Since the equivalent jurisdictions list is no longer published in the Gazette by the Anti-Money Laundering Steering Group, references to the lists have been replaced with text to align with the amendments that were made to the Proceeds of Crime Law and the Anti-Money Laundering Regulations.

Mr. Speaker, for efficiency, rather than adjust the definition of "custodian" which references the equivalent jurisdictions list and relates to bearer shares, this has been repealed as bearer shares are no longer applicable in the Cayman Islands.

Finally, the Bill also repeals and substitutes Part XV - Custody, Etc. of Bearer Shares, with the proposed section 229, as bearer shares, again as I indicated, are no longer applicable in the Cayman Islands.

Mr. Speaker, the Bill is arranged in several clauses. Clause 1 contains a short title of the legislation.

Clause 2 repeals the definition of the word "custodian" as relates to Part XV which is being repealed and substituted under clause 5.

Clause 3 seeks to amend section 26A(2) to include in the list of entities which may request information from the Registrar, the Customs and Border Control Service established under section 3 of the Customs and Border Control Law, 2018.

Clause 3 also seeks to amend section 26A to repeal and substitute paragraph (f) of subsection (2) to clarify information may only be requested from the Registrar by a competent authority as defined under section 2(1) of the Proceeds of Crime Law.

Clause 4 amends section 41 to require a company which meets the criteria under section 41(1) to

specify in the summary contained in the annual lists prepared by the company, information on the nature of the company's business.

Clause 5 repeals and substitutes a proposed new Part XV of the principal Law which contains proposed section 229. The proposed section 229, prohibits the issue of bearer shares by a company, provides for their prohibition on issuing bearer shares to apply to companies which have been struck off the companies register, prohibits the court from permitting a company which has been struck off from being reinstated with bearer shares in issue and provides for bearer shares issued prior to the commencement of the amending law or contrary to subsection (1), to be void.

Again Mr. Speaker, these provisions relating to bearer shares are really just clean up provisions because the issuance and the ability to operate with bearer shares have long been discontinued in the jurisdiction in a number of ways.

Clause 6 amends [section] 245(1) by deleting and substituting paragraph (d) which provides for a legal entity regulated in a jurisdiction included in the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the Proceeds of Crime Law (2020 Revision) to be exempted from the requirements under Part XVIIA of the Law.

Clause 6 also amends subsection (2) by replacing the reference to the list published in the Gazette and referred to in regulations 22(d) and 23(1) of the Anti-Money Laundering Regulations (2020 Revision) with a reference to the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the Proceeds of Crime Law (2020 Revision).

Again, Mr. Speaker, this is a provision that basically provides a “tick and tie” tidying up exercise with the changes that were made to the Proceeds of Crime Law and the Anti-Money Laundering Regulations earlier in the year.

Clause 7 amends section 279A by repealing subsection (3).

Mr. Speaker, this concludes my presentation of the proposed Bill. There is a committee stage amendment that will be presented at that time. In closing, I wish to thank my Ministry staff, relevant members of the financial services industry and the Legislative Drafting Department for their efforts with respect to the design and preparation of this Bill.

I therefore commend the Companies (Amendment) (No. 3) Bill, 2020 to this honourable House for its second reading.

The Speaker: The question is that a Bill shortly entitled the Companies (Amendment) (No. 3) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Companies (Amendment) (No. 3) Bill, 2020 was given a second reading.

[Inaudible interjections and crosstalk]

The Speaker: I think you all lost your chance.

[Inaudible interjection]

The Speaker: Sounded to me like she had done that too—

[Laughter]

The Speaker: —and then you all voted for it.

[Laughter]

PROPERTY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL, 2020

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Property (Miscellaneous Provisions) (Amendment) Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I rise to present this Bill on behalf of the Government. It is a Bill for a law to amend the Property (Miscellaneous Provisions) Law (2017 Revision) to provide for the virtual witnessing and attestation of required signatures for the execution of a deed or instrument under seal; and for incidental and connected purposes.

Mr. Speaker, this amendment to the Property (Miscellaneous Provisions) Law (2017 Revision) seeks to reduce the potential negative impact of COVID-19 with regard to the conduct of certain types of financial services business activities. Under the current Law, one of the requirements for a deed and instrument under seal to be validly executed, is that the deed or instrument should be signed in the presence of a witness. The Law does not define “presence” Mr. Speaker, and it is therefore unclear if presence will include virtual presence. This Bill seeks to assist the financial services industry by providing that presence will include virtual

presence for the purposes of witnessing deeds and instruments for a temporary period in anticipation of the lifting of the global COVID-19 restrictions in the near future.

Mr. Speaker, the new subsection was inserted at section 8(4) which allows for the virtual witnessing of the execution of a deed or instrument under seal with certain requirements which includes, amongst other things, that the witness can properly see the signing of the deed or instrument remotely and that the person signing the deed or instrument identify himself or herself with a photo identification. In order to align the amendment to the Notaries Public (Virtual Conduct of Notarial Acts) Regulations, 2020 which are the temporary regulations that are also a part of the COVID-19 relief measures that were passed by the Cabinet earlier this year, this new subsection will be a temporary amendment and will elapse by the 16th April, 2022 or on such date as Cabinet may decide.

Mr. Speaker, the Bill was developed in consultation with the Ministry. The consultation with the Financial Services Industry took place via the various industry associations in August. Input from all stakeholders was duly considered and where appropriate, changes incorporated into the Bill were made as reflected before this House today.

Mr. Speaker, the Bill is arranged into two clauses. Clause 1 of the Bill provides for the short title of the legislation.

Clause 2 amends section 8 of the principal Law by inserting proposed new subsection (4A). The proposed new subsection (4A) provides for the period beginning on the date of commencement of this amending Law and ending on the 16th April, 2022 or such other date that Cabinet may appoint by Order, a deed or instrument may be signed in the virtual presence of a witness.

The proposed new subsection (4A) further requires that where a deed or instrument is signed in the virtual presence of a witness, that witness must be able to view the remote signing of the deed or instrument contemporaneously with the individual signing the deed or instrument present and that individual must have a valid photo identification indicating that it is the witness one and the same who is actually making the signature as the counter-signing witness.

Mr. Speaker, clause 2 amends section 8(5) and (6) to include references to the proposed new subsection (4A).

Mr. Speaker, this concludes my presentation of the proposed Bill. There is a minor committee stage amendment to be made to this Bill and it will be presented at that time. Again, in closing, I wish to thank the Ministry staff, relevant members of the financial services industry and the Legislative Drafting Department for their efforts with respect to the design and preparation of this Bill.

