



## **Cayman Cruise Berthing and Enhanced Cargo Facilities**

### **Referendum**

**Debate by Premier Hon. Alden McLaughlin MBE, JP, MLA**

### **Legislative Assembly**

**28 October 2019**

Our purpose here today is to pass this bill and create the legislation necessary to facilitate the holding of Cayman's first people-initiated referendum. Mr. Speaker, before I talk about the legislation itself, I hope the House will allow me just to reflect a little on the history and the process that has brought us to this point.

Mr. Speaker, I know you do not need to be reminded that in your party's 2013 Manifesto you and your colleagues campaigned

on providing the country with a cruise and enhanced cargo port facility. And again in 2017 your party Manifesto had again on its platform finding a solution for cargo and cruise.

The Progressives in our 2013 Manifesto campaigned on providing cruise berthing and during the last term, we began the work to provide the country with a much-needed cruise berthing and enhanced cargo port. In 2017 our Manifesto promised that we would continue the projects we started the previous term, including the cruise berthing and cargo port project. So Mr. Speaker, for at least the past two election cycles the majority of us who make up the Unity Government supported a cruise berthing and cargo improvement port project.

I pause here to point out that in 2013, three members now sitting opposite were part of the Progressives slate of candidates. They were the Member for Savannah; the Member for Newlands; and the Member for George Town Central. Indeed their smiling

faces appear on the cover of the Progressive's 2013 Manifesto, which I would like to now lay on the table of this Honourable House. For completeness Mr. Speaker I also lay on the table a copy of the Progressives 2017 Manifesto.

Mr. Speaker everyone in this House, and indeed the wider public, are well aware that a cruise berthing facility has been talked about for more than 20 years. Certainly, every Government elected since 2000 has had promises of a cruise port in their election manifesto or as part of their delivery plans.

When the last Government that I led took office in 2013 we set out on a complex process that we knew was necessary to get the port project to the finish line. Two years later, in September 2015, I advised the country that whilst the Cabinet would be making a formal decision in the coming weeks, I was able to state then that the Government had done the work necessary and carefully considered the information before us and was convinced

on the merits of building a cruise berthing and enhanced cargo port.

On the 28<sup>th</sup> October, 2015, four years ago to the very day Mr. Speaker, the Deputy Premier and I announced to the country at a press conference that the Cabinet had considered the various professional reports on the project and had agreed to move the cruise berthing and enhanced cargo port project forward. This included progressing the work to devise a workable financing model. Throughout we have followed a rigorous process that included independent legal and accounting experts, engaged the major cruise lines, and satisfied the United Kingdom Government as well as local Government officials. This is not some 'Johnny-come-lately' project Mr. Speaker that we have pulled out of our back pocket. This is the result of years of hard work by the best professionals available and that rigorous process has been carried through to the selection of the preferred bidder Verdant

Isle and the extraordinary professionals that they have working with them.

That is, in brief, the history of the project, Mr. Speaker. But despite all that we have done there are a number of people who do not agree with the project and have been able to obtain the required number of signatures to trigger a people-initiated referendum to decide the future of the cruise and cargo port.

And that brings us to the process that we are here today to debate.

A people-initiated referendum is provided for under Section 70 of the Cayman Islands Constitution Order, 2009. That provision is not there by accident, Mr. Speaker. I am sure you will recall that I and my Progressive colleagues campaigned hard for its inclusion and I believe it is an important democratic safeguard within our governance arrangements. Creating a power that allows voters to call a referendum in this way means that no government is able to

exercise unfettered authority without any check between our four-yearly elections. This is particularly important should voters become concerned that a Government is acting recklessly or carrying out major initiatives that are controversial and were not part of its election platform.

That said, the referendum power cannot be a vehicle for special interests to seek to over-ride the results of free and fair elections. Therefore, the power to trigger and to pass a binding people-initiated referendum is rightly subject to high thresholds. If government's ability to carry on its business is subject to check by "the will of the people" then we must be sure that it is truly the will of the people that is being demonstrated.

