



**CAYMAN ISLANDS  
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT  
ELECTRONIC VERSION**

**2014/15 SESSION**

**24 October 2014**

*First Sitting of the Third Meeting*

*(pages 551-586)*

**Hon Juliana O'Connor-Connolly, JP, MLA  
Speaker**

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PRESENT WERE:

**SPEAKER**

Hon Juliana Y O'Connor- Connolly  
Speaker of the Legislative Assembly

**MINISTERS OF THE CABINET**

Hon Alden McLaughlin, MBE, JP, MLA	<i>The Premier</i> , Minister of Home and Community Affairs
Hon Moses I Kirkconnell, JP, MLA	<i>Deputy Premier</i> , Minister of District Administration, Tourism and Transport
Hon D Kurt Tibbetts, OBE, JP, MLA	Minister of Planning, Lands, Agriculture, Housing and Infrastructure
Hon Marco S Archer, MLA	Minister of Finance and Economic Development
Hon Osbourne V Bodden, MLA	Minister of Health, Sports, Youth and Culture
Hon G Wayne Panton, MLA	Financial Services, Commerce and Environment
Hon Tara A Rivers, MLA	Minister of Education, Employment and Gender Affairs

**EX OFFICIO MEMBERS OF THE CABINET**

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

**ELECTED MEMBERS**

**GOVERNMENT BACKBENCHERS**

Hon Anthony S Eden, OBE, JP, MLA	<i>Deputy Speaker</i> , First Elected Member for Bodden Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town
Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town

**OPPOSITION MEMBERS**

Hon. W. McKeeva Bush, OBE, JP, MLA	<i>Leader of the Opposition</i> , First Elected Member for West Bay
Mr Bernie A Bush, MLA	Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

**INDEPENDENT MEMBERS**

Mr D Ezzard Miller, JP, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

**APOLOGIES**

Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
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**OFFICIAL HANSARD REPORT  
THIRD MEETING 2014/15 SESSION  
FRIDAY  
24 OCTOBER 2014  
10:22 AM  
First Sitting**

*[Hon. Juliana Y. O'Connor-Connolly, Speaker, presiding]*

**The Speaker:** Good morning. I will ask the Fifth Elected Member for George Town to grace us with prayers this morning.

**The Speaker:** I have received apologies for the absence of the Sixth Elected Member for George Town, Councillor Joseph Hew.

### PRAYERS

**Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town:** 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 Legislative Assembly 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 Speaker of the Legislative Assembly, Official Members and Ministers of Cabinet and Members of the Legislative Assembly, 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.

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

#### APOLOGIES

### FATAL SHOOTING AT CANADIAN PARLIAMENT, OTTAWA—MOMENT OF SILENCE

**The Speaker:** I am sure the honourable House would join me in expressing their sadness for the incidents that occurred in the [Canadian] Parliament in Ottawa this past week. I believe it would be in order if we just observed a moment of silence, seeing as globalisation is the order of the day and no one is exempt from the chaotic state that we find our world today. So, if Members would so indulge, we will rise for a moment of silence.

*[The House rose for a moment of silence]*

**The Speaker:** Thank you.  
Please be seated.

### PRESENTATION OF PAPERS AND OF REPORTS

#### NATIONAL CONFERENCE ON WOMEN: INSPIRING CHANGE—CONFERENCE REPORT, MAY 2014

**The Speaker:** Honourable Minister of Education, Employment and Gender Affairs.

**Hon. Tara A. Rivers:** I beg to lay on the Table of this honourable House the National Conference on Women: Inspiring Change—Conference Report, May 2014

**The Speaker:** So ordered.  
Does the Honourable Minister wish to speak thereto?

**Hon. Tara A. Rivers:** Yes, Ma'am.

**The Speaker:** Please proceed.

**Hon. Tara A. Rivers:** Thank you, Madam Speaker.  
I am pleased to share with the Members of this honourable House the final report of the first ever National Conference on Women.

The Ministry hosted this empowerment conference here in Grand Cayman on 29 March 2014, bringing together women and men, boys and girls of different ages and backgrounds to address the social, cultural, economic and political challenges facing our women and girls. On 28 June, my staff and I travelled to Cayman Brac to host the meeting on Women and Girls in the Sister Islands, ensuring that the experiences, perspectives and opinions of the residents of the Sister Islands were included in this national level project.

This entire initiative has been a significant accomplishment for the Ministry and also a valuable opportunity to gather qualitative data in order to further promote evidence based policies to take gender issues into account.

Madam Speaker, as you are well aware the Government has been working towards having the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) extended through the United Kingdom for over 10 years now, with the most recent request having been made in December 2013. With the support of Cabinet, my Ministry continues to work diligently in conjunction with the Honourable Attorney General, Her Excellency the Governor, and other key stakeholders to make this a reality for women and girls in the Cayman Islands, and I trust we will receive a favourable response from the United Kingdom in due course.

Madam Speaker, CEDAW is a core international human rights treaty and as Minister responsible for Gender Affairs and as a woman, I have a keen interest in advocating for the continued advancement of women on an equal basis with men. I know that other Members of this honourable House similarly support this objective and our position is also a reflection of this Government's broader commitment to promoting a culture of human rights in the Cayman Islands. Knowing that greater gender equality is directly linked with many economic and social benefits, it is not just my personal desire, but also the aim of this PPM led coalition administration to have CEDAW extended to the Cayman Islands as soon as possible.

CEDAW will serve as a catalyst for change by publicly committing on the international stage that the Cayman Islands Government will work towards ending discrimination against women in all forms so that they, along with men, can enjoy all the human rights and fundamental freedoms. However, Madam Speaker, I believe it is important to note that in line with our national priorities and in the spirit of the Articles of CEDAW, the local legislative framework has already been strengthened and a number of policies and programmes have already been implemented over the years to promote equality. It is therefore my hope that the extension will also recognise as formally acknowledging the great strides that this country has made in order to break down barriers and close gender gaps in various areas of our society.

Madam Speaker, the matter to which I rise to speak is one such example of our pro-active work to examine lingering areas of discrimination and develop strategies to address inequality between women and men and boys and girls. With the theme "Inspiring Change" and through the interactive agenda, the National Conference on Women and Meeting on Women and Girls in the Sister Islands sought to bring awareness about the rights to which girls and women are entitled under CEDAW in order to improve their lives, to gather qualitative data in order to establish priority areas, and to identify any potential areas of concern in relation to CEDAW which will assist in developing the Government's implementation plan and to create a space in which to educate, inspire, empower individuals to be architects of change at a personal level and within society and to promote messages of equality between men and women.

Madam Speaker, small focus groups were utilised to create a participatory approach to discussing and addressing the challenges and proposing sustainable solutions. This ensures that people are not just listened to, but genuinely heard, Madam Speaker, and their voices shape outcomes and the individual participants together create the knowledge and experience necessary in order to help us shape the agenda to achieve the goals set.

Madam Speaker, the response was overwhelmingly positive with over 200 persons attending the event and a number of others participating in the additional broad public consultation exercise that followed. I would like to take this opportunity, Madam Speaker, to once again thank each and every individual who took the time to share their perspectives and experiences and to learn from one another. Through this collective process, participants exposed the pervasive and often insidious nature of discrimination against girls and women. In taking a solutions-focused approach they have also sought to identify and develop many possible interventions that will help to end such discrimination.

Madam Speaker, I am also proud to report to Members of this honourable House that Dr. Glenda P. Sims from Jamaica was in attendance as guest speaker. She is utilised very often by the United Nations for such initiatives. She lauded the approach taken by the Cayman Islands as a model for inclusive consultation that will lead to meaningful action.

Madam Speaker, the National Conference on Women report and supplementary report on the Meeting of Women and Girls in the Sister Islands recounts the frank discussions and the honest perspectives of the participants. As Members will note, a number of key themes emerged from these focus group discussions, both in terms of issues that were raised, but also solutions that were proposed to address the discrimination and promote gender equality.

Madam Speaker, the feeling of a lack of empowerment, rigid gender roles, or persistent gender

stereotyping and the fundamental inability of our society to accommodate the needs of girls and women were reported by the participants across the focus areas. There was also an overwhelming cry for public education and awareness at all levels, for all ages, in all areas of life.

Enforcement of legislation and championing of policies that exist was also a common theme. The development of more agents of change and improved access to programming and services were some of the key themes that came out as a result of these conferences.

Madam Speaker, the participants, although focused on the situation of girls and women, in particular, the gender issues that they highlighted clearly intersect with issues of race, class, age and national origin in many ways, and appropriate responses must recognise this reality. Gender issues cannot be viewed in isolation and, therefore, the mainstreaming of a gender perspective through society will ensure that these issues remain visible.

Madam Speaker, the participants called for national level dialogue to help reframe how we view these important issues. Many felt that as a society we have allowed discrimination to continue, thereby holding back increased productivity in the workplace preventing social benefits and increased human development and burdening government unnecessarily.

Madam Speaker, the Government strives to improve the lives of individuals, families and society as a whole, through the development and review of legislation, policies, programmes, and it is important for us to hear and acknowledge these views expressed by the participants of these conferences. The full participation of women and girls on an equal basis in all areas of society will bring about positive change for the benefit of girls and women and their families, employers, community and society as a whole. Therefore, Madam Speaker, it is the Ministry's goal to ensure that tangible action takes place to address the priority areas where discrimination against women and girls still lingers, often unseen or unacknowledged.

In this endeavour we will work closely with other ministries and departments across the civil service to collaboratively develop an action plan and ensure successful implementation. Specific targeted solutions and quick wins, Madam Speaker, have been identified alongside broader and longer-term goals, and the urgent action needed to address these issues and implement solutions. However, Madam Speaker, it is also important at this time to note that while the Government has a great responsibility to promote gender equity and justice, we cannot achieve full gender equality in our country without the support of employers, the community, business leaders, the media, non-governmental organisations, families, educational institutions, and religious institutions. We cannot achieve this goal without the conscious actions of in-

dividuals. Madam Speaker, each one of us has a critical role to play as an agent of change and we must stand for what is right.

Madam Speaker, the National Conference on Women and the Meeting of Women and Girls in the Sister Islands provided a much needed opportunity to engage with residents on issues of national importance. The subsequent reports I have laid here today are critical to our understanding of the operation of particular mechanisms of discrimination against girls and women in the Cayman Islands as perceived by the participants.

Again, Madam Speaker, the views expressed here are the views of the participants themselves. This information will also inform the development of robust and targeted public policy interventions, particularly as it pertains to the implementation of CEDAW. I trust, Madam Speaker, all Members of this honourable House will find the information presented to be useful and that I will continue to receive your support and the support of my colleagues in promoting further gender equality in the Cayman Islands.

Madam Speaker, we owe it to ourselves, we owe it to our children to ensure that the future for our girls is bright, safe, rewarding and valued as equally as our boys. Thank you.

#### **CAYMAN ISLANDS ANTI-CORRUPTION COMMISSION, INTEGRITY IS NON-NEGOTIABLE - ANNUAL REPORT, 1 JULY 2013 TO 30 JUNE 2014**

**The Speaker:** I recognise the Honourable Attorney General, Ex-officio Member responsible for the Portfolio of Legal Affairs.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

I crave the leave of the House to lay on the Table of this honourable House the Cayman Islands Anti-Corruption Commission, Integrity is Non-Negotiable - Annual Report that spans the period 1 July 2013 to 30 June 2014

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. Samuel W. Bulgin:** Madam Speaker, just to highlight the fact that the report itself is quite self-explanatory. It is indeed quite comprehensive. It sets out, among other things, the composition of the commission itself, its role, its powers and duties. Madam Speaker, it speaks about the relevant provisions in the law, the offences there-under and also speaks to the past and ongoing activities of the commission during the relevant period. So, I would certainly commend the report to honourable Members of this House as, indeed, the wider public. Thank you.

**REPORT AND RECOMMENDATION OF MINISTER RESPONSIBLE FOR LANDS, VESTING OF CROWN LAND BLOCK 67A PARCEL 25 REM1**

**The Speaker:** Honourable Minister for Planning, Lands, Agriculture, Housing and Infrastructure.

**Hon. D. Kurt Tibbetts:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House a Report on the disposition of Crown Land in accordance with the requirements of section 10 of the Governor (Vesting of Lands) Law (2005 Revision) which specifically speaks to Block 67A Parcel 25 REM1.

**The Speaker:** So ordered.

Does the Honourable Minister responsible for Lands wish to speak thereto?

**Hon. D. Kurt Tibbetts:** Just a short explanation, Madam Speaker, as this has had a jolly ride so far.

This report, as I said, deals with the vesting of 65 acres of Block 67A Parcel 25 REM 1, owned by the Crown. And this vesting is by way of a peppercorn long lease to Cayman Hotrod Association.

By way of background, Madam Speaker, this undeveloped Crown parcel which totals approximately 227 acres is located on High Rock Drive in East End just south of the Quarry. Cabinet provisionally approved a 15-year peppercorn lease of 35 acres of this parcel to the Cayman Hotrod Association in May 2003. The association had requested land to construct a racetrack and the Government agreed to make available a suitable area for a finite period to enable the association to construct such a facility. Although at that time (this is in 2003) Cabinet had directed that a report be tabled in this House in accordance with the Governor (Vesting of Lands) Law, [but] this had still to occur when Hurricane Ivan hit Grand Cayman in September 2004.

Subsequently, Madam Speaker, given the many more pressing priorities of Government post-Ivan, the Cabinet agreed in April 2005 to waive the tabling requirements for the leasehold vesting on public interest grounds. So, a 15-year peppercorn lease of 35 acres was signed in May 2005.

Madam Speaker, I confirm that as required by law, the details of this leasehold disposition have been published in the Gazette and in a local newspaper. Three valuations have been carried out on the subject property, even though the lease is for a peppercorn consideration.

In 2010, the association proposed to construct a larger facility than originally envisaged. It harboured ambitions for a quarter-mile long drag strip, runoff and track of truly international standard. And this leased site, which still had to be developed, was of insufficient size to accommodate what they desired to do. So, in December 2010, the then Cabinet approved the

grant of a five-year peppercorn lease of 65 acres of land at this location to the Hotrod Association in return for the association surrendering its then existing lease of the 35 acres. The five-year lease was signed on September 15, 2011, and is due to expire in September 2016.

The association has been actively fundraising to commence construction of the track and the associated facilities it requires in order to utilise the site. But to enable it to borrow funding commercially, the association requested that Government grant it a longer term peppercorn lease of the same area; that is the 65 acres which they now have a shorter lease for. If a new 20-year lease is approved and signed the existing 5-year lease will be surrendered by mutual consent.

On April 1, 2014, the Cabinet agreed to grant to the Hotrod Association a 20-year peppercorn lease of the 65 acres for motorsports and associated use with a further 10-year tenant option to renew, subject to the tabling of this report in the Legislative Assembly. Under the term of the proposed lease, the association is to be responsible for insurance. Development milestones will be imposed in the lease, such that the Government will have the ability to cancel the lease if development of the track does not take place in a timely manner.

Vesting the subject 65 acres of land to the Cayman Hotrod Association by way of a 20-year peppercorn lease will provide the association with appropriate legal interest in the parcel that it can utilise to obtain funding to develop a racetrack of international standard.

So, Madam Speaker, it is hoped that the facility will enable the Cayman Islands to host international race meetings when completed. But as I just said, the milestones that will be included in the terms of the lease make sure that this is developed, otherwise the Government will have the ability to cancel the lease so that the lease does not just lay there with nothing being done.

Madam Speaker, also as required by the law, three valuations have been carried out on the subject property, even though the lease is for a peppercorn consideration. And each valuation forms part of the overall report which I have, with your permission, just tabled. Together they provide a general indication of the value of the land that the Government now proposed to vest. Thank you, Madam Speaker.

**MINISTRY OF FINANCE, TOURISM AND DEVELOPMENT – TOURISM AND DEVELOPMENT, ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2012 AND 30 JUNE 2013**

**The Speaker:** Honourable Minister of District Administration, Tourism and Transport.

**Hon. Moses I. Kirkconnell:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the Financial Statements for the year ended 30 June 2012 and 30 June 2013 for the Ministry of Finance, Tourism and Development.

**The Speaker:** So ordered.

Does the Honourable Deputy Premier wish to speak thereto?

**Hon. Moses I. Kirkconnell:** Just a few short comments, Madam Speaker.

The Auditor General states: **“Because of the significance of the matter described in the Basis For Disclaimer of Opinion paragraph, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.”**

Madam Speaker, it is regrettable that in his qualified opinion the Auditor General has concluded that the financial statements presented for inspection do not present fairly the financial position of what was formerly the Ministry of Finance, Tourism and Development, as it existed at June 30, 2012 and 2013, or their financial performance and cash flows for the years then ended in accordance with International Public Sector Accounting Standards.

Madam Speaker, not being the Minister with responsibility during the periods under review, except for the final one and a half months of the 2013 fiscal year, I believe it would be remiss of me to comment further on the Auditor General’s findings concerning portfolios that fall outside of my remit. But, Madam Speaker, I would like to say that the Ministry of District Administration, Tourism and Transport is presently working with the Deputy Governor’s office, the Auditor General’s office and the Ministry of Finance to bring the Ministry accounts to be accounted for in accordance with the International Public Sector Accounting Standards.

Madam Speaker, with those few comments, I invite all honourable Members of the House to have a look at the reports. Thank you, Madam Speaker.

#### **REPORT AND RECOMMENDATION OF MINISTER RESPONSIBLE FOR LANDS, CROWN GRANT (UNCLAIMED) LAND BLOCK 15E PARCEL 36**

**The Speaker:** I recognise the Honourable Minister responsible for Planning, Lands, Agriculture, Housing and Infrastructure.