I therefore commend the Property (Miscellaneous Provisions) (Amendment) Bill, 2020 to this honourable House for its second reading.

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

I call on the Mover for her right of reply.

Hon. Tara A. Rivers: Thanks. Just to say Mr. Speaker, I thank everyone in the Chamber for their tacit support in this effort to ensure that the financial services industry can continue to vibrantly operate during these challenging times presented by COVID-19.

The Speaker: The question is that a Bill shortly entitled the Property (Miscellaneous Provisions) (Amendment) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Property (Miscellaneous Provisions) (Amendment) Bill, 2020 was given a second reading.

SPECIAL ECONOMIC ZONES (AMENDMENT) BILL, 2020

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, in the unfortunate absence of the Minister of Commerce, Planning and Infrastructure, I beg to move the Second Reading of a Bill shortly entitled the Special Economic Zones (Amendment) Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Honourable Premier speaking to the Bill?

The Premier, Hon. Alden McLaughlin: Yes, thank you, Mr. Speaker.

Mr. Speaker, the Fourth Round of the Caribbean Financial Action Task Force Mutual Evaluation Report describes a number of key findings in relation to the jurisdictions Anti-Money Laundering and Countering Financing of Terrorism framework, known often as the AML/CFT framework and provides recommended actions for the jurisdiction in order to ensure that the framework is enhanced. The following recommended action was identified in relation to the Special Economic Zone Regime as it pertains to AML\CFT: That the Cayman Islands should update and further deepen the analysis on vulnerabilities and risks present in parts of

the financial sector subject to limited or no supervision. For example, the commodities and derivatives part of the Special Economic Zone.

Mr. Speaker, a risk assessment was undertaken in relation to the Special Economic Zone and it found that inherent risks of companies operating from the zone do not differ in any material way from the inherent risks of companies of the same type that operate outside the zone. All criminal, civil and regulatory laws in the Cayman Islands, including the Proceeds of Crime Act and Anti-Money Laundering Regulations, apply equally to Special Economic Zone companies and non-Special Economic Zone Companies.

Moreover, the entities in the zone that conduct relevant financial business are subject to the same supervisory oversight as similar entities that operate out of the zone. One of the key findings from the analysis of the Special Economic Zone included the need for more granular information on the activities being conducted by companies operating in the zone to determine whether they are carrying on relevant financial business or carrying on business in accordance with the Special Economic Zone Order. It was also recommended that the process for the acceptance of companies into the zone could be enhanced and that companies should be required to notify the Special Economic Zone Authority of significant changes in their operations.

Mr. Speaker, the Ministry has made the necessary amendments to the legislation relating to the findings of the Special Economic Zone Risk Assessment. This Bill seeks to amend the Special Economic Zones Law (2017 Revision) to provide for anti-money laundering and counter terrorist and proliferation financing requirements.

The Bill is arranged into 15 clauses.

Clause 1 provides the short title of the legislation.

Clause 2 amends section 2 of the principal Law to provide for new definitions in the legislation.

Clause 3 amends section 3 of the principal Law to make changes to the composition of the Special Economic Zone Authority.

Clause 4 amends section 5 of the principal Law to require the Authority to share or provide any information required for anti-money laundering, counter terrorist financing or counter-proliferation financing purposes.

Clause 5 amends section 6 of the principal Law to provide for the enhanced investigative powers of the Authority which include the examination of the annual returns and other documents of a special economic zone enterprise for the purpose of ensuring that the special economic zone enterprise complies with its trade certificate and the Law. The provision would also enable the authority to delegate to the Secretariat, the Authority's function of examining and processing applications with respect to the approval and refusal of applications for renewal.

Clause 6 inserts in the principal Law, a new section 6A of the principal Law to provide for the additional powers of the Authority to impose certain measures and conditions on a special economic zone enterprise, upon the Authority's findings that the special economic zone enterprise has, among other things, acted in a manner detrimental to the public interest or contravened its trade certificate, the Law or its regulations.

Clause 7 repeals section 11 of the principal Law.

Clause 8 amends section 14 of the principal Law to require that an applicant for a trade certificate as well as the controller, beneficial owner, director and senior officer of the applicant must be a fit and proper person.

Clause 9 amends section 16 of the principal Law to require that the Authority refuse the grant of a trade certificate where the grant of the application is not in the public interest, including where it presents a high level of reputational risk for the jurisdiction or where the applicant is or has a controller, beneficial owner, director, senior officer or shareholder that is not a fit and proper person.

Clause 10 amends section 18 of the principal Law to clarify that subject to the exceptions specified in the Law, a special economic zone enterprise must comply with all laws of the Islands.

Clause 11 amends section 23 of the principal Law to enable the Authority to amend a trade certificate to change the name of an applicant director, shareholder or controller.

Clause 12 inserts a new section 24A in the principal Law to require a special economic zone enterprise to notify the Authority of any material change to its business activities, controllers, directors or shareholders within 21 days of such change.

Clause 13 amends section 26 of the principal Law to empower the Authority to revoke or suspend a trade certificate issued to a special economic zone enterprise where the special economic zone enterprise fails to comply with the conditions of its trade certificate and certain prescribed requirements.

Clause 14 inserts section 29C in the principal Law to require the special economic zone enterprise to file an annual return in the form and manner prescribed by Regulations made by the Cabinet.

Clause 15 amends section 30 of the principal Law to enable the Cabinet to make Regulations to prescribe administrative fines, and the forms and procedures for the payment of such fines, to be imposed by the Authority under the Law. This provision also empowers Cabinet to make regulations to provide for the form of any return to be made under the legislation.

Mr. Speaker, there have been a number of recommendations that have arisen as a result of the 21-day consultation period. These amendments will be addressed in the Committee on Bills as appropriate.

This concludes my presentation of the proposed Bill and I commend the Special Economic Zones (Amendment) Bill, 2020 to honourable Members for safe passage.

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

I'll call now on the Mover of the Bill to exercise his right of reply.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I simply wish to thank all honourable Members for their tacit support of this important Bill.

The Speaker: The question is that a Bill shortly entitled the Special Economic Zones (Amendment) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed. The Special Economic Zones (Amendment) Bill, 2020 was given a second reading.

The Clerk: Health Care Decisions (Amendment) Bill, 2020.

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, can I seek the indulgence of the House, I suppose by way of motion, to have these Bills switched around on the Order Paper so as to allow for me to take the Penal Code (Amendment) Bill first and then that Bill informs the Health Care Decisions Bill. So, with the leave of the House . . .