The threshold that petitions for a people-initiated referendum have to reach in Cayman is 25% of registered electors - and that is a high bar indeed. As it should be. Which is why the verification process was necessary to confirm beyond doubt that, in this case,

the required threshold had been reached. Once again in this House, I would like to thank the Supervisor of Elections and his staff for the efficient and effective way in which they went about verifying that the necessary signatures had indeed been collected from registered electors. I had no doubt that it could be done despite the accusations and fear-mongering of the opponents to the port project – but they were proven wrong Mr. Speaker. The process was done in a timely manner and the Government moved swiftly to set the referendum question and date as we promised the country that we would.

I recognize that the collection of over 5,000 signatures on any petition is the product of a lot of hard work and perseverance by a great many people. As a politician, I admire and welcome good-spirited political activism. In the long run, our democracy is stronger if more people engage in the political process. Despite reports to the contrary, I have no argument with the principle of

utilising the referendum process to challenge the government's plans.

However, I think we can all agree that this referendum process has not been without its challenges for all sides involved. And so I believe this House should return to the issue of how the people-initiated referendum provision in the Constitution should operate once this experience is behind us - but those are practical issues; not points of principle.

For those who falsely claim that I and the Government deliberately omitted passing a Referendum Law, I can tell this House and everyone outside of it that I join the voices of those who say they wish that one was in place. For if it was, Mr. Speaker, a Referendum Law would not have allowed any group to take a year or more to gather the signatures required for a referendum. Nor would it likely have allowed a referendum to be called against an important national project that was part of an



election campaign and has been ongoing for over five years, and where millions of dollars from the public purse had already been spent – particularly where nothing fundamental has changed during the course of the project. My point is that if we did have a Referendum Law in place, Mr. Speaker, it is unlikely that we would be having this debate here today.

Interestingly, Mr. Speaker, there is no requirement in the Constitution or elsewhere for any campaign behind a petition for a referendum to be based on truth. Nor is there any requirement to keep vested interests, including commercial interests, from being involved in such a campaign. Nor is there anything to prevent the government's opponents from using a petition as a vehicle for their wider opposition to the government's agenda.

Certainly, during their campaign, the leadership of the CPR group has utilised all manner of scare tactics and misinformation to persuade people to sign the petition for a referendum. Indeed,

Mr. Speaker, in my view the leadership was disingenuous when they told the public that their goal was not to stop the port, rather they merely wanted more information on the project. Their real aim as everyone in the House knows full well, was to get enough people to sign their petition by fair means or foul with the hope to derail the project. And they were ably assisted by an online blog and a radio talk show.

Mr. Speaker, now that they have obtained those signatures we can see their true stripes emerge as they now actively campaign to stop the port project; even as we are finally in a position to provide the information they claim they need. They understood Mr. Speaker that a people-initiated referendum is a numbers game and, in this case, the campaign has done what it thought it needed to do to achieve the numbers required for one to be called. And I and the Government accept that.

In response, and acting in good faith, the government has therefore moved as quickly as possible to bring forward the Bill before the House today. But the Government acting in good faith should be no surprise Mr. Speaker – we have at all times ensured that we have not only acted legally but in good faith. The Country will recall Mr. Speaker that when we announced the preferred bidder back in July that we would not move to finalise a contract with Verdant Isle in order to allow sufficient time for the Referendum process to come to a conclusion. And even as we head to the requested referendum the leadership of the CPR group have moved from one complaint to another to seek to either delay the referendum or have the government change the rules in the Constitution and in the election law that govern the process for a binding people-initiated referendum so as to improve their position for success and to derail the port project.

This morning the Compass published a letter from an individual who signed as Francis Ebanks. I will read the letter because I find it very instructive.