**Hon. D. Kurt Tibbetts:** Thank you, Madam Speaker.

I wish to lay on the Table of this honourable House a Report on the disposition of Crown land in accordance with the requirement of section 10 of the

Governor (Vesting of Lands) Law (2005 Revision) re: Agnes Naomi Josephs, Block 15E Parcel 36.

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. D. Kurt Tibbetts:** Yes, Madam Speaker, I think this is due an explanation to this honourable House.

Madam Speaker, this report deals with vesting by way of Crown Grant of Block 15E, Parcel 36, in South Sound to Mrs. Agnes Naomi Josephs.

On the 24<sup>th</sup> of September 2002, Executive Council considered and approved a paper recommending a Crown Grant of the said parcel to Agnes Naomi Josephs and that the relevant report required under the Governor (Vesting of Lands) Law to be tabled in the Legislative Assembly by the Minister responsible for Lands.

The property comprises .6 of an acre undeveloped and landlocked off Stonewall Drive on Walkers Road in South Sound. The Director of Lands and Survey had conducted the usual in-depth investigation into this claim and has submitted a report and recommendation. The claim was made on the basis that Parcel 36 should have been registered as part of what was Parcel 39, which was owned by Mrs. Josephs, and, therefore, is incorrectly registered to the Crown.

The Director’s report concluded that it was reasonable to conclude that in conjunction with the affidavit evidence, Parcel 36 was, indeed, part of the land purchased by Mrs. Josephs. No other person claimed ownership rights to this land.

Upon Executive Council’s approval, Lands and Survey Department promptly commissioned two independent valuations, prepared its own valuation, prepared a chief surveyor’s report, and drafted a Council resolution and a lands notice ready for publication in the Gazette and the local newspaper. It provided all such documents to the Ministry for Lands in order that the Ministry could prepare and table a report in the Legislative Assembly. However, for whatever reason, the Ministry failed to take any further action and, regrettably, the report was not finished or tabled in this House since then.

No one realised that the Crown Grant had not been auctioned until Mrs. Josephs’ son contacted the Ministry in 2014 when he noticed the parcel was still registered to the Crown and, on investigation, the 2002 error was discovered. So, it was decided to take the matter back to Cabinet, given the time that had elapsed since 2002. So, on the 5<sup>th</sup> day of August this year Cabinet considered the matter, went through all of the details that were available and reaffirmed the decision to transfer the parcel to Agnes Naomi Josephs for nil consideration and for myself, as the Minister responsible, to table an appropriate report in the Legislative Assembly.

Madam Speaker, I can also confirm that as required by the law, the details of this property disposition have been published in the *Cayman Islands Gazette*, dated 22 September [2014] and the *Cayman Compass* on the 5<sup>th</sup> of September [2014]. And also as required by law three valuations were carried out on the subject property back in 2002 and are included in the report.

I thank you, Madam Speaker.

### AUDITOR GENERAL'S ANNUAL REPORT 30 JUNE 2014

**The Speaker:** I recognise the Second Elected Member for George Town, Chairman of the Public Accounts Committee.

**Mr. Roy M. McTaggart:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the Annual Report of the Office of the Auditor General, 30 June 2014.

**The Speaker:** So ordered.

Does the Honourable Member wish to speak thereto?

**Mr. Roy M. McTaggart:** Madam Speaker, I do have a very brief statement that I would like to make.

**The Speaker:** Please proceed.

**Mr. Roy M. McTaggart:** Madam Speaker, I am pleased today to be tabling the Annual Report of the Office of the Auditor General for the year ended 30 June 2014.

As Chair of the Public Accounts Committee it is my responsibility to bring this report forward in accordance with the provisions of the Public Management and Finance Law. The annual report is being tabled within the time frame provided for by the Public Management and Finance Law and, more importantly, it contains pertinent accountability information about the Office of the Auditor General, including their annual financial statements which have an unqualified opinion issued by the independent audit firm of Baker Tilly (Cayman) Limited.

The report provides Members of this Legislative Assembly with information about the results achieved by the Office of the Auditor General in 2013/14, the activities it carried out to achieve those results and the work that the office undertakes to ensure it remains relevant and can lead by example. It also provides Members with useful information about how the office uses its resources.

My hope is that Members of this honourable House will read this report, and, in the appropriate circumstances, use the information to ask questions about the operations of the office and how they used public funds to achieve their mandate.

In tabling this report I am pleased to report that the Office of the Auditor General continues to strive to ensure there is accountability and transparency in the use of public funds, and in doing so, has contributed to the continuing improvements the administration is making to its management frameworks and to the operations of the Statutory Authorities and Government Companies.

In particular, the annual report discusses the audit reports produced by the Office of the Auditor General, both in the financial audits he conducts of all government entities and in the performance audits. In particular, the Public Accounts Committee found the information contained in the five governance audit reports issued by the Office of the Auditor General in December 2013 very helpful to move government forward in improving governance and ensuring the effective use of public funds in the future.

The Public Accounts Committee has recently held public meetings relating to the governance reports which led to significant recommendations for good governance and the effective use of public resources. I hope that in the future we will see more audit reports by other entities in government which provide Members of the Legislative Assembly with information on the results they have achieved, the activities they have carried out to achieve those results and how they have used the public's funds provided by this honourable House.

Thank you, Madam Speaker.

### CAYMAN ISLANDS DEVELOPMENT BANK FINANCIAL STATEMENTS YEAR ENDED 30<sup>TH</sup> JUNE 2013

**The Speaker:** I recognise the Honourable Minister of Financial Services, Commerce and Environment.

**Hon. G. Wayne Panton:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the audited financial statements of the Cayman Islands Development Bank Financial Statements for the year ended 30<sup>th</sup> June 2013.

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. G. Wayne Panton:** Thank you, Madam Speaker, just very briefly.

The statements just tabled, in the statement of income and expenditure, this shows that the net income from operations earned by the Cayman Islands Development Bank was \$1,124,263; total administrative expenses amounted to \$1,611,097, giving a net loss after transfer reserves of \$486,834.

Now, Madam Speaker, this is not the rosier of results. It is consistent with the issues that have



been ongoing over the last several years with the Cayman Islands Development Bank. The good news is that the current projection is that that will be substantially improved in terms of the financial result for the 2013/14 financial year. So I am optimistic that when we table the audited statements for that, there will either be a surplus or a very small deficit there.

In addition, Madam Speaker, just to advise the Members of this honourable House, as it has been an issue that has been raised over the past several meetings, we now have confirmed a chairman and members of the Cayman Islands Development Bank Board and I am very pleased to be confirming that we will be able to get those in place and allow the full functioning of the governance of the Cayman Islands Development Bank within the next couple of weeks.

Thank you, very much.

### CAYMAN ISLANDS NATIONAL MUSEUM FINANCIAL STATEMENTS – 30<sup>TH</sup> JUNE 2012

**The Speaker:** I recognise the Honourable Minister of Health, Sports, Youth and Culture.

**Hon. Osbourne V. Boddén:** Madam Speaker, in accordance with section 52(5) of the Public Management and Finance Law (2012 Revision) I am pleased today to place before this honourable House the audit report of the Cayman Islands National Museum of the two-year period ending 30<sup>th</sup> June 2012.

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. Osbourne V. Boddén:** Yes, Madam Speaker.

The Cayman Islands National Museum (the "Museum") was established on May 3, 1979 by enactment of the Museum Law, 1979. Its purpose is to establish for posterity a collection of material evidence concerning humankind and its environment, with primary but not exclusive reference to the Cayman Islands. The Museum also serves to arouse public interest in Caymanian heritage and increase the knowledge and appreciation of and respect for it through the proper use of collections.

Madam Speaker, the Museum holds a collection in excess of 7,500 artefacts that have been donated, transferred, purchased or found, with the majority being donations. Artefacts are documented in the Museum's Accession Register and are used in research or are held in exhibition for the public. The research collections that are currently not on exhibit are kept at the Museum Support Facility in a controlled environment for preservation. The Museum also operates a gift shop and leases a space to a third party, which operates a cafe.

Madam Speaker, I am sure everyone remembers that on September 12, 2004, the Cayman Islands

were directly impacted by Hurricane Ivan which brought widespread and significant damage throughout Grand Cayman. The National Museum also suffered severe damage to its building and support facilities which resulted in the closure of the Museum to the public from September 2004. The Museum's gift shop was re-opened in November 2004, but the Museum exhibition area did not re-open until September 2009. Since July 2009 the Museum has been under the ownership of the Ministry of Health, Sports, Youth and Culture.

Madam Speaker, the audited financial statements for the Museum for the two-year period ending 30 June 2012 includes the Auditor General's opinion. This opinion was qualified for the year which meant that part of the financials cannot be relied upon, but the rest of the financials are okay.

Madam Speaker, the Auditor General listed the following issues that influenced his opinion to qualify the financial statements:

- Fixed asset register: The Museum did not maintain a complete and accurate register of individual assets held.
- Fixed asset reconciliation: Initial version of the trial balance provided did not reconcile to the fixed asset register. Furthermore, there were assets listed on the fixed asset register which were not being depreciated.
- Inventory reconciliation: When performing the yearend audit there was a difference between the inventory sub-ledger and the general ledger. This demonstrated that the inventory sub-ledger was not being reconciled to the general ledger in a timely manner.
- Petty cash: During the financial period adjustments to petty cash were made due to cash being identified which had not been accounted for.
- Journal entries: During the period ended June 30, 2012, several journal entries had been made and posted by the business manager, the government accountant and a consultant. All entries were made using the business manager's IT account and also some supporting documentation for the adjusted entries was missing.
- Changes in financial information: During the course of the audit it was noted that financial information in the trial balance provided by the Museum changed on multiple occasions and reasons and/or supporting documents for the changes could not always be provided.
- Financial statements were not prepared in accordance with International Financial Reporting Standards. Inadequate reviews of the financial statements were performed leading to a number of issues in the preparation of the financial statements.

- **Obsolete inventory:** There were no formal procedures in place to identify obsolete or slow-moving inventories.

Madam Speaker, the Auditor General stated that in his opinion, except for the effects of such adjustments, if any, as might have been determined to be necessary in respect of the matters discussed above, financial statements of the Museum present fairly in all material respects the financial position of the Museum as at 30 June 2012 and its financial performance and its cash flows for the two-year period from July 1, 2010 to June 30, 2012, in accordance with International Financial Reporting Standards.

Madam Speaker, the Auditor General also referred to other matters on non-compliance with laws. The Museum did not comply with the requirements of the Public Management and Finance Law (2013 Revision). Section 4 of the Law requires that the financial statements are to be prepared in accordance with International Public Sector Accounting Standards, while the Museum's financials were prepared in accordance with International Financial Reporting Standards.

Secondly, the annual financial statements of the Museum were not prepared in the time frame or format required by the Law. The Law requires that annual financial statements be prepared, submitted to the Auditor General for auditing, and then be presented to the Legislative Assembly no later than four months and two weeks after the end of the financial year. The Museum's reporting of its financial information to the Legislative Assembly is not in the time frame or format required to be compliant with the Law.

The Museum was also in non-compliance with International Financial Reporting standards. IAS1 requires that an entity present a complete set of financial statements at least annually. The current period of information for the financial statements has been prepared for a two-year period and is therefore not in compliance with the requirements of the International Financial Reporting Standards.

The comparative figures for the period ended June 30, 2010, were of no value since the financial statements for the period ending June 30, 2010 were given a disclaimer of opinion. Hence, no attempt is made in these speaking notes to do a comparative analysis of the financial statements. However, during the two-year period ended June 30, 2012, the Museum received revenues of \$1,625,788, of which \$1,311,460, or 81 per cent, came from government grants.

The expenses for the period were \$2,387,528, of which \$976,296, or 41 per cent, was for staff costs. The loss for the period was \$761,240, or 47 per cent of total revenue.

The total assets reported were \$3,203,179, and the total liabilities were \$253,121. This left the Museum with an equity balance of \$2,950,058. The

equity was reduced by the loss of \$761,240 during this period.

Madam Speaker, in closing, I would like to thank the board and management of the Cayman Islands National Museum for their hard work and perseverance in producing these annual audit reports. I invite Members of this honourable House and the public to view these reports in detail. Thank you, Madam Speaker.

### **STANDING BUSINESS COMMITTEE REPORT SECOND MEETING OF 2014/15 SESSION**

**The Speaker:** I recognise the Honourable Premier, Minister of Home and Community Affairs, Chairman of the Standing Business Committee.

**The Premier, Hon. Alden McLaughlin:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the Report of the Standing Business Committee for the Second Meeting of the 2014/2015 Session of the Legislative Assembly

**The Speaker:** So ordered.

Does the Honourable Premier wish to speak thereto?

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

**The Speaker:** The House will now take a 15 minute break.

**Proceedings suspended at 11:12 am**

**Proceedings resumed at 12:04 pm**

**The Speaker:** Please be seated.

I have given permission for a statement to the Honourable Minister of Health, the Honourable Minister of Education and the Honourable Minister of Finance. And we will take the statements in that order.

Honourable Minister of Health.

### **STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

#### **PREPARATIONS FOR EBOLA VIRUS**

**Hon. Osbourne V. Bodden:** Thank you Madam Speaker, and just before I start, I would like to take this opportunity to welcome you back from your long sojourn representing us down in Africa.

**The Speaker:** And as you can see, I am healthy as a bat!

**Hon. Osbourne V. Bodden:** Thank God you were not in the infected areas, and you are back in one piece, and also to congratulate you on your excellent showing. I think that if it were not for some heavy artillery against you, you would have come out on top. So, we will hear more about that, I am sure in due course. Well done, and thank you for representing us so well.

*[Inaudible interjection]*

**Hon. Osbourne V. Bodden:** We didn't hear what the Member for East End just said.

*[Inaudible interjection]*

**Hon. Osbourne V. Bodden:** Madam Speaker, I would like to take this opportunity to update the Members of this Honourable House on the Government's preparations for the Ebola virus.

As Members will be aware, there has been an outbreak of the Ebola virus in four West African countries, where we have seen the death of thousands of people from this virus. The severity of the situation caused the World Health Organisation [WHO] to declare Ebola "an international public health emergency", only the third time in its history that the WHO has made such a declaration.

Madam Speaker, while we were monitoring the situation, and already making our preparations, the situation became more urgent for us when we learned that this often fatal disease has reached the shores of our close neighbour, and largest trade and travel partner, the United States. I am sure that you and the other Members of this honourable House share my concern that I felt when I learned that the United States had a case of Ebola. However, I want to take this opportunity to reassure you all, and urge you to remain calm.

Now, of course, breaking news, since my statement was written, last night we learned of a new case in New York of a Doctor who was over on the continent and subjected himself to some form of self-confinement, but at the same time, while he was waiting for the onset of the fever, it turns out that he was out and about in the public. Let's hope that nothing more comes of that except his proper treatment and recovery and that we do not have more cases coming up.

As I mentioned, Madam Speaker, we had already been watching it closely and had commenced work on refining our contingency and response plans. However, upon learning that it has reached the United States, we accelerated our work. Honourable Members of this House may already be aware that at this week's Cabinet meeting my colleagues and I had a presentation from the technical team regarding the ongoing preparations. Following the presentation, it was decided by Cabinet to implement a travel ban

whereby any persons who have visited Guinea, Sierra Leone, Liberia, or the Democratic Republic of the Congo within the past 21 days will not be allowed entry to the Cayman Islands.

In addition to the travel ban, Madam Speaker, we are actively reviewing and considering our options to further enhance our state of readiness. Cabinet has agreed to allocate the necessary funds for the acquisition of a purpose-built isolation unit and additional personal protective equipment, or "PPE", that will be required should we have the need to isolate or quarantine individuals. The Health Services Authority has been in touch with their overseas contacts to arrange for staff to receive specialised training to ensure the correct use of this PPE.

Madam Speaker, while we are all concerned about the potential threat of Ebola, I am pleased to advise the Members of this honourable House that after the presentation from the technical team on Tuesday, my colleagues and I were reassured by the clear evidence of inter-agency collaboration and co-operation. Further, Madam Speaker, after meeting with the technical team and discussing our level of readiness and plans going forward, we are confident that as a country we are on the right path in our approach.

Madam Speaker, I want to emphasise that while we made some significant decisions this week, work has been underway for several weeks to ensure the Cayman Islands are prepared. With the full support of my Ministry, Cabinet and the Governor's Office, Government officials from 13 agencies have been working together to finalise our preparation and response plans with a view to preventing the Ebola virus from taking hold on our shores. These stakeholders are in regular communication and have developed a joined-up approach that involves refining existing preparedness plans and procedures, to satisfy the protocols necessary to contain the virus.

Madam Speaker, this multi-sectoral committee has considered a range of matters to date, including entry screening protocols, contact tracing, and contingency plans that cover issues such as transportation, isolation and quarantine, case management and infection control measures. Membership includes Public Health, the Health Services Authority, the Ministry of Health, the Ministry of Home Affairs, Hazard Management Cayman Islands, Environmental Health, the Royal Cayman Islands Police Service, the Cayman Islands Airports Authority, the Port Authority, Immigration, Customs, the Department of Tourism and Government Information Services.

Medical Officer of Health, Dr Kiran Kumar, who heads the committee, describes inter-agency co-operation and communication to date as extremely productive. Madam Speaker, I would like to take this opportunity to thank Dr. Kumar and all of the members of the multi-sectoral committee for their efforts. Through outstanding inter-agency communication and

cooperation they have been able to make tremendous progress towards achieving a state of readiness for the Cayman Islands. And in that group, I would like to single out the efforts of Deputy Chief Immigration Officer, Bruce Smith, who has gone well . . . I shouldn't say beyond his remit, or anything, but certainly he has gone beyond the call of duty in some cases because he has really worked hand in hand on every email and every way possible to ensure that immigration efforts are . . . and we know that these are our people on our front line. There are people who are naturally nervous and we have to . . . we can and sit and make policy and everything else, but those on the frontline are the people that we have to spare a thought for if anything of this nature were to come to our shores. So, those folks in the HSA and on the response teams and, certainly, on the immigration side of things, or border control, have to be highly commended.