The Speaker: The honourable—.

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

Mr. Speaker, I beg to move a Motion that the Penal Code and the Health Care Decisions Bills be rearranged so that the Penal Code (Amendment) (No. 2) Bill be taken first as number (8) and thereafter the Health Care Decisions (Amendment) Bill.

The Speaker: The question is that the Penal Code (Amendment) (No. 2) Bill, 2020 moves up to number (8), and number (8) be moved to number (9) [on the Order Paper].

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Penal Code (Amendment) (No. 2) Bill, 2020 taken as number (8) and the Health Care Decisions (Amendment) Bill, 2020 taken as number (9) on the Order Paper.

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, with the leave [of the House], I beg to move the Second Reading of a Bill entitled the Penal Code (Amendment) (No. 2) Bill, 2020. The long title of which is—.

[Crosstalk]

PENAL CODE (AMENDMENT) (NO. 2) BILL, 2020

The Speaker: Honourable Members, we have long passed that stage. I understand the Clerk's desire to stick to the written word.

The Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: My apologies to the Clerk, Mr. Speaker. *[Laughter]*

My apologies, Madam Clerk.

The Speaker: It's the time of the year to move fast.

The Attorney General, Hon. Samuel W. Bulgin: Yes. If I may start again.

I beg to move for the Second Reading of a Bill entitled the Penal Code (Amendment) (No. 2) Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Honourable Attorney General speaking?

[Inaudible interjections]

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

Mr. Speaker, the long title of the Bill is: A Bill for a law to amend the Penal Code (2019 Revision) to decriminalise suicide and to introduce criminal liability for complicity in a person's suicide; and for incidental and connected purposes.

Mr. Speaker, as I mentioned, the purpose of this proposed legislation is to provide for the decriminalisation of suicide and by extension Mr. Speaker, attempted suicide.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, in January of last year, I asked of the Law Reform Commission to review the penal laws dealing with suicide, and in particular, Mr. Speaker, to consider whether the offence of suicide should be decriminalised.

Mr. Speaker, this referral came against the background of a submission that was made to the Commission by the Legal Committee of the Alex Panton Foundation proposing the decriminalisation of suicide. The amendments before this Parliament are small but very significant.

You see Mr. Speaker, suicide is the act of intentionally taking one's own life and an attempted suicide is the non-fatal, self-inflicted potentially injurious behaviour with the intention of causing one's death. Among young people 15 to 29 years of age, research has shown that suicide is the second leading cause of death globally. Indeed, a recent national survey of children and youth at several Cayman Islands public and private schools, including students at the university level, which was undertaken by the National Drug Council in collaboration with the Alex Panton Foundation, produced statistics which show that the rates of suicidal thoughts and attempts are continuously rising in the Cayman Islands, particularly amongst our children and young people.

Mr. Speaker, indeed one in three children surveyed reported suicidal ideas and 13 per cent reported having attempted suicide. What is equally troubling sir, is the fact that the survey shows that only five per cent of these persons are seeking any treatment by way of help. The key risk factors for suicide are found to be mental disorders such as bipolar disorder, schizophrenia, personality disorders, depression as a result of stressful life events, and Mr. Speaker, no surprise, bullying.

Mr. Speaker, in regard to the latter, I take the opportunity to point out that the Law Reform Commission has submitted to me its final report dealing with bullying in schools. The report recognises the link between bullying and suicide and the recommendations of the Commission seek to put forward legislative measures that would address bullying in schools. At the appropriate times the report will be considered by the Cabinet.

Mr. Speaker, I know that Members of Parliament and indeed the public may find it incomprehensible to think that a person who commits suicide is liable to criminal sanctions and thereafter punishment, notwithstanding the fact that the person is dead; some might call it an absurdity. However, this is the position under the common law. It is considered a felony committed on one's self.

Mr. Speaker, in early English common law, as I said, it is described as *felo de se*, which is a felony committed against oneself. A person found guilty of suicide, even though the person is dead, was subject to various punishments, if I might put it that way, including forfeiture of property to the Crown, and of course, being given a profane funeral, one that is less than dignified. What would also happen is that the person's family would have scorns poured upon them and so on. Of course, the body would be desecrated. That was to show the disgust of someone having committed suicide, so they were given an irreverent burial.

Mr. Speaker, the common law offence of suicide was saved in the Cayman Islands legislation by section 40 of the Interpretation Act and there are no provisions repealing the offence of the Cayman Islands whether by way of Order in Council or through any other legislation. Furthermore, section 2(a) of the Penal Code provides that; **"Nothing in this Law shall affect the liability, trial or punishment of a person for an offence against the common law or any other law in force in the Islands."** Again, Mr. Speaker, despite the fact that the common law offence of suicide was abolished in England and Wales almost 60 years ago, no such abolition took place in the Cayman Islands.

In addition to that, attempted suicide is also an offence by virtue of section 318(1) of the Penal Code which provides that**: "When a person intending to commit an offence begins to put his intention into execution by means adapted to its fulfilment and manifests his intention by some overt act but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence."**

Mr. Speaker, although there are no examples of cases of prosecutions for suicide or attempted suicide in the Cayman Islands, historically in England and Wales prosecutions against persons who attempted suicide and survived were discharged, but there are some who were fined and sent to prison for a sentence of up to six months. The Cayman Islands are among the minority of countries mainly from the African and Asian regions that still criminalise suicide or attempted suicide. Those countries with laws stipulating punishment for suicide do not actually prosecute people. They don't usually prosecute them for attempt. Anyhow, still on the books.

Mr. Speaker, what I attempt to do here is in line with and supports the view that suicide should be decriminalised, for the reasons that treatment rather than prosecution, is the appropriate and recommended response for a person struggling with a mental health crisis. In other words, it is more of a mental health issue, not a crime.

It is on this premise that the Law Reform Commission carried out the comprehensive research and examination of the common law, the provisions in the Penal Code and Interpretation Law that saved suicide as a criminal offence and make attempted suicide and assisted suicide criminal offences. The research findings of the Commission informed the formulation of a Discussion Paper entitled, *"Decriminalisation of Suicide*" and the Paper is dated the 12th August, 2019

which sets out the Commission's initial recommendations regarding the decriminalisation of suicide and related matters.

In the Discussion Paper sir, the Commission considered the approach taken by the United Kingdom, Canada, India, among other countries, in decriminalising suicide. In keeping with the reform process, the Discussion Paper was made available for public consultation and comments were received from several stakeholders, including the Alex Panton Foundation, the Mental Health Commission, the Cayman Ministers' Association and the Cayman Islands Legal Practitioners Association, among others.