*Permit me a few lines in your paper to share my views on the debate about the referendum on the port.*

*I've heard campaigners opposed to the project, those who clamoured to let the public decide the fate of the project, now complaining that government has respected the wishes of the people and set the referendum date.*

*First, they complained that it was taking too long to verify the signatures. They wanted this process rushed through.*

*They then complained that government might drag their feet on setting a date. Referendum Day has been set for the earliest government has found feasible, especially with having to return to the Legislative Assembly to formalise the process. Now, these campaigners, along with opportunistic Opposition MLAs, are saying it is set for the worst possible date.*

*They previously complained about dredging and government took that into consideration and revised the plans to ensure there would be as little dredging as possible. Yet, their complaining continues.*

*I am puzzled why many of these people are opposed to a project that will bring considerable economic benefits to Cayman. They call themselves campaigners, but I think they're more aptly called complainers because every step along the way, they have found something to complain about.*

*Perhaps it is the public who should be complaining about the undue concern these campaigners caused by claiming China Harbour had the deal at a cost of \$300 million-\$400 million. The country was in near uproar. When the truth was announced, Verdant Isle turned out to be building the dock and cargo port for \$200 million.*

*Wild campaign claims and propaganda will not fool me anymore. My source for information will now be the government.*

*I can't wait for the referendum to be over so we can move forward and have a modern port that will keep food on the table of countless working-*

*class Caymanian families. However, I will not be surprised if on 20 Dec. they find something new to complain, oops, I mean campaign, about.*

The CPR will not succeed Mr. Speaker not even with their most recent tactic of obtaining a legal opinion on a variety of issues to do with the referendum. I will repeat here what I have told the media - the government has also taken legal advice on the conduct of this matter from our customary noted constitutional counsel in London and we are more than satisfied that the process being followed is fair and proper and constitutional in every respect.

I will say again that what is becoming increasingly clear, however, is that the CPR leadership and their financial backers are not really interested in holding a referendum, presumably because they think they will lose, but are simply intent on derailing the cruise port and cargo port project by any means possible, including frustrating it by delay.

The Government will not allow that to occur. If the CPR leadership and their financial backers (and perhaps the real leaders of the CPR campaign) really believe they have a legitimate challenge to the process being followed by the Government, they should immediately apply to the court for leave for judicial review and have the matter adjudicated by the court rather than debated in the media.

To further demonstrate the real purpose of the port opponents Mr. Speaker I note that even before the petition had been received by Cabinet, there was public speculation by the opponents to the port that the government would do all in its power to avoid a public vote. They said we would ignore the petition and declare that the project did not rise to the level of being an issue of national importance as required by Section 70 of the Constitution. Yet again this was proven untrue. Indeed the government has always maintained that the project to deliver new cruise berthing facilities and enhanced cargo facilities is essential

for Cayman's future. The project is and has always been, an issue of national importance and that is confirmed in Section 4(1) of the Bill before the House today.

Section 4(2) of the Bill goes on to set out the question that will be put to the people in the referendum. Again, prior to the publication of the question, there were all sorts of conspiracy theories being circulated that the government would introduce a biased question. At no point, Mr. Speaker was there ever any discussion within government to create a biased question. Quite the opposite. As I said when the question was published, we have bent over backwards to ensure that the question is as fairly worded as it can be. We have drawn as far as we could on the intent of the petition and the campaign behind it and we have developed the wording in accordance with very clear principles. As a result, the wording of the question as far as possible accords with the position of the Council of Europe's Commission for Democracy Through Law in its Code of Good Practice on



Referendums, last revised in October 2018. The Code has been accepted by 47 European democracies and thus provided an appropriate yardstick by which Cabinet could consider the question.