I want to commend them, Madam Speaker, and encourage them to continue to work together as we continually review and refine our plans.

On October 17<sup>th</sup> the Immigration Department, in conjunction with the Public Health Department, introduced a traveller's health questionnaire that will address passengers' travel patterns for four weeks prior to their arrival in the Cayman Islands. Madam Speaker, if this questionnaire reveals that the traveller has been to any of the three affected West African countries, our Ebola protocols will be triggered. The cruise lines have distributed similar health questionnaires to passengers before they embark, and there are established procedures and protocols whereby a passenger who becomes unwell is not permitted to disembark.

If the passenger has a travel history to one of the affected countries and appears well, the person will be placed in the Public Health Office in the airport arrival hall, and the HSA team will be contacted. If the person is unwell, staff will call 911. An emergency medical services (EMS) team will assess the passenger through a health screening questionnaire that will elicit exposure history. They will also take that person's temperature.

A passenger who does not have any fever or other symptoms, and is a visitor, will be denied entry and quarantined until departure. If a resident, the passenger will have an option to be quarantined in a designated place at the Cayman Islands Hospital or in their own home, supervised by security guards, if all household members were also passengers, or if living alone.

If quarantined in the Hospital the individual will also be watched by a security guard, and arrangements will be made for daily needs to be met in a manner similar to any inpatient of the Hospital. Similar arrangements will assist the daily needs of persons quarantined at home.

Quarantine notice will be served by the Medical Officer of Health. Passengers will also receive in-

formation about the reasons for quarantine, the Ebola virus, and how to self-monitor for signs of the illness. Quarantined persons will be instructed to inform their security guard, or contact the telephone number on the quarantine notice, if they become unwell at any time, or for any concern or need.

During quarantine period, the Public Health team will monitor the person's temperature twice a day. If at any time the person has a temperature of 101°F, they will be moved to an isolation room and managed as a suspect case.

Madam Speaker, the HSA has adequate protective gear for Hospital staff, should a suspect case arise, and is in the process of procuring additional supplies. As I mentioned earlier, the HSA is organising training through an overseas facility regarding the use of the PPE, and will also be offering staff webinars in all aspects of managing the virus.

The threat of Ebola is a global one, Madam Speaker, and we have the benefit of looking to other jurisdictions to learn from their experiences regarding their preparations and management of the virus. To that end, Madam Speaker, in addition to overseeing local precautions, the Public Health Department, on behalf of Government, routinely communicates with international agencies such as the Caribbean Public Health Agency, the Pan American Health Organization, the Centres for Disease Control and Public Health, England.

Madam Speaker, Members will be aware that before the Ebola threat we already had a robust communicable disease surveillance system, which has been recognised for its excellence by some of our international partners. I want to thank the Premier and Minister of Home Affairs, Hon. Alden McLaughlin, for publicly expressing his confidence in our existing communicable disease surveillance system, and assure him that his confidence is well placed.

In closing, Madam Speaker, I want to be clear that while I do not believe there is cause for alarm, we simply cannot afford to be complacent. As the Minister of Health, I am committed to keeping the public, the Governor, the Premier and my Cabinet colleagues informed of any new developments on this front.

As we continue with our preparations, my ministry is committed to providing the public with regular updates concerning our efforts. With the support of my colleagues in Cabinet, and the continued sterling efforts of our technical team, I am confident that the Cayman Islands will be prepared to deal with this threat should it arrive on our shores.

Thank you Madam Speaker.

## SHORT QUESTIONS

*[Standing Order 30(2)]*

**The Speaker:** I recognise the Honourable Leader of the Opposition and after that the Member for East End.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Thank you, Madam Speaker.

Under Standing Order 30(2), I wish to ask a question.

**The Speaker:** Allowed. Please proceed, sir.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Thank you.

I want to thank the Minister for outlining steps taken for the threat of Ebola. Certainly, I say that it is well placed. One thing I would ask him, Madam Speaker, is that in his closing paragraph, he says that we will not be complacent and we will keep the Governor, the Premier and Cabinet colleagues informed of any new developments on this front. This is a very important matter, a very serious health risk, seeing that we are dependent on travel. I would ask please, that he keeps the Opposition informed step by step of any development as to where we stand, where the country stands, or, in fact, if there is any new progress on the plan. In fact, if there is a written plan, Madam Speaker, I would like to get a copy. Thank you kindly.

**The Speaker:** Honourable Minister responsible of Health.

**Hon. Osbourne V. Bodden:** Madam Speaker, I give the Honourable Leader of the Opposition that assurance. In hindsight that should have said "all Members of this honourable House." Thank you.

**The Speaker:** Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

In the statement by the Minister he said on page 3, "**Following the presentation, it was decided by Cabinet to implement a travel ban whereby any persons who have visited Guinea, Sierra Leone, Liberia, or the Democratic Republic of the Congo within the past 21 days will not be allowed entry to the Cayman Islands.**"

What are we going to do about Caymanians who have travelled there? Are we sending them back? That is the question.

**The Speaker:** Honourable Minister of Health.

**Hon. W. McKeeva Bush, Leader of the Opposition:** We can't stop entry.

*[Inaudible interjection]*

**Hon. Osbourne V. Bodden:** I thank the Member for East End for that question. Let me be clear, we have met with residents here who are from that region. We have discouraged them in terms of their own travel and if any of our people were to go there and came

back, they would be quarantined. It is that simple. We cannot take that risk.

Our own Caymanians and residents period are being encouraged not to travel to the West Africa infected regions. If they do so against our advice, then they will have to be quarantined when they return.

*[Inaudible interjection]*

**Hon. Osbourne V. Bodden:** We have to allow them entry, yes. We cannot turn them out of their own country. If there was any misunderstanding there, I am sorry.

**The Speaker:** Honourable Minister responsible for Education, your statement.

### MINIMUM WAGE ADVISORY COMMITTEE'S PUBLIC CONSULTATION

**Hon. Tara A. Rivers:** Madam Speaker, I would like to provide this honourable House with an update on the Minimum Wage Advisory Committee and their progress to date.

As you may recall the Minimum Wage Advisory Committee was established in June of this year as required by the Labour Law to provide recommendations to Cabinet on implementing a minimum wage in the Cayman Islands. The committee is made up of twelve voting members, with equal participation of employers, employees and independent members.

The key objectives for this Minimum Wage exercise are to determine a wage regime which would help to address exploitation and providing real relief to the lowest paid workers and improve employment opportunities for Caymanians in relation to decreasing the demand for imported workers. The Committee has been asked to write their report to Cabinet from the perspective that a minimum wage will be introduced and the pros and cons associated with each price point considered, and to make a recommendation accordingly.

Initially, the Committee hoped to complete their work by the 31<sup>st</sup> of October, 2014, in advance of the initial February 2015 deadline set by Cabinet. However, due to the importance and breadth of the topic and the need to include public consultation, the committee believed it required a reversion to the original deadline of 28<sup>th</sup> February 2015 in order to meet its objectives. The committee has been meeting almost every week since its inception, with a total of 20 meetings to date, and has been working extremely hard at the task at hand.

You may also remember Madam Speaker that the committee has secured a technical consultant who is the senior specialist, Employment and Labour Market Policies at the International Labour Organisation. Mr. Reynold Simons has been on island this week meeting with the Committee and presenting them with

his analysis of the data he received from the Cayman Islands Economics and Statistics Office.

The public consultation phase of the committee's process has now started with the official launch held on 16<sup>th</sup> of October 2014. The first phase of the Committee's public consultation will run from 16<sup>th</sup> October 2014 until Sunday the 30<sup>th</sup> of November 2014. There will also be district meetings scheduled in January 2015 to round out the public consultation phase.

There are four ways in which the committee is gathering information in the public consultation process:

1. Completed Surveys
2. Focus Group Meetings
3. District Meetings
4. Accepting written submissions

There are five surveys, each aimed at a particular sector of the population. The surveys will help the committee gather important additional quantitative and qualitative information that isn't readily available from the data collected by the Economics and Statistics Office. The five surveys are for:

- Household employers, that is, those who employ domestic helpers, nannies, groundskeepers, gardeners, etc. in their homes.
- Household employees, those who are employed as domestic helpers, nannies, groundskeepers, gardeners, et cetera, in a person's home.
- Business employers, those who own a private sector business or represent the owner, such as HR [Human Resources] managers, directors, partners, general managers, and the like.
- Business employees, those who are employed in the private sector, particularly in industries that have been identified as having lower-paid employees.
- The general public, specifically students, retirees, civil servants and the unemployed.

To access the surveys online, members of the public can go to the website at: [www.education.gov.ky/minimumwage](http://www.education.gov.ky/minimumwage). Surveys will be removed from the website on 1<sup>st</sup> of December but they will be available to be completed up until the 30<sup>th</sup> of November.

During the month of November, the representatives from the Economics and Statistics Office will also be contacting businesses and households on all three islands to encourage the surveys to be completed so that a recognisable sample size is obtained.

In addition to Town Hall Meetings that will be scheduled early in the New Year, the committee will conduct three focus group meetings to hopefully increase the chances of getting qualitative data from purposeful discussions. The focus groups are as follows:

- Cayman Brac on Saturday, 25<sup>th</sup> October (tomorrow), at the Layman Scott High School Hall. Two hour sessions, one in the morning (10:00 am to 12:00 pm) for employers (household and business); and one in the afternoon (1:00 to 3:00 pm) for employees (also household and business) and unemployed Caymanians.
- Grand Cayman session on Thursday, 30<sup>th</sup> October starts at 6:00 pm at the Family Life Centre. Two hour session in the evening is for youth (persons aged 17-24 years), students, household employees, Saturday Sabbath worshippers and unemployed Caymanians.
- Grand Cayman session on Saturday 1<sup>st</sup> November at the Family Life Centre. This session will have the same format as the Cayman Brac focus groups that I just discussed.

Members of the public who wish to take part in the focus groups are asked to contact the committee at [minimumwage@gov.ky](mailto:minimumwage@gov.ky), or by calling 244-3151. Copies of the surveys will also be available at the public libraries. Written submissions on the topic are also accepted by sending letters to the Ministry of Education, Employment and Gender Affairs' mailing address.

The committee is leading the public consultation as the feedback received will assist in forming their recommendations in their report to Cabinet. I am giving my full support to the Minimum Wage Advisory Committee's efforts, and I encourage the public to take part, especially with filling out the relevant surveys and attending focus group meetings, as this topic is one of national importance that will affect every resident of the Cayman Islands.

Thank you.

**The Speaker:** I now call on the Honourable Minister of Finance to make his statement.

#### **AUDITOR GENERAL'S REPORTS:**

#### **FINANCIAL AND PERFORMANCE REPORTING MINISTRIES, PORTFOLIOS AND OFFICES FOR YEARS ENDING 30<sup>TH</sup> JUNE 2011 AND 2012**

~and~

#### **FINANCIAL AND PERFORMANCE REPORTING STATUTORY AUTHORITIES AND GOVERNMENT COMPANIES YEAR ENDING 30<sup>TH</sup> JUNE 2012**

**Hon. Marco S. Archer:** Madam Speaker, I rise to make a statement concerning two recent reports which were released by the Office of the Auditor General entitled "Financial and Performance Reporting: Ministries, Portfolios and Offices for the years ending 30 June 2011 and 2012", and "Financial and Perfor-

mance Reporting: Statutory Authorities and Government Companies for the year ending 30 June 2012.”

Madam Speaker, the reports summarise the results of the Auditor General’s examination of the financial statements of ministries, portfolios and offices of central government for the fiscal years ending 30<sup>th</sup> June 2011 and 2012, and with respect to Statutory Authorities and Government Companies, for the fiscal year ending 30<sup>th</sup> June 2012.

Madam Speaker, I will not go into significant detail on the findings of the two reports except to say that the combined expenses for the Ministry of District Administration, Works, Lands and Agriculture and the Ministry of Finance, Tourism and Development for the two fiscal years ending 30 June 2011 and 2012 are CI\$269.7 million.

I want to inform the public of the Government’s achievements in improving its financial reporting and accountability, as that really is the essence of the reports.

Madam Speaker, we are making significant improvements. And based on the two Auditor General’s Reports, out of the 14 agencies that were audited in 2010/11 fiscal year, 85 per cent of those agencies received qualified and unqualified audit opinions. All but 1 of these 12 agencies, have now tabled their financial statements in the Legislative Assembly thereby making the reports open to the public for scrutiny. This is indicated on page 28 of the report on Central Government’s Ministries, Portfolios and Offices.

Out of the 40 agencies that were audited in the 2011/12 fiscal year, 92 per cent received qualified and unqualified opinions. Twenty-six of the 40 agencies have now tabled their financial statements in the Legislative Assembly thereby making the reports open to the public for scrutiny. This is indicated at page 28 of the report on Central Government’s Ministries, Portfolios and Offices and at page 31 of the Report with respect to Statutory Authorities and Government Companies.

The robustness of the consolidated financial statements for the entire public sector is dependent upon the quality of information contained in the financial statements of individual Ministries, Portfolios, Offices, Statutory Authorities and Government Owned Companies. If an individual Ministry, Portfolio, Office, Statutory Authority and Government Owned Company are a significant agency within the entire public sector and that agency receives a disclaimer of opinion or an adverse opinion from the Auditor General, then the consolidated financial statements of the entire public sector will consequently receive a disclaimer of opinion or adverse opinion from the Auditor General.

Therefore it is important that each agency within the entire public sector improves the quality of information in its financial statements, so that the consolidated financial statements of the entire public sector will not receive a disclaimer of opinion or an ad-

verse opinion from the Auditor General’s Office, in the future.

Madam Speaker, there are challenging times ahead but a solution is being developed. I am not going to stand here today and say that the Government’s finances are perfect, because we know that would be far from the truth. The Government acknowledges that it still has significant work to do in order to restore timely financial accountability. It is a position that the current Government inherited, but nonetheless we are trying to improve public accountability because that is what we campaigned on, or one of the issues on which we campaigned.

On 20<sup>th</sup> August 2014 the Ministry of Finance met with the Auditor General to discuss the outstanding audit issues that were continuing to cause the audit qualifications at both the entity and the consolidated financial statements for the public sector. Given that the Auditor General’s Reports on the Financial and Performance Reporting for the years ending 30 June 2011 and 2012 are based on periods that are two to three years past, some of these audit findings have already been addressed and improvements have been made.

The following audit issues are those that are currently hindering the Government from moving from a disclaimer of opinion on its consolidated financial statements for the entire public sector to an improved qualified opinion and eventually, and hopefully, an unqualified opinion:

1. Lack of Management Representations: Madam Speaker, the Auditor General is not satisfied and does not have the assurance from chief officers and chief financial officers within each ministry, portfolio and office, that revenues, receivables, expenses, liabilities and other balances recorded within the financial statements are complete, accurate and fairly presented. Therefore the Auditor General has been unable to obtain sufficient appropriate audit evidence to determine the reasonableness of the reported balances.

To address the issue of qualification following the August 20<sup>th</sup> meeting between the Auditor General and the Ministry of Finance, the Ministry of Finance is developing a standardised submission package, or assurance framework, which will enable chief officers and chief financial officers to assert that the balances that they are reporting are fairly presented and that appropriate documentation to support the timely audit of financial statements will be provided to the Auditor General.

2. Lack of Internal Controls: The lack of segregation of duties and the lack of monitoring and review by management are some of the key internal controls that still need improvement across government. Madam Speaker, government entities are now focussing on improving their systems of internal controls to ensure the effectiveness and efficiency of operations, the safeguard of assets, the reliability of in-

formation in financial reports and the compliance of activities with laws and regulations.

The Government is currently developing an improved internal control framework that will be applied across the entire public sector.

3. Post-Retirement Healthcare Liability: The Government is obligated to provide post-retirement healthcare benefits to current pensioners, seamen and veterans, and future retirees. An independent valuation of the post-retirement healthcare costs obligation for the periods covered by the Report on Central Government was not carried out, and, as a result, the Auditor General has been unable to determine the extent of the obligation of the Government.

Madam Speaker, the Government has recently received and is currently giving consideration to the valuation of the post-retirement healthcare liability. The post-retirement healthcare liability is derived by computing the value of healthcare cost which will be received by current pensioners, seamen, veterans and future retirees over the period of their life expectancy, but discounted back to the date of the valuation report. Hence this is a series of amounts that will be paid yearly during their life expectancy. However, that total amount is discounted and represented at today's value.

It is very important that the public understands that the post-retirement healthcare liability figure that is given, is not an amount that the Government is obligated to pay immediately or within a short period of time. In fact, as part of its annual budget, the Government budgets for, and pays, on-going post-retirement healthcare costs. For clarity, that is reflected within each Ministry's and Portfolio's annual budget.

To illustrate this point, if a family has a significant amount of money in their savings account and they also have a mortgage of several hundred thousand dollars, the mortgage is a liability of the family but it is not a liability that needs to be repaid immediately or within a short timeframe. Similarly, the Government is not expected to pay for the entire amount of the post-retirement healthcare liability in the immediate future. It is spread over approximately 20 years.

In addition, Madam Speaker, the Cayman Islands Government is currently preparing legislation that will increase the retirement age for the public sector and the private sector from 60 up to 65 years; and by doing so will significantly reduce the post-retirement healthcare liability amount since the difference in years between retirement and life expectancy will be reduced by that five-year period.