Mr. Speaker, at the end of the consultation process, the Law Reform Commission submitted its final report on the decriminalisation of suicide and supporting Penal Code (Amendment) (No. 2) Bill, 2020 as well as the Health Care Decisions (Amendment) Bill, 2020.

Mr. Speaker, the final recommendations of the Commission supported the view that suicide should no longer be a crime in the Cayman Islands, but rather, medical treatment should be a remedy, and accordingly, an amendment to the Penal Code to decriminalise suicide is an appropriate response to persons who are so distressed that they attempt to take their own lives. It is a medical problem, not a legal one.

Mr. Speaker, the Bill is also informed by a second Bill which is on the Order Paper, the Health Care Decisions (Amendment) Bill, 2020 which is a companion measure to this Penal Code (Amendment) Bill. I will speak to that after the presentation on this Bill.

Mr. Speaker, just to point out that this Bill in clause 2, inserts in the Penal Code (2019 Revision) a new section 186A to provide for the abrogation of the rule of law which makes it a crime for a person to commit suicide. In other words this amendment seeks to decriminalise the common law offence of suicide. The amendment would bring the law of the Cayman Islands in line with that of most countries including the United Kingdom and Canada.

Mr. Speaker, clause 2 of the Bill deals with assisting in someone's suicide. Assisted suicide is suicide undertaken with the aid or the encouragement of another person. In most countries sir, assisted suicide is a crime with an exception in some cases for physician-assisted suicide under limited and strict conditions. Indeed, our Health Care Decisions Act contains provisions which deal with the circumstances under which assisted suicide may be permissible.

Mr. Speaker, section 18 of the Penal Code (2019 Revision) makes it an offence to aid or abet; counsel or procure the commission of an offence and as such, captures the offence of assisted suicide which is aiding, abetting, counselling or procuring a person to commit suicide, as long as the suicide remains a criminal offence. However, if the common law offence of suicide is removed as is proposed by this Bill, assisted suicide under section 18 of the Penal Code would also fall away unless expressed provision is made in the Penal Code to retain it and decriminalise it. It would be an offence to encourage or assist the suicide or attempt of suicide of another person.

What clause 2 seeks to do is to give effect to this retention by inserting into the Penal Code a new section 186B which will provide for criminal liability for complicity in another person's suicide. We expressly retained the provision to say that if you assist, encourage or procure another person committing suicide then you would be liable in law under the Penal Code.

Mr. Speaker, under the proposed new section 186B, a person who does an act capable of encouraging or assisting the suicide or attempted suicide of another person and it is proven that the act was intended to encourage or assist suicide or an attempt at suicide, commits an offence and is liable on conviction to imprisonment for a term of 14 years. It is important to note that a person may commit the offence whether or not a suicide or an attempted suicide occurs.

The new section 186B also provides that if on the trial of an indictment for murder or manslaughter it is proved that the accused person committed suicide and the accused who is being tried committed an offence under that section in relation to that suicide, then the accused person may nevertheless be convicted of the offence. Under the proposed section, it will require the consent of the Director of Public Prosecutions to institute proceedings.

The Government is of the firm view that the issue of suicide and treatment for suicide is a public health concern that needs to be managed in a sensitive and not a punitive way. Accordingly, Mr. Speaker and Members of Parliament, I now seek the approval of this House in the passing of the Penal Code (Amendment) (No. 2) Bill, 2020, as it relates to the decriminalisation of suicide. Thank you.

The Speaker: Honourable Premier, can you do the suspension?

Suspension of Standing Order 10(2)

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the suspension of Standing Order 10(2) in order that the business of the House may continue beyond the hour of interruption.

The Speaker: The question is that Standing Order 10(2) be suspended in order for the business of this honourable House to continue after 4.30 p.m.

All 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 question is that the Bill entitled the Penal Code (Amendment) (No. 2) Bill, 2020 be given a second reading.

All those in favour—

[Inaudible interjections]

The Speaker: Yes, I really thought that the Member for North Side was going, but you want to speak?

[Inaudible interjections]

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

The Member for North Side.

I must say I'm paying attention to see whether Members are willing to speak or not. As you can see I'm not giving a long time for that to happen.

Mr. D. Ezzard Miller, Elected Member for North Side: *[Laughter]* Thank you, Mr. Speaker. I think it's reasonable.

I just have a couple of questions for the AG. Will assisted suicide, as defined here, include family members advocating in the case of brain death of another member and whether a doctor . . . because the next Bill that we're going to do makes euthanasia a crime, even treating someone in a coma. I just want to make sure that even if a doctor advises the family of the likelihood of the person surviving and that it is best to terminate the life support, I just want to make sure that that is not covered in this as assisted suicide under these various definitions here. Whether or not we need to make an exemption for medical decisions which are allowed by next of kin.

I think we also passed legislation last year about living wills, where people can decide they don't want to be resuscitated. If the family insists that that living will is respected by the physicians and does not allow resuscitation, whether there's any possibility of anything being caught up under this assisted suicide definition.

Thank you, Mr. Speaker.

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

I'll call now on the Honourable Attorney General to reply.

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

Mr. Speaker, in response to the honourable Member, my understanding of the Law is that if the person makes what is called a health care decision, which is not to resuscitate, and gets to that stage where they become incapacitated, brain dead and all of that, then under the Health Care Decisions Law, after discussion with the medical practitioner, that will has to be respected.

In instances where the person does not have that kind of health care decision, but if the person becomes comatose and they're brain dead and there's no possibility of the person recovering and the healthcare practitioner makes that sort of assessment and seeks the sort of consent of the family, then as long as it is done in that way, it is still permissible because it is a healthcare decision that is taken in those circumstances.

The honourable Member also mentioned that the health care Bill is going to criminalise euthanasia and assisted suicide. I think what we're trying to do in that bit when I get there is really to define those terms but they already appear in the Health Care Decisions Law. Thank you.

Mr. Speaker, I thank the honourable Members and others for their support of the Penal Code (Amendment) (No. 2) Bill.

The Speaker: The question is that the Bill shortly entitled the Penal Code (Amendment) (No. 2) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Penal Code (Amendment) (No. 2) Bill, 2020 was given a second reading.

HEALTH CARE DECISIONS (AMENDMENT) BILL, 2020

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to move for the Second Reading of the Health Care Decisions (Amendment) Bill, 2020.

The Speaker: The Bill is duly moved.

The Honourable Attorney General.