Mr. Speaker, from the inception this project has been envisioned, planned, designed, financed, and put forward in the Request for Proposals as an integrated cruise berthing and enhanced cargo port facility. That cannot be factually disputed. A vote for or against one part of the project is a vote for or against the other. But again, rather than accepting what is fact, the CPR leadership is misleading the public into believing that the projects are separate. And so they are objecting to the inclusion of the planned enhancement of the cargo port facility within the question. Members of the CPR group and some members of the opposition argue that the petition was about cruise berthing, not the cargo enhancements and that therefore the referendum question should only relate to cruise berthing.

Let me then deal now with that objection. There are reasons of principle why the objection cannot stand and reasons of practicality. The principle is this: Just as the government has striven to ensure the question is fair to opponents of the port development, it must also be fair to the project's supporters. This has always been a single project in which the two elements would be taken forward together. I am aware that some Caymanians are convinced of the need for enhanced cargo facilities and see the cruise berths as necessary to fund those enhancements. Their support for cruise berthing is therefore dependent upon and cannot be separated from the cargo elements.

From its inception, as I have said often, this has been an integrated project and the procurement was begun and has proceeded on the basis that the successful bidder would deliver both the cruise berthing the tourism industry needs and the cargo port enhancements that the whole country needs. The two things cannot now be disentangled. They are indivisible.

This leads us to the practical problems. While I disagree, as I will detail later, our opponents believe that the government is not putting enough information before the people to allow them to decide this issue. What information could we put forward solely on cruise berthing? There is none. Just as an obvious example, there is no disaggregated financing model to show how the costs would be met and there is no design we can show people of just a cruise facility. In any case, that does not make sense as no-one (I don't think) is advocating that the cruise berthing should go ahead without any cargo enhancement.

Some people believe the cargo facilities should be moved but similarly, that is not an available option either. Nor, if the question just dealt with cruise berthing, could we answer people's very obvious questions about how the necessary cargo enhancements will proceed without the cruise berthing going ahead.

This is a single, integrated project and always has been. It is disingenuous in the extreme to suggest otherwise at this stage. So, Mr. Speaker, it is entirely appropriate that the referendum question includes both the cruise and cargo elements. The voters, in deciding the fate of the project must know what is at stake when their vote is cast.

The referendum question set out in Section 4(2) of the bill conforms to the set of common sense and natural justice principles that Cabinet agreed to test it against. The question is clear and simple; it gets to the point of the issue at hand; it is unambiguous and definitive including in terms of the consequences of the vote, and it is neutral. Those who criticize should bear in mind that neutrality means being fair to both sides.

The other issue dealt with in Section 4 of the Bill is the restatement of the requirement, set out in the Constitution, that the votes of more than 50% of registered electors are needed for

the referendum result to be binding on the government. Perhaps I should not be surprised but the government has come under fire even for this. So, at the risk of repeating myself, the requirement to achieve over 50% of electors for the result to be binding mirrors Section 70(3) of the Constitution. It has not simply been dreamt up by the Government.

Those who accept the Constitutional realities sometimes go on to argue that we should amend the Constitution to drop that provision and make the referendum a straight majority vote. Leave aside first, the intent behind the Constitutional provision. Leave aside second, the need for due process to amend the Constitution. Leave aside that it is not in our power to amend the Constitution. Instead, just imagine changing the rules right as the referendum is being legislated for. Suppose, the government brought forward a change to increase the threshold to 60% or 70% of the electorate. Our opponents would rightly cry foul.

Everyone knew the rules when this process began. There is no legitimacy in changing those rules now.

What is even more bizarre is the charge that I am somehow using this provision to thwart the requirements for a secret ballot and thereby intimidating civil servants and others. The logic – if indeed you can call it that – goes as follows. I have supposedly told voters that if they support the cruise berthing and cargo project they should simply stay at home. This means - again following their logic - that only “no” voters will turn out at the polls. The government will, therefore, know who voted and that they voted no. And by extension, if civil servants turn out to vote no they will be identified as such and subject to victimization.