4. Valuation of Property, Plant and Equipment: The Government carried out a revaluation of its lands, buildings, infrastructure, and leasehold improvements in July 2013. However, the Auditor General has reported that the valuation report needs to be further broken down to show the compartmentalised assets. As such, the Auditor General is still not able to

evaluate the reasonableness of the carrying amount of land, buildings, and any associated depreciation or impairment entries recorded within the financial statements. Madam Speaker, the Government will ensure that future valuations are prepared in the required format as required by the Auditor General.

It should also be noted Madam Speaker, that there have been important personnel changes in the two ministries that are the primary focus of the Report. In 2012, new chief officers were appointed to the ministries in question along with new chief financial officers in 2013 and 2014. The Government expects that the quality of those two ministries' financial statements will improve as a result of the personnel changes. The Government intends to bring to the Legislative Assembly, before the end of this fiscal year, a Bill to amend the Public Management and Finance Law to address some of these concerns.

Madam Speaker, with the implementation of the above measures, it was agreed with the Auditor General that the Government could reasonably expect to receive a qualified opinion on its 2013/14 consolidated financial statements for the Entire Public Sector, as we are trying and hopefully would have by that time made all the necessary changes. The Auditor General has committed to issuing the opinion thereon by 30<sup>th</sup> June 2015.

In conclusion, Madam Speaker, the Government has, since the time-period covered by these two Audit Office Reports, improved the timeliness and quality of its financial reporting and accountability. The Government is committed to improving the financial management systems which will result in the production of financial statements that increasingly receive unqualified audit opinions.

Madam Speaker, the Auditor General Reports can be found on the websites of the Office of the Auditor General, and I encourage the public to take the time to read them and educate themselves on the issues at hand.

Thank you, Madam Speaker.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **FIRST READINGS**

##### **CONDITIONAL RELEASE BILL, 2014**

**The Clerk:** The Conditional Release Bill, 2014.

**The Speaker:** The Bill is deemed to have been read a first time and is set for second reading.

##### **DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 2014**



**The Clerk:** The Development and Planning (Amendment) Bill, 2014.

**The Speaker:** The Bill is deemed to have been read a first time and is set for second reading.

## SECOND READING

### CONDITIONAL RELEASE BILL, 2014

**The Clerk:** The Conditional Release Bill, 2014.

**The Speaker:** I recognise the Honourable Premier.

**The Premier, Hon. Alden McLaughlin:** Thank you, Madam Speaker.

I beg to move a Bill shortly entitled the Conditional Release Bill, 2014.

**The Speaker:** The Bill has been duly moved. Does the Honourable Premier wish to speak to it?

**The Premier, Hon. Alden McLaughlin:** Yes, Madam Speaker, at some length.

**The Speaker:** Would it be a convenient time for the luncheon break? Or do you wish to start?

**The Premier, Hon. Alden McLaughlin:** Yes, I think it would be convenient if we broke now and resumed maybe at 2:15 or thereabout.

**The Speaker:** The House will now break for lunch and reconvene at 2:15 pm.

**Proceedings suspended at 12:45 pm**

**Proceedings resumed at 2:20 pm**

**The Speaker:** Please be seated. Proceedings are resumed.

Just before we took the lunch break the Honourable Premier was about to commence the Second Reading of the Conditional Release Bill, 2014. I now recognise him to continue.

## BILL

## SECOND READING

### CONDITIONAL RELEASE BILL, 2014

**The Premier, Hon. Alden McLaughlin:** Thank you, Madam Speaker.

It is my duty, Madam Speaker, to introduce to this honourable House a Bill shortly entitled the Conditional Release Bill, 2014, which seeks to introduce a system of conditional release of prisoners to replace

the system whereby prisoners are automatically released without supervision, after serving two-thirds of their sentence.

Madam Speaker, before I get into the meat of what I wish to say, I would like to acknowledge the late Dr. Pedley, who did the initial research on this Bill quite a few years ago and the multi-agency team that was responsible for compiling it. I would also like to make special mention of the legal team led by the Honourable Attorney General who ensured that this Bill is compliant with our Bill of Rights. I would also like to thank the Deputy Governor for his leadership which has been the key in bringing this Bill to fruition.

This idea of a Conditional Release Bill has been around for many years. It was around as early as the 2005–2009 administration, of which I was a part and we have not managed to make much progress as a Government with it. But this administration believes that this Bill is important. When it is passed and becomes law it will be an important piece of the work that we are doing trying to deal with the growing criminality in this society. We hope by the end of the year we will also be able to bring another significant piece of legislation in the fight against crime and recidivism in the form of the Secondhand Dealers Bill. But this Bill we are dealing with today is critically important with respect to how we treat persons who have been convicted and sentenced to time in prison.

This Bill seeks to replace the parole provisions of the Prison Law. Conditional release, as the name suggests, is a much stricter regime than parole, and I believe that it will lead to lower re-offending rates and will result in lower risk to the community.

We are told by the police all the time that when certain prisoners are released from prison we see a spike in certain types of crime, particularly burglary, theft and robbery. When the police have rounded up a certain set of people and they are back in, we get a significant falloff in these types of crime. We are seeing now a spike again. And when we look at who was recently released from prison, we just shake our heads because we know it is just a matter of being able to get the evidence together. But you can believe that by and large some of them are involved in what is going on.

Madam Speaker, under the Conditional Release Law, once it is passed, no prisoner will be released from prison without supervision and under licence. No longer will a 10-year sentence really mean 6 years and 8 months in prison. A 10-year sentence will mean 10 years—a proportion incarcerated and the remainder under supervision of a licence by the Department of Community Rehabilitation.

Madam Speaker, in 2007 Government had legal advice from Dr. Lloyd Barnett, QC, which was supported by the Human Rights Committee, that the parole process and board, which currently exists, should have their own underpinning legislation and not rely on the provisions of the Prison Law. Dr. Bar-

nett opined that “The mandatory life sentence for murder appears to be inconsistent with the European Convention of Human Rights and is susceptible of being so declared.” [UNVERIFIED QUOTE]

In 2011 the National Security Council commissioned a report on crime. This was a joint report of the Office of the Deputy Governor and the Governor’s office. The crime reduction strategy focused on four areas. Strategy four was to reduce re-offending and the Conditional Release Law, I believe, will positively contribute to this particular goal.

The objectives of the Conditional Release Law are to rehabilitate prisoners to function in society and live a useful life; to protect society from the criminal acts of repeat offenders; and to reduce the cost of incarceration. I believe we all will agree that the present system which we have been using ever since does not fulfil these objectives. We know that Cayman has one of the highest re-offending rates in the Caribbean. The last study put it at 73 per cent. That is, 73 per cent of the persons that we sentenced to prison are back in prison in relatively short order. The Caribbean average is 60 per cent, and the UK is at 50 per cent.

There are a number of initiatives underway to reduce that percentage of recidivism and the Conditional Release Law, we believe, will contribute significantly to this. We expect wrongdoers to be punished appropriately, but just as important, is that offenders address their behaviour and take responsibility for their lives. There needs to be incentives in the system for prisoners to want conditional release and pressures on the management of the prison to provide rehabilitative and educational services.

As I alluded to earlier, the changes provided for in this Bill have a long history. There have been a number of reports written and committees formed, but no tangible results achieved over the last 14 years. Previous reviews of the parole system in 1999 and 2003, and subsequent attempts to reform the system, have not produced any significant changes. So, Madam Speaker, I wish to explain the present system and what we are proposing in this Bill to change it.

At present prisoners are released from prison after two-thirds of their sentence has been served. This is termed “the earliest date of release,” and this is regardless of whether they are still a risk to society or whether they have been rehabilitated. They are not subjected to any form of supervision or licence on release under the present system. Also, parole can be granted to a prisoner, and parole is separate and distinct from earliest date of release. Parole can be granted to a prisoner after five-ninths or one-third of the sentence has been served depending on the offence, as long as they have served a minimum of one year. They are released on licence in these circumstances, but the licence would only be in force up to the earliest date of release, i.e., when they would have completed two-thirds of the sentence.

Under the new system a prisoner will only be considered for conditional release after 60 per cent of the sentence has been served. In addition, a prisoner will only be released after he or she is deemed to be lower risk to the community and, if released, will remain on licence for the remainder of the sentence to continue the rehabilitation process. The level and type of risk will determine their licence conditions.

So, Madam Speaker, it may be helpful if I gave an example. This means that a prisoner sentenced to 10 years in prison would be considered for release after 6 years in prison. If they are no longer a risk, they will be released under licence. However, the prisoner would remain on the licence to the end of the sentence, that is, another four years. And any breach of licence conditions would result in re-imprisonment. If the prisoner is considered a risk after the 6 years, he could serve the full term of 10 years with the last 6 months in the community under licence to prepare him for integration into society.

So, there will no longer be any automatic right to be released once you have reached your earliest date of release. You cannot even be considered for release until you have done 60 per cent of the time. And then your release would be subject to a risk assessment to determine whether or not the prisoner had been sufficiently rehabilitated to be, and is at a sufficiently low risk of re-offending, to be allowed re-integration into the community under licence right up to the last day of the sentence, whatever period that was.

Under the old system that prisoner would be released without licence and regardless of the risks to society after six years and eight months. So, Madam Speaker, in summary, the Conditional Release Law involved scrapping the earliest date of release scheme which releases prisoners based on the passage of time regardless of the risk they pose to the community, to a scheme which is totally based on risk assessment and rehabilitation.

Madam Speaker, I wish to turn to the question of lifers. I think it would be helpful to you, to honourable Members and, indeed, to the wider public if I seek to put this initiative into some historical context.

In 1991 the United Kingdom, via an Order in Council, entitled The [Caribbean] Territories (Abolition of Death Penalty [for Murder] Order 1991, abolished the death penalty in the Caribbean Overseas Territories, including these Islands. The effective date for the Cayman Islands was May 10, 1991. Before this date persons convicted of the capital offence of murder were automatically sentenced to death. It was a mandatory sentence which means that the court had no discretion.

When the UK abolished the death penalty they replaced it with a sentence of life imprisonment. The Order in Council reads as follows: “**Notwithstanding the provisions of any other law in force in the Territory, no person shall be sentenced to**

**death by any court in the Territory for the crime of murder, and a person convicted of murder shall be sentenced to imprisonment for life.”**

So, Madam Speaker, from thenceforth the Grand Court in the Cayman Islands was required to sentence persons convicted of murder to mandatory life imprisonment. Indeed, the effect of the Order in Council was to automatically amend what is now section 182 of our Penal Code to change the sentence from that of death to life imprisonment.

As the Explanatory Note to the Order in Council explains, the death penalty was abolished and a penalty of life imprisonment substituted. It means that persons who were on death row at the time automatically had their sentence changed to life imprisonment. There were, I believe, three persons so sentenced in Cayman at that point.

So, that was the start, Madam Speaker, of the abolition of the death penalty and the substitution therefore of mandatory life imprisonment. In the meanwhile, Human Rights groups and the European Court of Human Rights started to take a closer look at the effect of mandatory life imprisonment in the context of Article 3 of the European Convention of Human Rights. That Article stipulations: **“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”**

The application of the Convention, that is, the right of individual petition to the European Court of Human Rights, was initially extended to the Cayman Islands in August 1964. This was by way of a letter from the permanent representative dated 12 August 1964. It was re-extended again and eventually lapsed in 1986. It was reinstated in March 2006 on a personal basis following an application by Cayman again; that is, it gave to persons in Cayman the right to be able to petition the European Court of Human Rights if the individual felt that any of their rights under the European Convention on Human Rights were being breached or encroached upon in any way. It gave them the right to make a personal application to the European Court.

Since then, in 2009 a new Constitution came into operation in Cayman. It contains a Bill of Rights which came into effect in November 2012. It follows that as of 6 November 2012, issues such as the constitutionality of the mandatory life imprisonment is justiciable in our local courts. In other words, it is now possible to challenge the constitutionality of a mandatory life imprisonment sentence in the local courts.

Before that, and indeed as far back as 2006, a number of stakeholders, including the Attorney General’s Chambers, the Human Rights Committee, which I then chaired, Madam Speaker, the prison authorities and others, started work on addressing the issue of the constitutionality of a mandatory life sentence for murder. The initiative was triggered in large part by complaints from a number of prisoners serving mandatory life imprisonment in 2006.

The Human Rights Committee then conducted a review of the current local arrangements and concluded, among other things, that in its opinion the current arrangement is *prima facie* in convention of the European Convention on Human Rights as well as the other two international treaties to which the UK, and by extension the Cayman Islands, are party. They accordingly recommended that the Cayman Islands should revisit its legislation to bring it in line with the current practice in the UK.

Madam Speaker, I would like to touch just a bit more on the issue of the need to ensure that the current sentencing arrangement is brought in line with our Bill of Rights and that of the European Convention on Human Rights. For a number of years now, cases coming out of the European Court of Human Rights and, indeed, the UK Privy Council, as well as the House of Lords, and in more recent times its replacement, the UK Supreme Court, have repeatedly held that the imposition of a sentence of life imprisonment on an adult offender is not in itself prohibited by or incompatible with Article 3 of the European Convention on Human Rights, which is similar to section 3 of the Cayman Islands Bill of Rights.

However—and this is the important bit, Madam Speaker—such a sentence may be a violation of a person’s human rights where once he is sentenced to life there is no prospect, possibility, or hope of release on licence even after he has served a sufficient period justified to meet the requirements of punishment and deterrents and after rehabilitation may have transformed him into a person who no longer poses any threat to the public.

So, Madam Speaker, in order to meet this requirement, most countries put in their legislation what is called a tariff period, which is a period that a lifer must serve before he can become eligible to apply for and be considered for parole or release on licence.

Such a construct enshrined in the law as it is, will then vest the prisoner with the necessary hope and prospect of release once other criteria are met. The cases have held that a prisoner sentenced to life is entitled to know at the outset of his sentence what he must do to be considered for release and under what conditions, including when a review of his sentence will take place or be sought. In some countries this review period is set at 25 years, some at 30 years. As I said, this is called the tariff period.

The Conditional Release Bill before this honourable House also deals with prisoners who are sentenced to life imprisonment. The Bill (and the Law, once passed) will mandate that the court shall specify the period of incarceration, known as a tariff, before the person is eligible for parole. However, for murder, the minimum period for incarceration before being considered for conditional release will be set at 30 years. In addition, the prisoner will remain under licence for the rest of his life when released.

The existing lifers will, within 24 months of this law being approved, be able to apply to the Grand Court to have such a tariff set, because they were sentenced before this law was passed.

Madam Speaker, there is another important aspect of the Bill that I would like to comment on, which is clause 14. The marginal notes read, "Release of life prisoner." This is the provision that sets the 30 year tariff for lifers. Again, this provision was crafted with an eye on our obligation to ensure that whatever sentence is imposed can withstand the Human Rights scrutiny. The courts have consistently held that one way of ensuring compliance is for the country to demonstrate that the sentence is not disproportionate and arbitrary. In other words, there should be some mechanism whereby the culpability of an accused can be differentiated from the other. Or one offender or offence can be distinguished from the other. This may include factors such as the age of the offender, whether he has some type of mental illness, whether the murder was premeditated, for example, in the course of a planned robbery, or whether it was a crime of passion occasioned perhaps by jealousy, or even a murder done as a mercy killing.

There must be a mechanism in the sentencing regime to make these distinctions when the courts come to decide the appropriate tariff in clause 14 of the Bill. Accordingly, the law will stipulate 30 years as the starting point and depending on the mitigating circumstances may set a lower tariff, or if there are aggravating circumstances may set a higher tariff. This approach will take the indiscriminate one-size-fits-all approach out of the equation and the court can weigh all the relevant factors in determining whether the tariff should be more than or less than 30 years. These guidelines for the courts will be further set out in regulations after the Bill becomes law.

Madam Speaker, there are other changes which I would like to highlight. The Conditional Release Board will now make decisions on conditional release and recalls. Previously, the Parole Board made recommendations to the Governor. The membership of the board will also reflect that autonomy and the quasi-judicial nature of its work. The chairmanship will be held either by a retired judge or magistrate, or an experienced attorney at law.

The law also sets out the appointment and functions of the Conditional Release Board, procedures and conditions of conditional release and revocation, the duties of the Director of the Department of Community Rehabilitation, the use of electronic monitoring, and the right of appeal.

Madam Speaker, I should tell Members that I will be bringing a committee stage amendment at the appropriate point to ensure that those prisoners who are already serving determinate sentences will not be adversely affected by this new law. In other words, we want to make sure that by passing this legislation, someone who has been sentenced to a particular pe-

riod will not wind up having to spend longer as a result of the passage of this Bill. And this would be mainly because of the difference between the earliest release date under the old legislation and what is now being proposed under the Conditional Release Law.

In creating this system we would be joining not just the other overseas territories in having a tariff system, but also a statutorily created Conditional Release Board.

Madam Speaker, I hope that what I have said in introducing this Bill offers to this honourable House and to the wider public an understanding of what the Bill seeks to achieve. On the one hand, a stricter form of sentencing, a form that will require that no prisoner is released from prison until either the full sentence has been served, or it has been determined on the basis of an assessment that their risk of reoffending and their risk to the community has been significantly reduced. And, Madam Speaker, that we fix a proper tariff with respect to persons who are serving life imprisonment to ensure that our legislation is not challengeable either in the local courts or in the European Court of Human Rights.

So, Madam Speaker, I would ask for the support of all Members of this honourable House for this important piece of legislation that I believe is an important part of the Government's overall strategy to reduce crime.

Thank you, Madam Speaker.

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

I recognise the Elected Member for North Side.

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

I rise to support a Bill for a Law to provide for the creation of a Conditional Release Board charged with the duty of making decisions regarding conditional release of prisoners on licence; provide for the post-release supervision of prisoners released on licence and for revocation of licences; for incidental and connected purposes.