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

Mr. Speaker, the long title of this Bill is, a Bill for a law to amend the Health Care Decisions Law, 2019 to define "assisted suicide" and "euthanasia" in light of the proposed amendments made to the Penal Code (2019 Revision) to decriminalise suicide; and for incidental and connected purposes.

Mr. Speaker, the purpose of the legislation, as I said, is to define these two terms: "assisted suicide" and "euthanasia" as they already appear in the Health Care Decisions Law, 2019.

You will recall Mr. Speaker, that during my presentation of the Penal Code (Amendment) (No. 2) Bill, 2020, I referred to the Health Care Decisions (Amendment) Bill which is the companion measure to support the recommendations contained in the final report of the Law Reform Commission in its recommendation to deal with the common law offence of suicide.

Mr. Speaker, the Health Care Decisions Law, 2019, expressly provides that the Law does not authorise assisted suicide and euthanasia. The language in section 4 of that Law says, **"This Law shall not authorize euthanasia or assisted suicide."** In light of the recommendations to amend the Penal Code to decriminalise suicide and retain the offence of assisted suicide, it is proposed to make this consequential amendment to the Health Care Decisions Law, 2019 in order to provide certainty and clarity as to when an act of assisted suicide and euthanasia will fall within the scope of the Penal Code.

Mr. Speaker, clause 1 provides for the short title and the commencement of the legislation.

Clause 2 amends section 2 of the Health Care Decisions Law to insert definitions of the terms "assisted suicide" and "euthanasia." The term "assisted suicide" is defined to mean **"suicide undertaken by a person with encouragement or assistance of another person"**; whereas the term "euthanasia" is defined to mean **"painless killing by a registered practitioner of a person suffering from an incurable and painful disease or a person in a coma".**

Mr. Speaker, with these small amendments to the Health Care Decisions Law along with the amendments to the Penal Code, the Government believes that it would have adequate legislative measure in place to appropriately respond to any issue which relates to suicide, attempted suicide, assisted suicide and encouraging suicide.

Mr. Speaker, I commend the Bill to honourable Members of this House.

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

The Member for North Side.

Mr. D. Ezzard Miller: Thank you, Mr. Speaker.

Just to ask the AG if he doesn't want to look at the definition of "euthanasia" and delete "or a person in a coma", because I think it's fairly obvious if a registered practitioner is killing someone who is suffering from an incurable and painful disease, but I think it becomes a little more dicey when you're talking about including persons who are in a coma. I think the Law provides that the next of kin can make a decision to pull the plug out of the wall.

I believe this wider definition of euthanasia may prohibit the termination of life of someone who is in a coma even though they're only being maintained by machines, and if the family advocates for that to be done they might be caught under assisted suicide.

Thank you, Mr. Speaker.

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

I'll call now on the Attorney General to wind up.

The Attorney General, Hon. Samuel W. Bulgin: Thank you, Mr. Speaker, and thanks to the honourable Member for North Side for his observations.

Mr. Speaker, I understand where his head is on this and I'm hoping to give it further thoughts before we get to Committee.

Thanks, Mr. Speaker, for the support on the Bill otherwise.

The Speaker: The question is that a Bill shortly entitled the Health Care Decisions (Amendment) Bill, 2020 be given a second reading.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Health Care Decisions (Amendment) Bill, 2020 was given a second reading.

The Speaker: The Honourable Premier.

REGISTERED LAND (AMENDMENT) BILL, 2020

[Withdrawal thereof]

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, pursuant to Standing Order 27 [sic], I beg leave of this honourable House to withdraw the Bill shortly entitled the Registered Land (Amendment) Bill, 2020.

The Speaker: The question is that the Registered Land (Amendment) Bill, 2020 be withdrawn under Standing Order 27 [sic].

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Registered Land (Amendment) Bill, 2020 was withdrawn.

PRESCRIPTION (AMENDMENT) BILL, 2020

[Withdrawal thereof]

The Speaker: The honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you Mr. Speaker.

Mr. Speaker, pursuant to Standing Order 27 [sic], I beg leave of this honourable House to withdraw the Bill shortly entitled the Prescription (Amendment) Bill, 2020.

The Speaker: The question is that the Prescription (Amendment) Bill, 2020 be withdrawn under Standing Order 27 [sic].

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Prescription (Amendment) Bill, 2020 has been withdrawn.

The Speaker: The honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Chairman—sorry, I live in too many places.

Mr. Speaker, pursuant to the relevant Standing Order, I move that the Order Paper be rearranged in the section entitled Committee on Bills, so that the Legal Services Bill, 2020 be put at the bottom of the order of Bills to be considered by the Committee.

The Speaker: Sorry, which Bill?

The Premier, Hon. Alden McLaughlin: The Legal Services Bill, 2020 be put at the bottom of the order of Bills to be considered by the Committee.

The Speaker: The question is that our Order Paper be rearranged so that the Legal Services Bill, 2020 be put at the bottom of the Order Paper [list] dealing with Committee on Bills.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: Legal Services Bill, 2020 will be dealt with at the end of the Committee on Bills.

The Speaker: The House will now move to Committee Stage.

House in Committee at 4.48 p.m.

COMMITTEE ON BILLS

The Chairman: Please be seated. The House is now in Committee.

As per usual, we will authorise the Attorney General to correct minor errors and suchlike in these Bills.

[Pause]

PRIVATE FUNDING OF LEGAL SERVICES BILL, 2020

The Clerk:
Clause 1 Short title and commencement

[Pause]

The Chairman: The question is that clause 1 stand part of the Bill.

All in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk:
Clause 2 Interpretation

The Chairman: I think the AG has an amendment there.

Amendment to clause 2

The Attorney General, Hon. Samuel W. Bulgin: Mr. Chairman, I do.

I beg to move that the Bill be amended in clause 2 by deleting the definition of the words “legal association”.

The Chairman: The amendment has been moved. Are you further explaining on it?

The Attorney General, Hon. Samuel W. Bulgin: Mr. Chairman, there is a consequential amendment to clause 19 where the matter is dealt with there.

The Chairman: Does anyone else wish to speak? *[Pause]*

If not, I will move that the amendment stands part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

The amendment stands part of the clause.

Agreed: Amendment to clause 2 passed.

The Chairman: The question is that clause 2 as amended stand part of the Bill.

All in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 2, as amended, passed.