This is an argument that is based on a false premise; its tortured reasoning is nonsensical; and it reaches a totally invalid conclusion. I would have thought better even of the self-appointed brains trust that concocted this nonsense live on a

radio talk show. And to hear this paranoia repeated on the radio by some of my colleagues who sit opposite is even more remarkable.

First, I have not told supporters to stay away from the polls. What I have done is explain to the country the consequences of staying at home if that is what they chose to do. The onus to stop the country moving forward with building the cruise berthing and enhanced cargo facilities we need rests with those who have brought the referendum and who need to meet the 50%+1 target to make the referendum binding. This is Cayman's first people-initiated referendum and all involved have a duty to explain to the public how it works. No doubt if I had not talked about it, I would have been accused of trying to hide this from voters. Again, so we are clear, I welcome support at the polls from those who want to come out and show their backing for this much-needed development.

Even if I had advised people to stay at home, why do these particular conspiracy theorists imagine that everyone would simply obey my command? It might on occasion be tempting to wish that I could simply utter a few words and everybody would fall in line but that is just not a reality. Whatever I say, many, many Caymanians will want to lend their active support to this project. They are as tired as I am of the disinformation being peddled by the opponents of the port and they look forward to the opportunity to register their wish to secure the future of our cruise tourism industry and get access to more and cheaper cargo. Therefore, whatever I say, there will be a sizeable yes vote on 19<sup>th</sup>. December. The secrecy of ballots will be maintained.

Finally, even if the premise were not false and the reasoning was not as flawed as it is, neither I nor anyone else in the government has any interest in victimizing any civil servant (or indeed anyone else) who votes no at the referendum. There is absolutely no evidence to the contrary. We heard time and again



during the referendum campaign that any civil servants who signed the petition risked victimization but we have heard no complaints from anyone who has been so victimized. Nor will we. Civil servants are perfectly free to vote their conscience at the referendum without any fear of any action by any government that I lead.

Next, Mr. Speaker, I want to address an issue that is not found on the face of the Bill itself – that is the date chosen for the referendum. The House will be aware that earlier this month the government proposed 19th December as the referendum date.

This has been the subject of considerable conjecture since it was announced. That is despite the fact that I have said for some time that if the referendum petition reached the required threshold, the Government would then move to call the referendum as quickly as possible. This was in response to suggestions from the CPR that the Government would seek to

avoid or delay the vote. Whatever date is chosen, some people may be away. That is why there are arrangements in place that allow every registered elector to cast their vote by other means if they cannot do so in person. Anyone who wants to vote can do so whatever date is chosen. There is no reason to delay.

The argument being made against this date is a somewhat strange one. Throughout the year or more it took to gather signatures for the referendum, we constantly heard that there was deep-seated opposition to this project and that voters were demanding to have their say. At every turn, campaigners expressed their confidence that if only they were given the opportunity then voters would come out in their droves to vote against the port and that they would do so in numbers sufficient to reach the 50%+1 threshold for the result to be binding.

Now the argument apparently goes that so weak is the level of opposition to the port that people will be put off voting simply

because the vote is happening six days before Christmas. Which is it? If the “no” campaign is confident in its case, why do they believe that the date will make the difference? For, in reality, there is no impediment to voting whatever date is chosen. Anyone who is not able to vote in person can apply for a postal ballot as is always the case in Cayman.

If any vote is likely to be suppressed by the choice of the date it is the “yes” vote. I understand that (whatever I say) some voters who support the project may not bother to vote, especially if they are off-Island for example. They may feel that they can do so safely because of the 50%+1 threshold. I accept, therefore, that the final result is likely to understate the real level of support for the port development project.

While I am on the subject, the same applies to arguments about the sale of alcohol at licensed premises on the day of the vote. We have heard arguments that again this will suppress the

“no” vote. Do our opponents have so little confidence in their supporters that they think that faced with a choice on the day they will decide to sit in a bar rather than turn out and vote down a government project that we are told they passionately believe will do harm to Cayman’s long term interests?