I want to congratulate the Government on bringing the Bill forward. But, at the same time, I must express my disappointment that the revision of the Rehabilitation of Offenders Bill seems to have gotten lost somewhere along the way because it is not reported in the Budget as legislation to come, and having offered a Private Member's Motion <sup>1</sup>in 2010 (I think it was) asking for it, I would ask the Government to try and bring that forward.

I have one or two concerns, Madam Speaker, some of which the Premier has addressed in moving the Bill. But I would still like to express some of them and ask if they will give some consideration to them.

<sup>1</sup> Private Member's Motion No. 10-2011/12

The first one is the makeup of the board. While I have no difficulty with someone like a retired judge as a magistrate being the chairman and/or deputy chairman, I have some concern that there is no Caymanian common-sense and community person included on this board, although [clause] 4(2)(g) says the Governor may appoint a person or persons other than persons referred to in paragraphs . . . which means a retired judge, retired magistrate, attorney-at-law, a person with experience in criminal justice, a mental health professional, ministers of religion. You are going to be hard-pressed to find any Caymanian with knowledge of the community in those categories. I think in these kinds of exercises it is important to have some Caymanians on these boards that have knowledge of the community and some of the effects on the victims of the crimes [committed by the people] that we may be considering releasing.

I know there is also another section in the Bill that says the Governor must only make his or her best efforts, and not being able to find these people she can basically appoint anybody. I think we need to decide to have specific requirements for this and, therefore, delete that category where she can almost appoint anybody if she cannot find the [right] people.

Another concern I have is that the chairperson will have two votes. They will have a deliberative vote and they can also break a tie. I would prefer to see the chairman acting as a chairman and facilitating the discussion, letting the board members decide and only have a vote in case of a tie. I think there is going to be a certain amount of intimidation or deference to a chairman being a retired judge or magistrate, and also having an extra vote. I do not like the idea of giving the person two bats, so to speak.

Again, I do not know why we keep putting this in legislation, but [clause] 4(6) says, "**The members shall serve for a term of three years and are eligible for re-appointment.**" Why do not we just say what we used to say before, that the people are appointed at the pleasure of the Governor? It is no use in limiting their term if you can reappoint them the next day afterwards. I do not understand the significance of that.

The other concern I have is in [clause] 4(13) where it says, "**Where the Board is considering issues relating to a licence, no decision shall be taken until legal advice has been obtained from - (a) a member of the Board who is an attorney; or (b) an attorney who is not a member but who would qualify for appointment under this section.**" Again, I would certainly have more comfort if that legal advice had to come from the Chamber of the Attorney General. I do not see [why] we can put an attorney on the board, but then he can therefore advise the board what to do. Again, I think you are giving one board member significant advantage if they chose to exercise it over other board members. Everybody should be equal, so to speak.

In [clause] 4(10), again we keep putting in legislation that: "**Subject to the provisions of this Law, the members of the Board may regulate the conduct of the proceedings of the Board in such manner as they think fit and may constitute such committees as it considers necessary to enable it better perform its functions.**" I think there needs to be a time when we have to require boards to perform within certain good governance established procedures.

I know that the Government is actively considering this Authority Boards Law, but I do not know whether that will extend to these kinds of boards. I do not think the board members should be able to operate the board as they think fit; I think there needs to be some criteria established. We may assume that they will do the right thing. But I would prefer to see some belts and braces (as one Governor used to call it).

Secondly, I do not understand why a quorum is substantially less than 50 per cent of the members of the board. Normally, the quorum should represent at least 50 per cent of the board members. In this case it is only three and I think there are seven members to the board, potentially, or it could be more, depending on whether the Governor appoints one person, or persons (in clause 4(2)(g)). But I think the quorum should represent at least 50 per cent.

I must tell you, Madam Speaker, that it took a lot of soul searching to reduce my conviction from "life" meaning life, to "life" meaning 30 years. I happened to be a member of the Government when the British Government dropped that nuclear bomb on us that we had to stop capital punishment. We had to abide by it. There are those of us who believe that that was the opening of the floodgates for criminality in Cayman.

Madam Speaker, I am troubled when we are telling the people that the tariff is going to be fixed at 30 years, but the legislation says [in clause 14 (1)] ". . . **but for murder, the period shall be thirty years before the prisoner is eligible for conditional release unless there are (a) extenuating circumstances, exceptional in nature, in which case the court may impose a lower period of incarceration; or (b) aggravating circumstances, exceptional in nature, in which case the court may impose a longer period of incarceration.**"

That troubles me because it is not impossible or improbable to get a very liberal-minded judge who might decide that six years is adequate for murder because of whatever circumstances may apply to that. I wonder why we cannot leave that decision to the DPP [Department of Public Prosecution] where the person would be charged with a lesser crime (I am not a lawyer) . . . or manslaughter or something as opposed to murder. In that case they could get less than 30 years.

The fact that [clause 14(1)(b) allows them to increase it does not give me any comfort because when we get to the liberal interpretation of our laws that has been going on in recent time, I fear that we will have no hope of getting anything beyond 30 years if we put the tariff at 30 years. So, I would ask the Government to consider whether we could address . . . and I understand what the Premier talked about, the Human Rights issue and that this is our attempt to address that, but I would hope we could address it in some other part of the legislation other than for the crime of murder.

Getting back to the makeup of the board, Madam Speaker, I wonder why we do not have somebody from . . . I think the new name for it is the Department of Community Rehabilitation on it when we have all these other attorneys and so forth. I do not want to get into Hammersmith [PHONETIC], one of the first leaders of the United Nations, who said that "He who has a hammer thinks everything is a nail." [UNVERIFIED QUOTE]

We certainly have a preponderance of legal qualifications being accepted these days for more than anything else. There was a time in the not-too-distant past when everything was based on a CPA and now, it happens to be a law degree.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Another concern I have is that I do not understand why we are allowing judges to give bail to persons who are out on licence and they commit an offence. [Clause] 16, **"(1) The Board may revoke the licence of a prisoner who is convicted of an offence committed during the period of release on licence.**

**"(2) A prisoner on a conditional release licence who is arrested and charged in relation to another criminal charge and is not released on bail assumes the status of a remand prisoner and his conditional release licence is automatically suspended and the revocation of his licence shall then be considered under section 15(6) to (12).**

And then we have **"(3) Where a prisoner on conditional release is arrested and charged in relation to another criminal offence and is released on bail . . ."** Why are we allowing the judges to release these people on bail when they were on conditional licence when they committed the crime? And why cannot we just have their licence automatically suspended until the board hears the conditions and decides whether there was a material breach of their licence or not? It is not impossible to get a judge to release somebody who committed a crime and they are out there based on "court calendars" and times that people have to meet for months while we are waiting to find out what's happening about it.

So, Madam Speaker, with those few concerns I support the Bill. I think it is timely. I think it is needed.

I, like the Premier, hope that it will contribute to reducing the frequency of crime in our community and that this is but a part of the package of legislation that is coming to offer up a greater deterrent to crime than what we currently have. So, I support the legislation.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

I recognise the Fifth Elected Member for George Town.

**Mr. Winston C. Connolly, Jr.:** Madam Speaker, I rise to support the Bill as well, but I have had some representation from my constituents, and I think they echo what the Member for North Side has said. I think it is incumbent on us as legislators to keep in mind that we answer to the public. Traditionally one of the roles of the Parole Commissioners has been that cross-section of public opinion.

My support for the Bill is that it has been needed for a long, long time. I congratulate the Honourable Premier for bringing it and putting it forward. But I would only caution us to not exclude the voice and the conscience of the people that elected us to this office to look out for their best interests.

Madam Speaker, I speak from a bit of experience in that I sat on the Parole Commissioners Board for a number of years when I was practicing as an attorney. Whilst there, I remember some of the discussions that went on in spite of the rules of the day, in spite of what sometimes the board felt their hands tied over. Madam Speaker, this voice of society cannot be muted, it cannot be silenced. And I am not suggesting that it is, I am just imploring my colleagues to remember that when we are making this type of legislation there has to be that human element in there. It has to be that voice of the people who feel it responding.

Madam Speaker, I think that in spite of my saying those things I am comforted in terms of some of the sentencing changes and the fact that we have to rehabilitate. There should never be a situation where the prisoner can elect to just stay to his early release date without opting into any sort of rehabilitation. So, those changes are welcomed changes.

Madam Speaker, the other thing is that when we here anecdotally the police speaking about . . . I think the Member for North Side (or someone else) raised earlier where we hear that once a prisoner is released all of a sudden there is a spike in crime. They know who it is; they know the 15 people who commit all the crimes, et cetera. There has to be an element of control over the people who are released.

We have to ensure that when they are released, and especially when we see the rate of people going back to prison, the recidivism rates, we have to recognise and call a spade a spade. It shows that if we chose to let these persons back into their pre-

existing environments which existed before they went into prison, then, without any support, without any monitoring, without any help, we know what the answer is. It is the definition of insanity!

Madam Speaker, I am also heartened by the Victim Impact Report section of the Bill in that when we talk about Human Rights and we talk about those sorts of things we forget that sometimes in the most heinous of crimes the victims have lost someone for life and they do not get anything back from that. Sometimes they are scared for life, both physically and mentally, and there is no one to pull that back. I do think that this Bill takes that into consideration and that we should be cognisant of the victims, the victims' families and the voice of people who are guarded to represent and speak for them.

Madam Speaker, I am proud to be a part of the Government that brought this Bill. I hope that it will do all the things intended when passed into law. And I hope that the rehabilitation and monitoring thereafter will have the desired effect. The only thing that I would caution, going forward, is that we always, always take time to listen to that voice, the voice of the people and try to include them wherever possible along the way. And I am not talking about lawyers and judges, et cetera, the trained people of society. I am talking about the common man that represents the neighbours, the family, the friends, the loved ones of the victims in these crimes, because I, for one, would not want to be the person that drowned out those voices.

With those few words, Madam Speaker, I would like to thank the Premier for bringing the Bill. I fully support the Conditional Release Bill 2014.

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

I recognise the First Elected Member for Bodden Town.

**Hon. Anthony S. Eden:** Thank you, Madam Speaker.

It has finally made it! If anyone knows me, I could be one of the persons who have caused this to be delayed for probably 20 years.

*[Inaudible interjection]*

**Hon. Anthony S. Eden:** Just to comfort the Honourable Premier, he knows that he and I have discussed.

When you look at the alternative, Madam Speaker, it is not so good. It is not so good. You hear about out of the frying pan into the fire, all in the name of Human Rights, when these . . . and I'm not talking about the petty and common criminal, I am talking about cold-blooded murderers.

I read in the Memorandum of Objects and Reasons, clause 7, the second paragraph, specifically in relation to prisoners who are serving whole life terms, "**it is now considered inhuman**" (I assume they mean inhumane) "**and degrading punishment**

**for any person to be incarcerated for the rest of his life without the possibility of ever being released."**

Madam Speaker, I disavow and distance myself from that statement. Talk to the family of Estella Roberts, who when I was in the Ministry, there was nothing in these Islands so earthshattering when thousands of us literally gathered at the Lions Centre in memory of that lady. She was inhumanely (I say) destroyed, burnt in such a horrific way. And we hear taking pity on some of these people?

I watch some of these TV programmes and I wonder why, and I know now it is because of Human Rights, what's happened. And there are no extenuating circumstances and so on and so forth. What happened to life without parole? The Premier talked about where we are living in this day and age in an atmosphere of growing criminality. I just hope with the help of my heavenly Father that some of these actions will take effect.

In clause 9, "**In carrying out its functions under this Law, the Board shall consider the following factors - (a) whether it is no longer necessary for the protection of the public that a particular prisoner be imprisoned; (b) the risk of the prisoner reoffending;**" Let us hope that whoever makes these judgment calls on whatever grounds that it is with sound judgment.

Clause 10(2), and I would ask that this be looked at and take out one word there, "**(2) The Board shall be provided with all relevant documents including the following if**" (and I want that word "if" removed) "**available - (e) an assessment of risk, prepared by such experts as may be approved by the Board; (f) a report from the Director of the Department of Community Rehabilitation; (h) a Victim Impact Report in relation to the release of the prisoner;**".

Specifically ask the parents of some of these youngsters that have been slaughtered. Ask the mother of the family of Estella Roberts, ask the spouse of Estella Roberts. These people have gone through agonising (as a good friend of mine would say) "suffer-a-tion".

Madam Speaker, it was noted that in 1991 when we cut loose here, as the honourable Member for North Side talked about, doing away with the death penalty, it has been alluded to that we had about three cases at that time. Go back, Madam Speaker, and count what has happened since that time. Some of these will say, *I will kill you and go to Northward*. These are some of the things I am talking about.

Madam Speaker, this is like getting a good slice of French toast, you put some good syrup and jam on three corners and on the fourth corner you bit into deadly nightshade. Beware. Beware, Madam Speaker, all in the name of Human Rights and we being terrified about what it is in the European Convention and whatever. What about these families here in the

Cayman Islands that are suffering tortuous nights thinking how their loved ones have died? What about these? What rights can you protect when you decide to break the law?

Madam Speaker, it is quite interesting.

Clause 22: **“A prisoner who is dissatisfied with a decision of the Board may seek leave from the Grand Court to apply for judicial review of the decision and the Grand Court shall in that regard exercise all the powers vested in it in relation to judicial review.”** Here we go again!

Transitional provisions: This is an interesting one. **23. (1) Within twenty-four months after the entry into force of this Law, the Director of Prisons shall send to the Grand Court the case records of all prisoners serving life sentences, excluding those whose applications for release on licence are pending under section 31A of the Prison Law, 1975, and the Grand Court shall, in exercise of the powers contained in section 14, pronounce in open court a period of incarceration for each prisoner, and in so doing shall exercise the powers specified in section 14 as if it were sentencing an accused who has been convicted.”** I would appreciate if the Premier would just expand on that for me please.

Madam Speaker, we have to stop the mollycoddling of criminals. We see in the paper daily, weekly, it is getting to the stage . . . and I remember in 2005 when we took over, you were even scared to come out of your house. It is getting back to that now. What is the law enforcement doing?

**Mr. V. Arden McLean:** You'd better keep Betsy close by.

**Hon. Anthony S. Eden:** I listened to a presentation the other day, Madam Speaker, and I wish that the Member for East End was around to listen to some of the stuff. He wouldn't have accepted it either.

Madam Speaker, in the Transitional Provisions, clause 23(4), **“At the sentencing hearing referred to in this section, evidence of the prisoner's behaviour in prison after original sentencing is not admissible.”** Why not?

If he goes up there and go on with that kind of stuff, is it my interpretation that you cannot tell the judge what in the world is going on? We have to stop this pussyfooting around!

**“23 (5) A prisoner who is dissatisfied with a decision made under subsection (1) or (2) shall have a right of appeal in the same manner as a person being sentenced for the first time.”**

I tell you, Madam Speaker, I pray day and night for these little Islands. And I hope that whatever the agenda of our mother is for these Islands, as I look around and see what's happening, as things evolve, it really makes me wonder what it is all about. [There are] so many different angles. No matter what

we do in the finance industry to comply with OECD, ATF and whatever, FFF, down the line, we cannot seem to satisfy these people! Uh!

I will close, Madam Speaker, by saying, and I mean this wholeheartedly, I wish to God that we would give to our needy and our elderly, those who are in need of assistance, all the time and effort we put on some of these criminals.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

Honourable Member for East End, I take it that your real estate has not lapsed, so I will exercise my right to ensure that you have a right to speak.

I recognise the Honourable Attorney General.

**Mr. V. Arden McLean:** Madam Speaker, I am very glad for your doing that, and I will at the time when it is appropriate, but I wanted to give way to the Attorney General.

**The Speaker:** Thank you for your generosity.

I recognise the Honourable Attorney General.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

As you heard so far, this has been a work in progress going back many years. And the Honourable Member for Bodden Town, in his usual candour and forthrightness, has articulated for us all that there have been ongoing reservations and concerns about eventually getting to this stage.

Madam Speaker, the Honourable Premier mentioned that there have been a number of studies and reports dealing with this matter. The Human Rights Commission made reports. I procured legal advice from Dr. Barnett. So we all knew from way back that something had to be done as long as we are now part of this global village and bound by these international obligations to which the UK is signed up to.

The fact is that despite the reservations (and they are genuine reservations, they are quite properly held reservations, I might add), we are at a stage in our development where we can no longer ignore the obvious. The failure to do what we are doing today, Madam Speaker, will certainly, certainly expose this country to adverse findings by our court with the potential for serious monetary damages to be awarded against us, against Government. We cannot be unmindful of that.

We saw some years ago where at least one prisoner from here, [Kurt Fabian Ebanks](#), as a matter of public knowledge, even before we had our own Bill of Rights, was able to petition all the way to Strasbourg, the European Court of Human Rights, to complain about his trial, and the court entertained the application. It was dealt with. Fortunately for us the Government succeeded. But that was before 2009, before



we had the Bill of Rights in 2012. The point is that we are now bound by these conventions and we are subject to the court's jurisdiction.

Madam Speaker, persons here in this country like to speak about the number of unconstitutional laws that still exist even though we have a Bill of Rights and we have the Constitution of 2009, and Government is not doing enough to make sure these laws are amended or addressed and all of these issues are addressed. The fact of the matter is that most of the Commonwealth Caribbean countries around us have their constitutions since 1962 with a Bill of Rights. The UK has a Human Rights Act since 1998. It came into effect in 2000.

Madam Speaker, to this day there are continuing challenges to the constitutionality of their legislation and of their acts by public officials. It is an ongoing issue. So, there is no system where you, by a stroke of a pen, come to this Legislative Assembly, change all the laws and make them Human Rights compliant. Even what we are doing here today represents our best effort. It does not and it will not prevent persons from challenging the system we are trying to put in place and the whole issue of our sentencing framework.