The Clerk:

Clause 3	Contingency fee agreements
Clause 4	Conditions applicable to contingency fee agreements
Clause 5	Form and content of contingency fee agreements
Clause 6	Agreement not to affect costs as between party and party
Clause 7	Claims for additional remuneration excluded
Clause 8	Agreements relieving attorney-at-law from liability for negligence void
Clause 9	Determination of disputes under the agreement
Clause 10	Enforcement of agreement
Clause 11	Reopening of agreement
Clause 12	Agreements made by client in fiduciary capacity
Clause 13	Client paying without approval to be liable to estate
Clause 14	Purchase of interest prohibited
Clause 15	Bills under agreement not liable to taxation
Clause 16	Litigation funding agreements
Clause 17	Repeal of maintenance and champerty
Clause 18	Civil rights in respect of maintenance and champerty

The Chairman: The question is that clauses 3 through 18 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 3 through 18 passed.

The Clerk:

Clause 19 Regulations

The Chairman: Honourable Attorney General.

Amendment to clause 19

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

Mr. Chair, I beg to move pursuant to Standing Order 52(1) that clause 19 of the Bill be amended in clause 19(1) by deleting the words “the legal association” and substituting the words “any local professional associations representing attorneys-at-law in the Islands”.

The Chairman: The amendment has been duly moved. Is the AG speaking?

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, that again is in keeping with the observations made during the debate that there is now more than one association representing legal practitioners and so just to make it abundantly clear that all stakeholders will be included in this definition.

The Chairman: The question is . . .

Member for North Side.

The amendment has been moved.

Mr. D. Ezzard Miller: As a consequence of that you're going to amend clause 2 to delete the definition of “legal association”?

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh sorry, sorry.

The Chairman: You were out of the room.

The question is that clause 19 be amended.

All those in favour, please say Aye. Those against, No.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 19 passed.

The Chairman: The question is that clause 19 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 19, as amended, passed.

The Clerk: A Bill for a law to provide for the regulation of Private Funding of Legal Services; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2020

The Clerk:

Clause 1	Short title and commencement
Clause 2	Amendment of section 2 of the Virtual Asset (Service Providers) Law, 2020 - interpretation
Clause 3	Amendment of section 7 - registered person: virtual asset issuance
Clause 4	Amendment of section 9 - general requirements for virtual asset service providers
Clause 5	Amendment of section 15 - notice by existing licensee
Clause 6	Amendment of section 39 - regulations

The Chairman: The question is that clauses 1 through 6 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 6 passed.

The Clerk: A Bill for a law to amend the Virtual Asset (Service Providers) Law, 2020 to provide for savings and transitional matters; and for incidental and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

COMPANIES (AMENDMENT) (NO. 3) BILL, 2020

The Clerk:

Clause 1	Short title and commencement
Clause 2	Amendment of section 2 of the Companies Law (2020 Revision) – definitions and interpretation
Clause 3	Amendment of section 26A - Registrar to provide information
Clause 4	Amendment of section 41 - annual list of members and return of capital, shares, calls, etc.
Clause 5	Repeal and substitution of Part XV - custody, etc. of bearer shares
Clause 6	Amendment of section 245 - application
Clause 7	Amendment of section 279A - request for additional information

The Chairman: The question is that clauses 1 through 7 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 7 passed.

New clause 6A

The Clerk:

New clause 6A	Amendment of section 263 - disclosure of beneficial ownership information by the Cayman Islands Monetary Authority

The Chairman: The Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Chair.

In accordance with the provisions of Standing Order 52(1) and (2), I the Honourable Tara Rivers, the Minister responsible for Financial Services and Home Affairs, give notice to move the following amendments to the Companies (Amendment) (No. 3) Bill, 2020—

That the Bill be amended by inserting after clause 6, the following clause —

"**Amendment of section 263 - disclosure of beneficial ownership information by the Cayman Islands Monetary Authority**

6A. The principal Law is amended in section 263 by repealing subsection (1) and substituting the following subsection —

"(1) Notwithstanding section 245(1), the Cayman Islands Monetary

Authority may, on the request of the competent authority, disclose any information —

(a) relating to a company or a subsidiary of a company which is exempt from this Part pursuant to sections 245(1)(b),(c), (e) or (f); and

(b) that the company or subsidiary which is exempt from this Part pursuant to sections 245(1)(b),(c), (e) or (f) would be required to provide under this Part as required particulars, if this Part applied to that company or subsidiary." ".

The Clerk:
New clause 6A Amendment of section 263 - disclosure of beneficial ownership information by the Cayman Islands Monetary Authority

The Chairman: The new clause 6A has been read a first time. The question is that the clause be read a second time.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: New clause 6A was given a second reading.

The Chairman: Is the Minister wishing to speak further?

Hon. Tara A. Rivers: No, Mr. Speaker.

The Chairman: The question is now that the clause be added to the Bill as clause number 6A and that the clauses, as you understand, will be renumbered accordingly.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: New clause 6A added to the Bill.

The Clerk: A Bill for a law to amend the Companies Law (2020 Revision) to include the Customs and Border Control Service in the list of entities which may request information from the Registrar; to repeal sections of the Law relating to bearer shares; to address references to the list of equivalent jurisdictions published under the Anti-Money Laundering Regulations (2020 Revision); to require companies to maintain and file with the Registrar, information on the nature of its business; and for incidental and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

PROPERTY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL, 2020

The Clerk:
Clause 1 Short title

The Speaker: The question is that the short title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk:
Clause 2 Amendment of section 8 of the Property (Miscellaneous Provisions) Law (2017 Revision) - deeds and certain other instruments no longer required to be executed under seal

The Chairman: The Honourable Minister.

Amendment to clause 2

Hon. Tara A. Rivers: Thank you, Mr. Chair.

In accordance with the provisions of Standing Order 52(1) and (2), I the Honourable Tara Rivers, the Minister responsible for Financial Services and Home Affairs, give notice to move the following amendment to the Property (Miscellaneous Provisions) (Amendment) Bill, 2020 —

That the Bill be amended in clause 2 as follows —

(a) in paragraph (a), in the proposed subsection (4A)(a) as follows —
  (i) in subparagraph (ii), by deleting the words "contemporaneously; and" and substituting the words "contemporaneously."; and
  (ii) by deleting subparagraph (iii);
(b) in paragraph (b), by deleting the word "and" at the end of the paragraph;
(c) in paragraph (c), by deleting the full stop at the end of the paragraph and substituting the words "; and"; and
(d) by inserting after paragraph (c), the following paragraph —

"(d) by inserting after subsection (6), the following subsection —

"(7) The Cabinet may make regulations providing for such matters as may be necessary for giving effect to subsection (4A).".

The Chairman: Is the Minister speaking further?

Hon. Tara A. Rivers: No, Mr. Chair.

The Chairman: The question is that the amendment stand part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 2 passed.