So, I think it is important to let people know that there is no such thing as the stroke of a pen and all laws have become Human Rights compliant. It does not work that way. Lawyers will always find a basis for challenging something. And there are some good ones. And when we think the law is settled in one area, then comes a ruling from a court to say, not quite.

Madam Speaker, the Honourable Premier made reference to the fact that in trying to put together this regime we would be joining not just our colleagues in our sister Overseas Territories, but other countries. Indeed, the British Virgin Islands in 2009 enacted their Parole Act of 2009, gazetted on 8 May 2009. They set up a parole board and they have a tariff system for lifers.

Montserrat's Parole Act 2004, Parole Prisoners Rule as well. And they do have a tariff system. As a matter of fact, it says that you can release a person after 10 years (a lifer that is) if he is over 60 years old; or after 15 years if he is under 60. That is Montserrat. And that has been in existence since 2004.

Anguilla's Parole of Prisoners Act 2008, they too also, like BVI and Montserrat, have a parole board. They have a tariff system as well. Section 12, where a court sentences a person to life it is required to set a tariff that is a period he must serve to satisfy requirements of retribution and deterrence before he become eligible for parole. If no tariff is set, the Governor may order release on licence after the prisoner has served 15 years with or without conditions.

Bermuda's Parole Act of 2001, they too have a tariff of 15 years. Our legislation says a starting point of 30 years and it can be increased or de-

creased, depending on the mitigating factors or aggravating factors as the case may be.

Estonia has 30 years as their tariff.

And so you glean from what I am saying that there are differences in approach. And this is consistent with the observation of the European Court of Human Rights when it observed that issues relating to just and proportionate sentences are the subject of rational debate and civilised disagreement and, therefore, countries must be allowed a margin of appreciation in deciding the appropriate length of prison sentences for particular crimes.

Madam Speaker, other arrangements that exist in other jurisdictions tells us that there are some 32 countries where sentence of life may be imposed and which has a dedicated mechanism for reviewing the sentence after the prisoner has served a certain minimum tariff. And I mentioned, as an example, Estonia that has 30 years.

Additionally, Madam Speaker, there are a number of countries where there is no life imprisonment. But between them they have maximum sentences that range from 21 years, in Norway, to 45 years in Bosnia. Indeed, in Croatia in the case of cumulative offences, a sentence of up to 50 years can be imposed.

Madam Speaker, this is an issue that has engaged civilised countries. It has generated passionate debate. And it has resulted in differences of approach. But there is one constant and that is all these countries, most countries, and the European Court of Human Rights has accepted that in and of itself there is nothing wrong with having a mandatory life imprisonment for offences such as murder. There is nothing wrong with that. Where the problem arises is, having done so, as the Premier alluded, there is no hope, no prospect, no possibility of a release or a mechanism in place for reviewing the continued incarceration even after the prisoner would have served what is considered a justifiable period for retribution and deterrent. There ought to be a mechanism in place for reviewing that.

The significance of what is being proposed today is that it does not follow that after 30 years a lifer is going to be released from prison. That is not what this law is all about. It simply says that at that threshold period he is eligible to have his sentence reviewed and an assessment made as to whether he is a fit candidate to be released, and if all the circumstances are taken into account, including the risk assessment, and it is concluded that he or she continues to be a risk to public safety, then the decision would be that the person would continue to be incarcerated and be subject to periodic review going forward. So, this really just provides a threshold period.

Of course, the contrary is true. If, all things taken into account, it is clear that this person is no longer a risk and that there are other issues, other criteria that have been satisfied, then clearly the per-

son would be a fit candidate for release and would be subject to whatever conditions are attached to the licence. And the fact that this would be hanging over his or her head in the event there is a breach, it is then subject to recall.

So, Madam Speaker, I note the concerns of our very respectable colleague from Bodden Town, and they are quite passionate. And he speaks from his heart. He is very candid about it. But we are at a stage now where we have to convert. We have to be. That is the reality of it. And the alternative is not available to us anymore. Or I should say the status quo is not available to us anymore.

So, Madam Speaker, I would like to also commend the Bill to honourable Members of this House. There is sufficiency of guards in it which will address some of the concerns voiced by the honourable First Elected Member for Bodden Town. There are safeguards in it that address other concerns that have been raised by the constituents of the honourable Fifth Elected Member for George Town. I did speak to one of his constituents and I assured her that some of the matters that have been pointed out by her are matters that we can accommodate in the regulations going forward.

In terms of the composition of the board, I did point out that there are other provisions in the law which can address those. I am sure the Premier will speak to those when he comes to wind up the [debate] on the Bill.

All in all, Madam Speaker, it is not perfect; but it is a good start. And, like anything else we will have to review the effectiveness of it going forward and make best effort to correct any weaknesses as they emerge. So, I certainly would wish to commend the Bill to this House, Madam Speaker. It has my support. Thank you.

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

I recognise the honourable Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I rise to make a short contribution to the Conditional Release Bill. I believe it is widely known that I am a well-travelled individual from a very young age. It is easier for me to tell you the places I have never been to. But, be that as it may, it has taken me a very long time to come to grips with the fact that we are not in control of our own destiny. I say that I have travelled because I have seen how others do it when they are in control. Until all of us come to grips with that, we are going to forever be enslaved to the colonial system.

Yes, maybe the time has come for us to part our ways so that we can do what we have to do. Oh, I will hear many say now that this is the beginning of the end. We do not trust ourselves; that is why.

Madam Speaker, when I said that it has taken me some time to come to grips with that position, I meant that as time moved on and I became interested in this thing called politics, I really thought that my contribution could make much difference in this country. I wondered what it would be like to make that contribution to the people that I so dearly love. As I researched and got additional knowledge, I noticed that there is very little I can do when we have those who are masters of our destiny. But even if we do not have those, we would then have Amnesty International. They say we're some group of turtles and all kinds of things too.

Madam Speaker, the sledgehammer hit me up the side of my head in May of 2005 when I entered the highest office that this land has to offer now. Shortly thereafter, we were presented by the then Governor, Stuart Jack (who hopefully the annals of this history will neither remember nor record, with a letter from England. I think it was from the Justice Department.

Was that from the Justice Department, Attorney General, in 2006, when they sent to us and told us about this?

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Justice—wherein, they suggested (not in a subtle manner) that we needed to add tariff to life sentence.

Madam Speaker, what hit me with the sledgehammer was that they suggested between 14 and 17 years. Then I knew that we were not really, really in control of our destiny. I knew then. So, I had a lot of come-to-Jesus prayers to be able to bite my tongue and throttle my voice.

I would like to think that the generation coming behind me will take up this fight to protect the generation coming behind them and to make provisions that I didn't make in order that they, as Caymanians, are now becoming more widely travelled again. There was a point there where one generation dropped off after the seamen, the going to sea provision dropped off. But now the young ones are becoming more and more educated and more and more exposed to different methods of controlling one's self and deciding one's own destiny.

Madam Speaker, at the time, I suggested, since they were going to eventually, as I understood it, do it by an Order in Council (and we all know where that Order in Council comes from—from the masters that be, just like the 1991 Order in Council that the Premier read from for the abolition of the death penalty). I understood then that that was next.

Madam Speaker, somehow we got through that turbulent time with that Stuart Jack and, yes, Madam Speaker, that was the biggest storm seas I've ever seen. But we survived them with him though. And I was glad to see his back too. And I wished him

fair weather but with strong winds upon his back, that he never see land again. But he saw it, thankfully, but someplace else.

Madam Speaker, we somehow got through that, I believe with the help of my good friend from Bodden Town. And along came the UDP who I know as a fact was presented with the same thing. I do not know how they got through it. I guess we'll hear that a little later. And now the PPM comes again. I do not know if their legs are wrung or their arms have been wrung, but something has been wrung again.

Madam Speaker, like my good friend from Bodden Town, I have a couple of concerns with it. For years having stood on the Floor of this House, I have called, and the Premier now too has called, for tariffs on other laws where it is the minimum, maximum, and the likes. But we have been told that is the American system, and we do not employ that here. All of a sudden now when it is convenient we have an American system being introduced into this Bill. And it is convenient. Why? Because we like to say we do not want to tie the hands of the judges. That is the convenience of the American system being employed here where the judges have the right to have a minimum, or have the right to decide what that sentence will be, even though the Attorney General said we have a threshold of 30 years. But the mitigating circumstances could mean one year. And the scenarios under which that could be, I suspect would be love triangles and all that kind of stuff. But then if there are extenuating circumstances, then the judge can increase that amount over 30.

Madam Speaker, we have seen too often deliberate heinous crimes by very young individuals in this country. I know the Government will look at me and say, *Oh, but they are going to be for life and they are going to be under supervision, and there needs to be a particular position they have taken up and the Department of Rehabilitation will be required to say whether or not they are suitable to be reintegrated into society.* All of that is well, Madam Speaker. But when, like my good friend from Bodden Town says, some of these kids will say *I'll kill you and go to Northward*, and as a deterrent it does not give me any real comfort because if the circumstances are such, that judge may very well reduce the sentence and it does not serve as a deterrent for society. Those are my fears.

Madam Speaker, we have had situations in this country with judges, no disrespect to anyone, where they even come out Sunday morning and let people go who had guns. We know that. Madam Speaker, please do not . . . we know that. We know that, Madam Speaker. These are situations in this country that we know as a fact, when it is their friends, or the friend of a friend of a friend. We have heard that before. We have seen it.

And I am not trying to be disrespectful to anyone. And I am not saying it was any incestuous behaviour, so to speak. But it leaves me to wonder.

Madam Speaker, I read a book one time that said preachers are human beings too. Can I not extend that to judges too? No one is perfect. We all have our failings and our leanings, whether we are judges or politicians, pardon that. But here we are . . . I think that is a good little carve out to satisfy the bench wherein they continue to sing the song *We do not want our hands tied*. If we are going to put a tariff on life, then put the tariff on.

I have come to the realisation that this is what we are going to have to do. So, if it is 25, 30, 40, put it on. And then we move on from there. The DPP has the responsibility.

Madam Speaker, our justice system has checks and balances in it. You have the police, you have the DPP, you have the courts, you have the juries, and you have the appeals. These are the checks and balances that will determine whether or not those charges should be reduced to manslaughter which carries a different sentencing. And the day we start questioning the justice system, not the individuals (I just said preachers are human beings too), is the day anarchy reigns. We must give that justice system the opportunity for the checks and balances to work. And, oh, does it work! You may not be satisfied with it from a personal or moral perspective, but, oh, does it work.

I believe they say the wheels of justice grind slow, but grind almighty fine—the justice system. We are here deciding what that justice system should be. And I do not like that. Madam Speaker, I saw a case in the papers sometime this week where there is an appeal—the justice system! That is how that works, as far as I know. I mean, the lawyers should know too. Looks like we have about 10 of them up in here today and every minute I see more being called to the bar. I see um right in this paper now. The justice system in this country works. It may not work to our liking, but it works. Our job is not to question that; our job is to legislate what we think is fair and reasonable on behalf of our people to govern them. And if it is not sufficient in the eyes of our people, certainly we will know about that.

The judges are guaranteed jobs up to 70, you know. Or [is it] 65? And everybody else, but not us. So, we know that they are going to grind almighty quick for us. It comes around real quick for us. What kind of consultation was done on this with our people? I do not know. But I have concerns about that. If you are going to put a tariff we are going to say that is the tariff. Since 1991 our masters, England, in their infinite wisdom (if there is such a thing) decided it was life. We have had that there. We have gone on with that forever. Now we put a tariff and allow the judges to say whether that tariff is sufficient.

Oh?

Is that the purpose of legislation?

So, we have a mixture of the American method of sentencing and then a mixture of the English

method. Those are my concerns. I am very concerned about that. Potentially anything can happen.

Madam Speaker, I hear the Premier saying that this is another step to assist to try to curb the increased crime in the country. I am all for that. However, Madam Speaker, we should recognise that we shouldn't be beating so many drums in here about how good this thing is when we went from 55 per cent to 60 per cent of your time, understood before you are eligible for parole. But we will have a continuation of supervision, which is what the Premier said. It would be interesting to find out how many . . . and I need to get this right, Madam Speaker, because I have this thing about memory. But I need to get it right.

How many staff [members] happen to be in the Department of Community Rehabilitation? I can tell us all, Madam Speaker, that even if we extend that to 60 per cent, which is okay, that they are going to stay in prison, either we have to build more prisons, or put a lot more staff in the Department of Community Rehabilitation if they have to be under supervision.

Now, we can decide where we spend the money. And I guess that is logics 101. I do not know how many people are there. The last time I heard about it was that young lady from down north there who was in charge of it as director or something, [Mrs. Teresa Echenique-Bowen], I believe that was the name. Oh yes, Pedro's daughter. I do not know how much staff she has. But I know with electronic tagging and monitoring, they have to monitor them on a monthly basis, I believe.

The Director of Community Rehabilitation . . . oh yes, here it is, Madam Speaker, 11(2) **"For the purpose of ensuring the effective supervision of prisoners released on licence, the Director of the Department of Community Rehabilitation shall - (a) assign officers to serve in such areas and for such matters as he thinks necessary; (b) direct and supervise the work of officers; (c) formulate and implement methods of - (i) record keeping; and (ii) reporting; (d) develop policies and procedures for dealing with prisoners released on licence; and (e) prepare and submit to the Board every quarter,"** (I am sorry; it is not a month, Madam Speaker) **"a report regarding the prisoners under its supervision during the period covered by the report."**

Madam Speaker, we talk about watching TV. Stuart Jack wrote me one time too saying that I watched too much TV because people on that didn't operate the same way. But anyway, don't worry about him; he's a distant memory now.

Madam Speaker, it is a lot of work. That means that we are going to have parole officers on duty all the time. That is a lot of work. And we watch TV and we hear how people re-offend, how they have to check in with the parole officers on a daily, weekly basis, or whatever. That is a lot of work. We are going to have a lot of prisoners out on release.

Madam Speaker, I am not criticising it; I am asking if we are prepared for it. We need to be prepared for this. It is going to cause us a lot of grief. Let it not be like other things we have come down here and legislated and then when the sledgehammer hit us we do not have the financial resources available to run it properly, and then we have to come back and amend it again. And then the director is blamed for not seeing that one going to East End because he was supposed to be in George Town and then she says, *Well I didn't have anybody at the monitoring station to monitor the GPS* or whatever the case may be. And then we blame the director.

We just need to be prepared for this robust system we are putting in here to try and control the criminality in our country. That is all I am saying, Madam Speaker. We must not dismiss the consequences of our actions here today. We have to think about them. And there are many; and they are going to come real fast on us.

Madam Speaker, let me just touch on two other areas, one that the Attorney General and the Premier and my good friend from Bodden Town talked about. The one in particular is the transitional provision, [clause 23]. **"(1) Within twenty-four months after the entry into force of this Law, the Director of Prisons shall send to the Grand Court the case records of all prisoners serving life sentences, excluding those whose applications for release on licence are pending under section 31A of the Prison Law, 1975, and the Grand Court shall, in exercise of the powers contained in section 14, pronounce in open court a period of incarceration for each prisoner, and in so doing shall exercise the powers specified in section 14 as if it were sentencing an accused who has been convicted."**

Madam Speaker, I do not know how the Director of Prisons is going to get all of those case records. You mean they reside at the prison? I thought it was the court that had case records. I guess for the time they served up there they can have the records up there, yes. But, Madam Speaker, here we are . . . 23(2) **"Where an application under section 31A of the Prison Law, 1975 is refused, the prisoner may at any time apply to the Grand Court for a tariff to be set, in which case the Grand Court shall exercise the powers in subsection (1)."**

**"(3) In exercising the powers referred to in subsection (1), the Grand Court may, where practicable, consult any serving Judge who decided the matter concerned, and may exercise such other powers as a Judge sentencing an accused in a case tried by him may have under any Law and the accused shall have such right to be heard as he would have had at the time of his original sentencing hearing."**

Madam Speaker, I do not know if we do not want to look at this again, because plenty of them have gone to the great beyond, those judges, espe-

cially on those life sentence ones—especially on those. We know over the years how many of our judges have gone to the great beyond whose hands were tied at the time and had no choice but to sentence to life. But, Madam Speaker, we cannot say those who were sentenced to life are going to get 30 years. Within 24 months they too have to be returned to court to see if there are mitigating or extenuating circumstances. Do not think we are going to send those that have two years, three years and five years. Have we considered this?

Madam Speaker, I invite the Government to take a look at this, to consider it before we bring this to closure here in these hallowed halls. Everybody is going to have to get resentenced.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** But that is not what this is saying, Mr. Premier. It says every sentence, as I read it.

[Clause 23] says, “**Within twenty-four months after the entry into force of this Law, the Director of Prisons shall send to the Grand Court the case records of all prisoners serving life sentences, excluding those whose applications for release on licence are pending . . .**” Oh, Madam Speaker, I beg your pardon. Yes. How could I have missed out “serving life sentences”? I thank the Premier for bringing that to my attention.

Madam Speaker, we have quite a few there, but I do not know how it is going to work. We have to consider that as well, because, certainly, there will be some there that I believe rightfully have been somewhat rehabilitated by this time, but those judges are not available. That is going to take a lengthy time to . . . Madam Speaker, what they said was, at the time of the sentencing the judges who did the sentencing to be consulted if they are available. So, I guess the case files will show exactly what the circumstances were.

**The Speaker:** Member, are you referring to clause 23(3)?

**Mr. V. Arden McLean:** Yes, Madam Speaker.

**The Speaker:** Could I then, perhaps, draw your attention to the second sentence, the word before “judge” as you continue your debate?