The Chairman: The question is now that clause 2 as amended stand part of the Bill.

All those in favour, please say Aye. Those again, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 2, as amended, passed.

The Clerk: A Bill for a law to amend the Property (Miscellaneous Provision) Law (2017 Revision) to provide for the virtual witnessing and attestation of required signatures for the execution of a deed or instrument under seal; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

SPECIAL ECONOMIC ZONES (AMENDMENT) BILL, 2020

The Clerk:
Clause 1 Short title

The Chairman: The question is that clause 1 stands part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk:
Clause 2 Amendment of section 2 of the Special Economic Zones Law (2017 Revision) - definitions

The Chairman: The Honourable Premier.

Amendment to clause 2

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Chairman.

Mr. Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I, Alden McLaughlin, Premier, give notice to move the following amendments to the Special Economic Zones (Amendment) Bill, 2020—

That the Bill be amended in clause 2(b), in paragraph (e) of the definition of the word **"controller"**, by deleting the word "accustomed" and substituting the word "legally required".

The Chairman: The amendment has been moved. Is the Premier speaking?

The Premier, Hon. Alden McLaughlin: No, thank you, Mr. Speaker.

The Chairman: Does any other Member wish to speak? *[Pause]* The Leader of the Opposition?

If not, the question is that the clause as amended stands part of the Bill *[sic].*

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 2 passed.

The Chairman: The question now is that clause 2 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 2 as amended passed.

The Clerk:

Clause 3 Amendment of section 3 - establishment of the Special Economic Zone Authority

The Chairman: The question is that clause 3 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 3 passed.

The Clerk:

Clause 4 Amendment of section 5 - functions of the Authority

The Chairman: The Honourable Premier.

Amendment to clause 4

The Premier, Hon. Alden McLaughlin: Mr. Chairman, I beg to move that the Bill be amended in clause 4(b), in the proposed subsection 5(5), by inserting after the words "subsection (3)," the words "unless the recipient is bound by a statutory duty of confidentiality in relation to the information received,".

The Chairman: The amendment has been moved. Is the Premier speaking?

The Premier, Hon. Alden McLaughlin: No, thank you, Mr. Chairman.

The Chairman: The question is that the amendment stands part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 4 passed.

The Chairman: The question is that clause 4 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 4, as amended, passed.

The Clerk:

Clause 5 Amendment of section 6 - powers of the Authority

The Chairman: The Honourable Premier.

Amendment to clause 5

The Premier, Hon. Alden McLaughlin: Mr. Chairman, I beg to move that the Bill be amended in clause 5 as follows—

(a) in the proposed section 6(1B)(a), by deleting paragraph (a) and substituting the following paragraph —

"(a) the Authority's function of —

(i) examining and processing applications with respect to the approval and refusal of applications for renewal; and

(ii) amending the applicant's trade certificate in accordance with section 23 of the Law; and"; and

(b) in the proposed section 6(1D), by deleting the words ", matter or thing".

The Chairman: The amendment has been moved. Is the Premier speaking?

The Premier, Hon. Alden McLaughlin: No, thank you, Mr. Chairman.

The Chairman: Does any other Member wish to speak? *[Pause]* If not, the question is that the amendment stands part of the clause?

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 5 passed.

The Chairman: The question is that clause 5 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 5 as amended passed.

The Clerk:

Clause 6 Insertion of section 6A - additional powers of the Authority

Clause 7 Repeal of section 11 - special economic zone deemed to be outside of the Islands

Clause 8 Amendment of section 14 - application for trade certificate

Clause 9 Amendment of section 16 - grant or refusal of trade certificate

The Chairman: The question is that clauses 6 through 9 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 6 through 9 passed.

The Clerk:

Clause 10 Amendment to section 18 - benefits of special economic zone enterprise and conditions

Amendment to clause 10

The Premier, Hon. Alden McLaughlin: Mr. Chairman, I beg to move that the Bill be amended by deleting clauses 10 and 11 substituting the following clause—

"**Amendment to section 18 - benefits of special economic zone enterprise and conditions**

10. The principal Law is amended in section 18 by inserting after subsection (1) the following subsection —

"(1A) A special economic zone enterprise shall comply with all laws in force in the Islands, notwithstanding the benefits referred to in subsection (1) and any other exceptions specified in this Law.".

The Chairman: The question is that clause 10 be amended and the amendment stands part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 10 passed.

The Chairman: The question now is that clause 10 as amended stands part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 10, as amended, passed.

The Clerk:

Clause 11 Amendment of section 23 - amendment to trade certificate

The Chairman: I thought that the Premier moved that clause 11 be deleted?

The Premier, Hon. Alden McLaughlin: There is no clause 11 now. We are now at clause 12.

The Chairman: Yes, yes, yes. Premier, I think you need to look at the Bill itself; 11 is there and I know that—.

The Premier, Hon. Alden McLaughlin: I mean there is no further amendment to 11. We've already done that.

The Chairman: The Premier moved to delete clauses 10 and 11; specifically 11. Am I right? I just don't want to say . . .

The Premier, Hon. Alden McLaughlin: The Motion that has just passed Mr. Chairman is that the Bill be amended by deleting clauses 10 and 11.

[Crosstalk]

The Chairman: The question is that clause 11 now be deleted.

All those in favour, please say Aye.

The Premier, Hon. Alden McLaughlin: Mr. Chairman, we've already voted on that.

The Chairman: No.

The Premier, Hon. Alden McLaughlin: The Motion that I moved and that was carried by the Committee is that the Bill be amended by deleting clauses 10 and 11, so we don't need to go over that again.

The next amendment Mr. Chairman, is the amendment to clause 12.

The Chairman: Yes, we know that there is a proposed amendment there, but I need to get clarity on clauses 10 and 11. Your Motion was that clauses 10 and 11 be deleted?

The Premier, Hon. Alden McLaughlin: Yes, Mr. Chairman.

Mr. Chairman, do you not have a copy of the committee stage amendment?

[Pause]

The Clerk:

Clause 12 Insertion of section 24A - notification of material changes

The Chairman: The Premier.

Amendment to clause 12

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Chairman.

Mr. Chairman, I move that the Bill be amended in clause 12 by inserting after the word “enterprise” the words “, upon paying the prescribed amendment fee specified in section 23,”.

The Chairman: The amendment has been moved. Is the Premier speaking?

The Premier, Hon. Alden McLaughlin: No, thank you, Mr. Chairman.

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

The question is that the amendment stand part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 12 passed.

The Chairman: The question is that clause 12 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 12 as amended passed.