**Mr. V. Arden McLean:** Madam Speaker, we will see. We will see. I just wanted to highlight it.

Madam Speaker, the area that I believe I wanted to just touch on briefly is [clause] 8(2), “**When a prisoner makes an application for conditional release on licence, the Director of Prisons may refer the application to the Board four months before the prisoner is eligible for consideration for conditional release on licence.**”

I do not know why the Director shouldn't be required if the application has been made to submit it to the Board. And if I am wrong in that regard, then I think maybe the Premier in his winding up can make us know.

Madam Speaker, the last thing I want to talk about is . . . I believe it is [clause] 4, the establishment of the Conditional Release Board. I think my colleague from North Side has already covered much about it, about the appointment of members, but I want to emphasise where the Board is . . . [clause] 4(13), “**Where the Board is considering issues relating to a licence, no decision shall be taken until legal advice has been obtained from - (a) a member of the Board who is an attorney; or (b) an attorney who is not a member but who would qualify for appointment under this section.**”

I do not have a problem with (b), but (a) I have serious concerns with. As a Minister I was advised that I couldn't use board members to advise me on legal matters. And then in this day and age of transparency we see where the Auditor General is making all kinds of statements now about the CIAA [Cayman Islands Airports Authority] using their board members to do consultancy. Madam Speaker, the Premier may want to reconsider that provision. He may want to seek legal advice from someone else, or . . . is that not the job of the Attorney General? Is it not the Attorney General Chambers? We're not paying them to do that? Let's use them a little more than we have been.

Madam Speaker, the other thing I would like clarified is in [clause] 3(3): “**This Law applies, with necessary modifications, to children held at the court's pleasure in the same way as it applies to other prisoners.**”

And then when we go to [clause] 6(1), “**The functions of the Board shall be to make decisions and orders in relation to - (a) the release of prisoners on licence, except for prisoners sentenced to detention at the court's pleasure;**” Does that include children too? I am comparing [clause] 6(1)(a) with 3(3), and if somebody could answer those questions for me, Madam Speaker. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Final call . . . sorry, I recognise the Honourable Deputy Governor.

**The Deputy Governor, Hon. Franz I. Manderson:** Thank you, Madam Speaker, I will be brief.

I think Members have covered a lot of the points that I wanted to make, but I just want to make a few, first of all to thank the Government for taking this very bold step to combat crime. This is a crime-fighting measure and I want to thank the Premier and his Government for taking this very bold step.

I also want to recognise, and the Premier did, but I want to take a few minutes to recognise what Dr.

Pedley did during his time in the Deputy Governor's Office (or the Chief Secretary's Office, as it was then), and the Attorney General, Mr. Gough and others for their relentless efforts to see this Bill come here today.

Madam Speaker, I believe . . . or I should say I have no doubt that this Bill signifies the greatest effort that we have seen in the last 50 years to reduce recidivism. For far too long we have heard of a revolving door at our prison. Despite the great work that Mr. Lavis and his team do up there, we still hear of people coming out, spending a few months in the community committing crime and ending right back up at the prison.

I remember a briefing that I got from Dr. Pedley when I was appointed Chief Officer in Internal and External Affairs. He told me about the work that he was doing on this legislation. He preached to me how he had done so much research on the matter. He said, "Franz, the research shows that the longer a person, or a prisoner who has been released, spends in the community under supervision, the greater chance they have of not becoming a recidivist." He said that if we turn them out of prison and put them right back into the community they came from and we do not give them any structure, we do not give them any opportunities, they will reoffend. And we have been living that now for many, many, many years.

As the Premier said, that is exactly what this Bill seeks to change, in that it requires people to serve all of their sentence, not one-third, or two-thirds, or five-ninths, but basically all of their sentence—some in the prison and the rest of it in the community. But in the community they will be supervised and hopefully that will give them the fresh start that they need.

We have a team approach now. So, the Prison Director and his team will do the work that they have to do up there in terms of sentence planning making sure people get opportunities. We have already seen the work that is going on up at the prison in relation to the workshops and chances to get various advanced education at the prison to gain new skills, City & Guilds qualification, all those things are available at our prison. But now we will have the person coming out and being subject to Mrs. Echenique [-Bowen] and the great team that we have at Community Rehabilitation—

**Mr. D. Ezzard Miller:** Give them more staff.

**The Deputy Governor, Hon. Franz I. Manderson:** Of course.

—to make sure that they are properly supervised.

We have seen in the Bill that those persons will be subjected to electronic monitoring which is something that is not available to us now. I think this is very important.

Madam Speaker, it is so very important for all of us to look to be part of the solution. We can hope

and pray that things change or we can do something about it. And that is exactly what we are doing here today. We are doing something about a problem that has persisted in our country for far too long.

I remember Dr. Pedley talking about how his research has shown that there has to be a joined up approach to tackling this problem. He said, "Franz, the prisoners are not going to do it by themselves, the Community Rehabilitation system is not going to do it by itself, there has to be a joined-up approach." And again, we see that in this Bill. So, I am very, very pleased to see this happening today. It is a bold step, it is a necessary step. And it is something that I am very proud to be part of.

Madam Speaker, to just speak briefly about lifers, again, I remember Dr. Pedley talking to me about that. He said, "Franz, it is as simple as this: Either we set the tariff or someone else will do it for us." So, we have set a tariff here at 30 years for lifers. We heard our Attorney General talk about prisoners having access to Strasbourg, if we do not set the tariff we will end up with some judge up in Strasbourg setting a tariff on our prisoners. That is not something that I think we want. So, again, I congratulate the Government for taking this step to deal with lifers.

We have already seen lifers being paroled after 27 years. This is actually a bit tougher, we said 30 years here but we have given the judges some discretion. But we have seen it, and we have seen it work. So, we cannot continue to believe that these persons will be in prison until they die. It is not going to happen. The courts are not going to allow it. So, we have a duty to be proactive and set a tariff that we can all defend. And while our Attorney General said ours is a bit higher than other countries (some countries have 15 years and 20), the Government insisted on having a very high tariff and we accept that. I think that will act as a deterrent as well. I would not want to know that I would have to serve at least 30 years in prison. That is a life time.

Madam Speaker, in conclusion, I want to thank everyone who has been involved in this effort. The Premier mentioned some names, I am sure he wouldn't mind if I just repeat them. We had Dr. Pedley, who was the visionary in this many, many years ago, the Attorney General, Mr. Gough, from my office, the legal team, the working group, people from Community Rehabilitation, from our legal draftspersons, so many people that have been involved in this, our Parole Board, Ms. Debbie Prendergast has helped us tremendously, the secretary of the Board, and we had the current Board and Ms. Debra who is here with us. So many people have worked so very hard on this legislation, and I want to sincerely thank them.

Madam Speaker, with those few words, I thank you very much.

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

I recognise the Honourable Leader of the Opposition.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Thank you, Madam Speaker.

First let me say that I applaud any move to assist in rehabilitation. The country has moved to a position where it is now acceptable to offer rehabilitation. I can tell Members here that in 1984, when I was elected, even after campaigning and getting elected on certain rehabilitation moves, to get it done in this House was not easy. I think the Member for North Side would remember that probably one of the first motions to ask for and speak about rehabilitation was moved by me and I think seconded by him at the time in regard to rehabilitating prisoners and the revolving door issue.

Back then it wasn't easy to get Members in this legislature to accept that there could be such a thing as education of prisoners in prison. Today and since that time, during my time as Minister of Social Services, and others when the Member for North Side was a Member responsible in ExCo for Social Services, there were moves for rehabilitation too. It was a most difficult idea. We got criticised in the House and I believe the Chamber of Commerce jumped in and punched us in the face about assisting criminals, and that money could be spent better elsewhere. But that revolving door issue was a fact then because it had been since the 1970s. So, in the 1980s when we entered here it was yet a bigger issue. But we have come a long way in accepting that there must be rehabilitation.

So, today we do live in modern times, but we do live in perilous times. We all believe in Human Rights. There are rights, but I hold that it must apply for everyone.

#### **Moment of interruption—4:30 pm**

**The Speaker:** Honourable Leader of the Opposition, we have reached the hour of interruption. If I could recognise the Honourable Premier to either adjourn or move the suspension of Standing Order 10(2).

#### **SUSPENSION OF STANDING ORDER 10(2)**

**The Premier, Hon. Alden McLaughlin:** I move the suspension of Standing Order 10(2) to enable the House to continue proceedings beyond the hour of 4.30 pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended to enable the House to continue proceedings beyond the hour of 4.30 pm.

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

**Ayes.**

**The Speaker:** The Ayes have it.

**Agreed: Standing Order 10(2) suspended.**

*[Second Reading debate of The Conditional Release Bill, 2014, continuing]*

**The Speaker:** Honourable Leader of the Opposition, please continue.

**Hon. W. McKeeva Bush, Leader of the Opposition:**

So, Madam Speaker, while there are rights that must be recognised and we do have a Constitution today with a Bill of Rights that people voted on, one that is recognised around the world, I would think, a Bill of Rights, that is, I am one of those that believes that people must have a right to appeal, for instance. It is a fundamental right. These are things that cannot be taken away.

I believe in the Bible also. The Old Testament speaks of an eye for an eye. So, Madam Speaker, although it is considered inhumane to incarcerate for life, to me it is past inhumane for cold blooded heinous murder. There has to be some way of getting society's attention, that if you do these things you are going to spend 30 years. The question is: Is that enough? Is that enough to stop what seems to be a fad where they are chopping each other up? It is nothing for them to pull out a gun and shoot you in the face. These are things that our community is saddled with. We are a developing territory. And while we as legislators have that responsibility to adhere to our Constitution, as a legislator also, I have been reading far too many obituaries about young persons killed in the way that I have just spoken about.

It is not just something for me who next month will be 30 years as an elected Member in this Legislature because I do understand the Government's feelings and when Members say that it is better for us to take our own initiative in some things that is, if you can get them ("them" meaning the Foreign and Commonwealth Office [FCO]) to agree to work with us on certain issues as well.

In 1984 I was elected. And between 1984 and 1988 there were issues being mooted in regard to life sentences and the abolition of murder. At that time it became a pressing issue between 1984 . . . sorry, the abolition of the death penalty, Madam Speaker. At that time, between 1984 and 1992 we had come on some serious crime, murder to the extent that a gallows was built and the vaults were made. It was on our books.

I have no doubt that those souls were going to pay for those murders. But the UK stepped in and so under orders in council, that is the Privy Council, the Foreign Office removed the death penalty and we were stuck. I didn't support that. In fact, Madam Speaker, I moved a motion here telling the UK, telling the Foreign Office that we believed this was a back-

wards step for us, that it was going to cause more pressure on our community, even though the Government of the day was trying its endeavour best for rehabilitation, that it was going to be a negative impact, that the crimes were going to increase if we removed the fear of being immediately hung. So, that still did not ring well with the United Kingdom, the FCO, because they told us, *Look, we are part and parcel of Europe and we have certain agreements that we have to adhere to and pressure is on us and so our territories have to agree.* The Government of the day, of course, agreed with them and they rejected my motion to have something else in place.

So, from that move by the FCO, I think at that time they were telling us it was 25 years and then as Cayman goes, sometimes we were a seventh day one [SOUNDS LIKE]; the issues today could be hot like held and pressure the legislature, and tomorrow, all calm, all gone. We were a seventh day, I wonder sometimes. So, Madam Speaker, we forgot all about it and crimes, heinous crimes, as the Bodden Town Member spoke about, have developed in our community for whatever reasons, no matter how much church preach, no matter how much school teach, or how much community leaders talk, or how much legislators do, we are still seeing these heinous crimes. And sometimes I have to wonder. Do not think about just the homes. I know good homes where parents have done extremely well with children. And what happens? It is . . . I do not know if you can call it a phenomenon because it is something that is happening throughout the world—patience gone, no more fights of just a fight like when we were growing up in school, we'd fight in the morning, fight midday and then we'd walk home together and go play marbles. Oh you might fight too, and then play marbles!

*[Inaudible interjection]*

**Hon. W. McKeeva Bush, Leader of the Opposition:**  
Yes.

And we didn't bring out a machete; we didn't bring out a gun, not even a slingshot. Sometimes we got threatened with a conch shell, but, Madam Speaker, look at what is happening today: fear to even go to a nightclub because you do not know what's going to happen. Fear to be in your home. I was always security conscious, always, and more so today. But fear to be in your home, because you do not know if somebody is going to walk in and they think you've got something. In a declining economy all sorts of things are happening, people are saying all sorts of things. I think some woman mentioned that they will say *I do not care if I go to Northward.* So, these are times that give me the concern if you want to do good as a legislator and you make it possible because we have to as an Overseas Territory, as one Member also said, then what? What do we do?

We sit here, we stand here and lament but the fact is that they will bring the sledgehammer down and put it in the way they want to. So, I am not here going to argue with the Government. I went through it and I simply told them *I am not doing it. If you want to do it, do it.* But then that could have had another effect, eh? So, I acknowledge that. But I refuse to have certain things on my hands.

Anyway, Madam Speaker, the Government must do what it has to do. But in that section I am not sure that we are doing the right thing as far as if it can be a deterrent. I do not think it is going to be a deterrent; that is my concern.

Murders that are considered coldblooded murders, murders that are heinous . . . I had a good, young man, bright future, in my district, distant cousin, in fact, in the wrong place at the wrong time. That young man was shot as he tried to run away. They rushed in and shot up the whole place. Somebody there was into the wrong things, of course, and as I said he was in the wrong place—in his neighbourhood, mind you, not even half mile, not even a quarter mile from his house—in the wrong place at the wrong time. I had to be over his casket to read and to comfort the family. I think all of us here have experienced that too often in our constituencies. What do we do?

For coldblooded murder, Madam Speaker, I believe in an eye for an eye and I do not shift from that, even though I recognise that as an Overseas Territory the FCO has the upper hand. And until the day that we say, but for our own fate we want more control, then, we have none.

Madam Speaker, after looking at the legislation, it was brought to my attention one report in the UK *Telegraph* newspaper, where a 78 year old who killed three unarmed police in 1966 is now being freed. They said that Londoners would be absolutely sickened, said London Mayor Boris Johnson. While the Metropolitan Police Federation called the move scandalous, hurtful and other words. While that is being done, Britain's Parliament is expected to pass a law next year, which would mean a whole lifetime in prison for offenders who kill police officers.

So, Madam Speaker, while I agree with the point, as I said, that I do agree with, we have no recourse at this point because they do what they want to do, we are an Overseas Territory. And we can only do what the Government is doing, try to negotiate the rough water that they have to pass through and negotiate the rocks so that the ship does not run aground ultimately. I know that. But then when you read these articles, the double-standards that exist, are good in one place, but it is not good anywhere else. It is good there, but it is not good for the Overseas Territories. And the truth is, those in the first line of fire in today's world seem to be not just the police, while they are the first line of defence. The first line of fire is hitting our citizens. So, an eye for an eye, as far as I am concerned, what's good for one . . . if it is good to pass a



law next year, which means a whole lifetime in prison for offenders who kill police officers, then what about people who do what they did with Estella? What about people who rush into your yard with your grandchildren or your children or your wife or your other family, or any citizen? What then is the deterrent for them?

As a state we abide by our Constitution. We developed a Bill of Rights. We must act in accordance with that Bill of Rights and that Constitution. We pour more money into that system, and we spend roughly \$60,000 a year per prisoner with inclusive of our whole . . . that is building, not just on expenditure for food or anything, that is the whole works, the whole system, I think excluding judicial services and social services. So, we spend all of that and then we want to spend extra, because we do if they are going to come out. I agree that we must find ways and means to do a rehabilitation that will bring some sense to what we are experiencing in the revolving door and otherwise as a community.

What we do have to wonder and hope it does not happen as they see all of this, those out there, because we do have the elements and they are not imported from elsewhere, they are right here. They are ours. They are home grown. So, get that out of our heads that it is always somebody else's fault, because you know we like to do that. It is always some other nationality, not our own. It is right here! Now, other nationalities join in at times, but it is right here, our own.

What we have to hope for and work towards is that those people who see things like this can feel, *I can do it and get away with it because the Government is going to spend money, they are going to give me good eye care, they are going to give me good dental care, I am going to get a high school education*, and all of that. The truth is we have to do it. We have to do it, trusting that what we have to do does not ring back on us because the element out there feels that they can do it because of all the things we have to do.

Maybe that is a roundabout way to say other things that I prefer not to, Madam Speaker, but it is a fact that this House has to face, it is a fact that the Government has to face. So, I am sympathetic to what is being done. I do not know that we are going to say that this is a rehabilitation effort. I do not know that. I'd like to see how it is going to be proven that that is going to be so. Yes, it is going to do certain things. It is going to help the Foreign and Commonwealth Office so they do not have to come down hard on us, and at the same time the UK will look good, the Foreign Office will look good in the halls of Europe and in Brussels that, *See? Our territories have done what we wanted done, finally*. So, all of that amounts to that. I pray to God that it does not ring back the other way on us.

I cannot support that effort, Madam Speaker, because I have not yet been convinced that an eye for

an eye was not an effort, a slowdown to the thinking that, *If I do this, then I have no hope; I am going next*.

So Foreign Office or no Foreign Office has not changed my position on that one. But I wish the Government well on the efforts they have to make and that they are making. I certainly will not support that aspect of the Bill.

Thank you kindly, Madam Speaker.

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

**Hon. W. McKeever Bush, Leader of the Opposition:** Madam Speaker, if I may, I did sit down, but I agree with the points on the Board issues. I know I did sit down, Madam Speaker, but I think that has been ventilated enough. The problem is where do we get of these retired judges and retired magistrates and all these other people that do not really want to serve on these boards. That is the trouble we have sometimes, the people that can help do not want to give up that kind of time.

Thank you for that, Madam Speaker.

**The Speaker:** Okay.

Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

If not, I will call on the Honourable Premier if he wishes to exercise his right of reply.

**The Premier, Hon. Alden McLaughlin:** Thank you, Madam Speaker.

I want to commence winding up by thanking all honourable Members of the House who have contributed to the debate on this piece of important legislation. Before I seek to address some of the many points that have been made, I just want to address some of the broad policy issues which were raised in the context of the contributions of various Members.

Madam Speaker, we all know the upward trend in crime in this country year on year. We get spikes, then, we get troughs. But the trend is upward, steadily upward. We have had, I do not know how many reports written about the social deterioration in this country and the contributing factors to crime. Every time there is a peak, as there is now, every time there is a spike as there is now, the calls come out about what are the police doing about this.

Even on this side of the House, even in my caucus I hear it. We hear it. The police get blamed for everything that goes wrong. I am not trying to say the police are perfect or that they always do the job we want them to do, but by the time we need the police, a lot of other things have gone wrong to get us there. And recidivism is one of the big issues that we have to deal with. I went through that at the start.

I am not one who likes, as some other Members of this House like to do, to beat the police or beat

this agency or that civil servant for not doing this because it makes us feel good somehow and might satisfy a certain element out there in the society that [says], *Yes, I like what that man is saying; the police really aren't doing their job.*

I have been on all sides of this House. The only position I haven't held is the one that you hold, Madam Speaker. I know the game. I know the game very well. But I have a duty and all Members in this House, Ministers, Backbench supporters of the Government, Opposition Members alike, have a duty to act constructively and to do whatever we can to really address the serious issues that face this country, not pay lip service to them, not sound off by blaming other people in other agencies. This Government, which I have the honour to lead, is trying to do something to address the critical issue of recidivism, trying to find a means by which those who offend over and over again can get off that wheel which turns around and around and around a few months out, then back in again; out again, commit more crimes; back in again.

I am far too long in the tooth and too cynical as a result of 14 years in politics to believe that passing this piece of legislation on its own is going to fix all of that and make everything right again. But it is, I believe, going to be a major step in ensuring that those who are committed to prison understand that a sentence of 10 years is 10 years, and whether you get out of prison and on a licence depends on how well you have done in there, not just in terms of behaviour, but in terms of efforts and rehabilitation and reducing the risk of reoffending.

Now, Madam Speaker, I hear also the concerns about whether or not the Department of Community Rehabilitation has the wherewithal to be able to effectively monitor prisoners out on licence. And that is a genuine and very legitimate point because the answer is that currently it does not. But that is something that I and the Government are very conscious of.

We are living in a time, and not just since this administration took office, where the civil service is the target of most of the community and certainly of some media houses. It's viewed as bloated, overpaid, incompetent and lazy. They want us to reduce the number of civil servants, they want us to cut their benefits and their salaries, they want us to I guess whip them to make them do what they think they want us to do. Every single week at least there is a screaming headline or editorial in the Compass about how bad the civil service is and how bloated it is and how many of them we do not need.

This Government is very conscious that we cannot continue to grow the size of the civil service and the cost of the civil service in the way we've done in the last decade, which is why we have taken some of the steps we have taken. We commissioned the EY Report, we are working at those things to try to improve efficiency and so forth and so on. But there are

some harsh realities and that is that in order to provide the services which the country requires and needs, in order to make this place safe, we have got to have the means to hire sufficient police officers who are capable and able. We need to improve the conditions under which they work, including their salaries, we need to ensure similarly with respect to the prison service and we certainly need to do so similarly with respect to those who work in the social areas of government, the Department of Children and Family Services, the Department of Community and Rehabilitation and so forth and so on.

We have to provide suitable accommodation for the courts. There is a screaming need for that. We need a new central police station. The one there is in poor condition, and not to mention the prison. So, I do not want anybody out there listening or in here listening to believe that Alden McLaughlin is not painfully conscious of these issues. But does that mean that we should sit on our hands and say, *Well, the system that we have now is not working. But you know what? We are not going to make any effort to change it.* That is not my nature.

You may kill me for what I have done, but you will not justifiably kill me for what I didn't try to do, because while I have the obligation, the responsibility and the opportunity, I am going to do whatever I can to improve the lot of the people in these Islands. And we all know, if we do not address these social issues which are at the heart and the root of the criminality and the growing criminality in this country, dog eat our supper.

They're worrying now about criminality creeping into the tourist district. It just start, it just really start. If we do not seek to fix these issues we can't build a prison big enough, and we can't hire enough prison officers to keep them.

So, I do not want anyone to think that either me or anyone in the Government is just looking at this piece of legislation as the be all and end all and fix it all for what we are trying to do. But there are a range of measures that go right across the spectrum. I alluded to some just now; the need for better prison facilities, better court facilities, better police facilities, better police training, more prison officers, all of those things. But there is also a critical need to have the staff and resources necessary to work in the education system, to work in the Department of Community and Rehabilitation and the other social agencies which Government has responsibility for. That requires huge amounts of expenditure. And the great challenge for any administration, and certainly for ours, is working out what the priorities ought to be and how much can we do now and how much we have to put off until some other time. That's our obligation. That's what we are trying to do.

Madam Speaker, moving on to the other point which has elicited a great deal of debate, in regards to how we treat persons who have been convicted of

murder. I should say that it appears, because of the lack of attention paid to it in the debate of all Members who spoke, that there seems to be broad consensus on the move away from the current early release and parole system to the new system that is being proposed under this Bill, and that the issue really in the House and I suspect in the broader community, is about the treatment of persons who have actually committed murder.

Madam Speaker, I know and I can understand, for there was a time I held that view too, that many people, not just in this House but more broadly, still subscribe to the view of an eye for an eye and a tooth for a tooth, even if the whole world goes blind and can't eat a mouthful. But, Madam Speaker, even if we believe that that ought to be the case, the reality is that we do not achieve that result under the present system and we can't achieve that result under the present system because the United Kingdom Government has legislated for us by Order in Council since 1991, 23 years ago, that we are not allowed to sentence anyone to death as a result of murder.

And the reality of the Cayman context is in the course of the last few months we have had three persons who were convicted of murder, who were sentenced to death under the old regime, and who had their sentences commuted to life as a result of that Order in Council released, two on licence and the other deported to where he came from. I believe they served somewhere around 27 years. They were not all sentenced at the same time. So, I think two of them served 27 years and the other might have served 26 or something like that.

The reality is that we are not going to be allowed to keep people in prison on an indeterminate sentence going forward. Either the UK will act, as they did in those instances, and the Governor will release the persons on licence, or, as others here have alluded to, we may well get a tariff for murder imposed on us by the UK by Order in Council, or there may be a ruling by Strasbourg that says different.

If I am anything, I am a pragmatist. I always say politics is the art of the possible. And I do not believe in fighting battles which I cannot win. I fight lots of battles that it's quite possible I may lose, but if I believe there is no way I can win, I am not going to fight that battle, or at least I am not going to fight it today. I will wait until I believe I have a better chance. But for me personally, that is not the case in this instance, because my understanding of the law, and particularly of Human Rights Law, tells me that we cannot, as a little place in the Northwest Caribbean with 55,000 souls, expect that we can operate outside what is the globally accepted standard with respect to Human Rights.

So, when we took office and this issue was raised again, for we had considered it back in 2006, 2007, as I said earlier, when the previous PPM administration was in office, I was determined that we would

try to reach a consensus within the Government that everybody could rally around, and that it is better for us to decide on a tariff, and the tariff we have proposed, which is 30 years is at the high end of what would be deemed acceptable. As the Attorney General mentioned, in some places it is as low as 15 years.

Now, once this legislation is passed, the starting point will be 30 years. In cases where the crime is particularly heinous the judges have the discretion to increase that period. This is not 30 years sentenced in jail, this is 30 years before you can be considered, before your case comes for review by the board to determine whether you should be and can be released on licence.

If the person is unstable, if the person has not satisfied the Board that they are rehabilitated, if there is a risk that they may reoffend, that person may well spend their natural life in prison. If there are circumstances (and I think we can all consider what they might be) when the offence, if not justifiable in law (that is the taking of another's life), is justifiable in the minds and perception of right-thinking people, it is quite possible that the court might, in those circumstances, decide that the tariff should be less than 30 years and that the case should come for review at 25, or 20 years.

I believe we have to have faith and confidence in the justice system that we have. If we do not, then I think all is lost. If the prosecution feels that the sentence imposed was too lenient, there is the avenue of an appeal by the Crown, because in this instance the Crown has the right of appeal. So, it is not simply a case of one judge making this decision and it's not subject to review by anyone else.

Madam Speaker, this is an emotive issue, an issue on which many people have strong views and people are very passionate. I respect those views. And I understand, I think, why people feel that way, especially when heinous crimes are committed. But I am satisfied that the legislation we are proposing is reasonable, proportionate and vests both the court and the board with the necessary discretion to make proper decisions about when and how long an individual serves when they have been convicted of murder and whether or not they are sufficiently rehabilitated to be reintegrated into society.

I think that we must display our confidence in the system and we must accept that judges who have heard the case listen to the evidence, have the benefit of the reports, will exercise their judgment in a fair and reasonable way and that once that is done the board that is made up of eminently reasonable, intelligent people of the community will also bring to bear their judgment on whether or not a person is capable and has been rehabilitated.

This is a convenient point for me to deal with the concern expressed first by the Member for North Side and secondly by the Fifth Elected Member for

George Town, and I think ultimately by the Leader of the Opposition about the makeup of the board.

Madam Speaker, I take on board what has been said about the need to ensure that the board is not made up just of people like judges and mental health professionals and ministers of religion, and so forth, but that ordinary citizens are also part of the board. I do believe that on a careful reading of [clause] 4(2) it will be clear that the way that provision is drafted it allows for up to four ordinary citizens to be part of the board. I'll read the subsection so that Members who might have been labouring under some misconception will hopefully appreciate that what I am saying is the case.

**“(2) Subject to the other provisions of this section, the Board shall consist of a minimum of five members and a maximum of nine members, none of whom shall be civil servants, appointed by the Governor comprising at least two of the following - (a) a retired judge other than a public servant; (b) a retired magistrate other than a public servant; or (c) an attorney-at-law other than a public servant, and such of the following as the Governor considers appropriate - (d) a person with experience in criminal justice; (e) a mental health professional; (f) a minister of religion; and (g) a person or persons other than a person referred to in paragraphs (a), (b), (c), (d), (e) or (f).”**

So, if the makeup of the board is a minimum of five and a maximum of nine, there is an opportunity there for four ordinary citizens to be part of the makeup of the board. So, I think without amending the provision that the Bill already allows for the concerns which have been expressed by the Member for North Side, the Fifth Elected Member for George Town and the Leader of the Opposition. I take their point entirely; we just do not want professionals who are sitting there. And as the MLA for North Side said, we want some good old fashioned common sense.

*[Inaudible interjection]*

**The Premier, Hon. Alden McLaughlin:** No, Member for East End.

If you look at clause 4(2)(e) through (g) you'll see, the line above says, **“and such of the following as the Governor considers appropriate”**. So, the Governor need not appoint one of each of those—such of them as the Governor considers appropriate.

Madam Speaker, for the sake of completeness, [clause] 4(12) provides that, **“The Governor shall make his best efforts to ensure that he appoints persons who meet the requirements in subsection (2)(a), (b) and (c) but where he is not able to find suitable persons for any or all those positions, he may appoint for any or all those positions any other person who does not meet the legal aspect of those requirements.”**

So, there is no real barrier to having good common sense, ordinary citizens on the board as well.

Madam Speaker, before I move on to deal with some of the other key points I should say that we are very conscious of the fact that for many years the Parole Board has operated on the basis of lots of (may I call them) lay persons and on behalf of this Government and many Governments that have gone before, I think it is important that we pay tribute to those who have served in what is generally a thankless job and a very sort of low-key position. This is not one of those boards where there is lots of hoopla and notoriety about the tremendous important work that they do. So, I would expect and hope that the new board under this law would ensure that we had that type of representation on it as well.

Madam Speaker, the Member for North Side raised a concern about [clause] 4(10) saying that he worried about the fact that the provision says, **“members of the Board may regulate the conduct of the proceedings”** and he thought that was too (this is my understanding, I am paraphrasing him) loose, perhaps is the right word. I think it is important that everyone understands that boards do not operate as they wish. There is a constitutional provision in section 19(1) which says that all of decisions and acts of public officials must be lawful, rational, proportionate and procedurally fair.

Even without that, the Common Law has for a long time insisted that persons and boards who make decisions must do so in accordance with what used to be called the Wednesbury Principles of reasonableness and fairness. Boards just can't operate in an ad hoc or willy-nilly fashion, because if they do, their decisions become subject to judicial review. So, while I take on board the Member's concern, I do believe that we do not need to amend the legislation to be able to ensure that that happens.

I should say, Madam Speaker, that in these days, given what has transpired on some of the boards in recent times, we are making a real effort to ensure that board members have the benefit of some guidance and direction with how they are supposed to operate when they sit on boards and make decisions.

There was also a concern expressed, I think by the Member for North Side, about why the Department of Community Rehabilitation would not be allowed to be part of the board. The big issue there is that the Department of Community and Rehabilitation would be the body that would be interviewing the prisoners, advising the board and making recommendations. So, it would be inappropriate to have them sitting on the board in a decision-making role.

*[Inaudible interjection]*

**The Premier, Hon. Alden McLaughlin:** Yes. The proposed legislation would not prevent a former civil servant from taking part.

*[Inaudible interjection]*

**The Premier, Hon. Alden McLaughlin:** Madam Speaker, the Deputy Speaker raised the issue of . . . I think he asked for a clarification of what [clause] 23(1) actually meant. [Clause] 23(1) provides: **“Within twenty-four months after the entry into force of this Law, the Director of Prisons shall send to the Grand Court the case records of all prisoners serving life sentences, excluding those whose applications for release on licence are pending under section 31A of the Prison Law, 1975, and the Grand Court shall, in exercise of the powers contained in section 14, pronounce in open court a period of incarceration for each prisoner, and in so doing shall exercise the powers specified in section 14 as if it were sentencing an accused who has been convicted.”**

Madam Speaker, the section 14 that is referred to is the section which sets out the guidelines to be employed by the court in sentencing a person who has been convicted of murder, or who would be serving a life sentence, because you can get a life sentence for other things I suppose.

So, I think it will be helpful if I read that: **“14(1) Notwithstanding any other Law to the contrary, when sentencing a prisoner to a term of imprisonment for life, the court shall specify the period of incarceration the prisoner shall serve before the prisoner is eligible to be considered for conditional release on licence, the period being such as the court considers appropriate to satisfy requirements of retribution, deterrence and rehabilitation, but for murder, the period shall be thirty years before the prisoner is eligible for conditional release unless there are - (a) extenuating circumstances, exceptional in nature, in which case the court may impose a lower period of incarceration; or (b) aggravating circumstances, exceptional in nature, in which case the court may impose a longer period of incarceration.**

**“(2) In making a decision under subsection (1)(a) or (b), the court shall state the extenuating circumstances or the aggravating circumstances, as the case may be.”**

So, Madam Speaker, the effect of [clause] 23, which, most likely will happen fairly soon, is that for those prisoners at Northward who have been convicted of murder and sentenced to life and who are still serving time and have not been released on licence, the Director of Prisons has 24 months to send to the Grand Court their records, and **the Grand Court shall, in exercise of the powers contained in section 14,** (which I just read) **“pronounce in open court a period of incarceration for each prisoner,”** (because those prisoners who were sentenced under the old regime were simply sentenced to life) **“and in so doing shall exercise the powers specified in section 14”**—that is with respect to extenuating cir-

cumstances why the period of incarceration should be less than 30 years or aggravating factors which indicate why the term should be more than 30 years. So, at the end of the process the prisoner will know how much more time they are required to serve before their case comes up for review.

Madam Speaker, there were a number of other smaller points that were made. I am not sure I managed to get them all down, but I did get the distinct impression at the end of the debate that while Members had particular concerns about some [clauses] or [sub-clauses] of the [Bill] overall the Bill has the broad support of this House, for which I am thankful. So, Madam Speaker, I just want to conclude by thanking all of those who have worked so hard to get this piece of legislation ready and before the House.

I want to thank my caucus for the time and attention that each of them paid to this legislation. I am grateful to the Attorney General and his staff for having the patience as we went back and forth trying to ensure that we had a Bill that was not only reasonable, but one that we would all be able to support.

So, Madam Speaker, I commend the Bill entitled a Bill for a Law to provide for the creation of a Conditional Release Board charged with the duty of making decisions regarding conditional release of prisoners on licence; provide for the post-release supervision of prisoners released on licence and for revocation of licences; for incidental and connected purposes to this House, and I look forward to the support of all Members.

Thank you.

**The Speaker:** The question is that a Bill entitled the Conditional Release Bill, 2014, be given a second reading.

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

**Ayes.**

**The Speaker:** The Ayes have it.

**Agreed: The Conditional Release Bill, 2014, given a second reading.**

**The Speaker:** Honourable Premier, are we going on to the next item of business?

## ADJOURNMENT

**The Premier, Hon. Alden McLaughlin:** Madam Speaker, it is 5:30 on a Friday evening. I am aware that a number of people have other engagements, myself included. I hoped that we would have gotten through with the other Bill, the Development and Planning (Amendment) Bill, today as well, but given the hour, I do not think that is going to be possible.

Unfortunately, a number of us are traveling over the weekend for government business. There will be three Members on my side away on Monday. So, Madam Speaker, I am proposing that we adjourn this House until 10:00 on Wednesday, next week. I will not try to calculate what day that is from now.

**The Speaker:** Thank you.

The question is that this Honourable House be adjourned until Wednesday next at 10:00 am.

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

**Ayes.**

**The Speaker:** The Ayes have it.

**At 5:30 pm the House adjourned until 10:00 am, Wednesday, 29 October 2014.**