The Clerk:

Clause 13 Amendment of section 26 - suspension or revocation of trade certificate

The Chairman: The question is that clause 13 stands part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 13 passed.

The Clerk:

Clause 14 Insertion of section 29C - annual return

The Chairman: Honourable Premier.

Amendment to clause 14

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Chairman.

I beg to move that the Bill be amended by deleting clause 14 and substituting the following clause—

“**Insertion of section 29C - annual return**

14. The principal Law is amended by inserting after section 29B the following section —

“Annual return

29C. (1) A special economic zone enterprise shall submit an annual return to the Authority on or before the 31st day of January of every year and the annual return shall accompany the prescribed annual fee specified in section 22(2) of the Law unless otherwise prescribed by Regulations made under subsection (2).

(2) The annual return referred to in subsection (1) shall be submitted in the form and in the manner prescribed by Regulations made by the Cabinet.".

The Chairman: The amendment has been moved. Is the Premier speaking?

The Premier, Hon. Alden McLaughlin: No, thank you, sir.

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

The question is that the amendment stand part of the clause.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 14 passed.

The Chairman: The question is that clause 14 as amended stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 14, as amended, passed.

The Clerk:

Clause 15 Amendment of section 30 - regulations

The Chairman: The question is that clause 15 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 15 passed.

The Clerk: A Bill for a law to amend the Special Economic Zones Law (2017 Revision) to provide for anti-money laundering and counter terrorist and proliferation financing requirements; and for incidental and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Premier, Hon. Alden McLaughlin: Mr. Chairman, there's one more amendment. It's simply to do with re-numbering of the clauses.

The Chairman: No, we gave the AG. He has that permission to…

The Premier, Hon. Alden McLaughlin: That's fine then. Okay. Thank you, sir.

The Chairman: Thank you, Premier.

PENAL CODE (AMENDMENT) (NO. 2) BILL, 2020

The Clerk:

Clause 1 Short title

Clause 2 Insertion of new sections 186A and 186B in the Penal Code (2019 Revision) - suicide to cease to be a crime; criminal liability for complicity in a person's suicide

The Chairman: The question is that clauses 1 and 2 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a law to amend the Penal Code (2019 Revision) to decriminalise suicide and to introduce criminal liability for complicity in a person's suicide; and for incidental and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Attorney General, Hon. Samuel W. Bulgin: Mr. Chair, with your leave—before you get to the Health Care Decisions (Amendment) Bill. During the debate, the honourable Member for North Side had suggested that I might want to have a look at the amendment as it relates to euthanasia. I have since spoken to him and showed him a provision in section 41 of the Health Care Decisions Bill [*sic*] and he is content that it addresses his concerns.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: Yes, Mr. Chairman, I'm satisfied with the explanation given by the Honourable Attorney General. Thank you.

The Chairman: There are no amendments? Thank God.

HEALTH CARE DECISIONS (AMENDMENT) BILL, 2020

The Clerk:

Clause 1	Citation and commencement
Clause 2	Amendment of section 2 of the Health Care Decisions Law, 2019 - interpretation

The Chairman: The question is that clauses 1 and 2 stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a law to amend the Health Care Decisions Law, 2019 to define “assisted suicide” and “euthanasia” in light of amendments made to the Penal Code (2019 Revision) to decriminalise suicide; and for incidental and connected purposes.

The Chairman: The question is that the Title stand part of the Bill.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

[Pause]

The Chairman: The Bills will be reported to the honourable House.

All those in favour, please say Aye. Those against, No.

AYES.

The Chairman: The Ayes have it.

The Bills will be reported to the honourable House.

Agreed: Bills to be reported to the House.

House resumed at 5.31 p.m.

REPORT ON BILLS

The Speaker: Please be seated.

The House is now in session.

PRIVATE FUNDING OF LEGAL SERVICES BILL, 2020

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to report that a Bill shortly entitled Private Funding of Legal Services Bill, 2020 was considered by a Committee of the entire Parliament and passed with amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2020

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I am to report that a Committee of the entire Parliament has considered the Bill shortly entitled Virtual Asset (Service Providers) (Amendment) Bill, 2020 and it was passed without amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

COMPANIES (AMENDMENT) (NO. 3) BILL, 2020

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I am to report that a Committee of the entire Parliament has considered the Bill shortly

entitled Companies (Amendment) (No. 3) Bill, 2020 and it was passed with amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

PROPERTY (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL, 2020

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I am to report that a Committee of the entire Parliament has considered the Bill shortly entitled Property (Miscellaneous Provisions) (Amendment) Bill, 2020 and it was passed with amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

SPECIAL ECONOMIC ZONES (AMENDMENT) BILL, 2020

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, I am to report that a Bill shortly entitled Special Economic Zones (Amendment) Bill, 2020 was considered by a Committee of the whole House and was passed with amendment.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

PENAL CODE (AMENDMENT) (NO. 2) BILL, 2020

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to report that a Bill shortly entitled Penal Code (Amendment) (No. 2) Bill, 2020 was considered by a Committee of the entire Parliament and passed without amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

HEALTH CARE DECISIONS (AMENDMENT) BILL, 2020

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to report that the Health Care Decisions (Amendment) Bill, 2020 was considered by a Committee of the entire Parliament and passed without amendments.

The Speaker: The Bill has been duly reported and is set down for the Third Reading.

The Honourable Premier.

[Inaudible interjection]

The Speaker: No, we're taking the adjournment.

[Laughter]

The Speaker: I thought that was agreed.

[Crosstalk]

[Pause]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I'm in the hands of Members but I am ready to proceed. I can go ahead.

Mr. Kenneth V. Bryan: Mr. Speaker.

The Premier, Hon. Alden McLaughlin: Can't have two Members standing at once.

[Laughter]

The Speaker: Honourable Members, we are not doing any further business on the Bills. Do you want to go into the Motions? Government Motions would follow next.

[Crosstalk]

The Speaker: I have to look and understand what the majority wants.

[Inaudible interjections]

The Speaker: Yeah, but you are the minority.

[Laughter and crosstalk]

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Mr. Speaker, there seems to be some reservation about proceeding further today. I don't mind at all.

I move the adjournment of this honourable House until 10am on Wednesday.

The Speaker: The question is that this honourable House stand adjourned until 10am on Wednesday.

All those in favour, please say Aye. Those against, No.

AYES AND NOES.

The Speaker: The Ayes have it.

This honourable House now stands adjourned until Wednesday, God willing.

At 5.38pm the House stood adjourned until 10am Wednesday, 16th December, 2020.