The reality is that many people and offices will already have booked Christmas parties and luncheons for that day and we do not want to disrupt those arrangements nor indeed stop tourists spending their money here in the busy pre-Christmas period. That is why the bars and restaurants will remain open. It is not some ploy to distract weak-willed “no” voters as is suggested. Our opponents really should have more confidence in Caymanians. If they truly believe the arguments put forward against the port, they will vote “no”. Either our opponents lack that confidence in their supporters or they lack confidence in their own case. I am tempted to think it is the latter and that all these

arguments about the date are simply a smokescreen to excuse their eventual failure to get the numbers they need.

There is one other consequence of the choice of the date that has also been controversial. Section 5 of the Bill before this House in and of itself is uncontroversial. It simply states that those entitled to vote in the referendum will be those registered to vote on the date of the referendum. In this case that means those registered to vote on 19th December will be entitled to vote and in practice that in turn means that it will be those electors on the official register as at 1<sup>st</sup> October 2019.

The suggestion is, I believe, that the legislation should be changed to allow the 1 January register to be brought in two weeks early and to allow some 220 persons to vote who are on that revised register. Again, I find this extraordinary. Why should the rules be changed? The argument is that the government is trying to exclude these new voters because we fear they will vote

“no”. If that were true, it must conversely mean that those opposed to the port are seeking to get the rules changed because it would advantage them. Once again, imagine if the government were to do that. Suppose we had been on a “sign up to vote” campaign to get supporters of the port to register and were now looking to bring forward the use of that revised register.

The fact is that on the date of any given election or referendum, we have to use the electoral register as at that date. If we do anything else that would constitute a form of gerrymandering. As is always the case, if you draw a line as at a date, some people find themselves excluded by that line. That is just the way it is.

The government has nothing to fear nor indeed anything to gain from having 200 or so more or fewer voters eligible to vote. We do not believe our opponents have sufficient support to reach the 50%+1 threshold with or without those new voters. We are

not excluding them for some Machiavellian purpose. Rather they are not eligible under the rules that we consistently apply in the Cayman Islands. Seeking to change the law for the advantage of one side or another, be that real or perceived, would be the real anti-democratic thing to do.

Mr. Speaker, just as I come to believe that I have heard all the complaints from the opponents to the point there is yet another controversy that they are creating. The Bill, Mr. Speaker, calls for the ballot papers from all the electoral districts to be taken to a central location and “mixed together for the purpose of counting.” In other words Mr. Speaker the count of votes will be considered a national vote and not an electoral district vote.

The opponents, including some in the official opposition, cry foul because they say they will not know how their own constituencies voted. Mr. Speaker this is not some opinion poll being carried out for the convenience of the Member for Bodden

Town West or George Town Central to provide data for later use or to help them in the next election campaign. This exercise is a referendum on a matter of national importance and it should be treated as such. The referendum is where a national decision will be made and what is important is the view of the country as whole – not individual electoral districts. In 2009 when we voted in our very first referendum as to whether to support the 2009 Constitution Order, that count was done in the same way – the ballots were mixed and a single count was done to determine the outcome. That was done efficiently even though the Elections Office was also carrying on the count for the general elections that were held the same day as the referendum. That was a national count for a matter of national importance.

This referendum, too, Mr. Speaker is one of national importance and will have a national count.



In short, Mr. Speaker, the government has put before the House a Bill that deals in a straight-forward way with the need to get on and meet the demands placed upon us by 25% of registered electors that we hold a referendum. The question to be used conforms to all good practice and is fair to both sides. It recognises that there is only one project that can reasonably be subject to a popular vote - and that is to move forward with building the country's cruise and cargo port improvements together as has always been envisaged. We have chosen a date to expedite the speedy resolution of this referendum issue that has been ongoing for well over a year. And we have determined that the count should be a national count in line with the nature of the referendum itself. The rest of the arrangements under the Bill are consistent with the normal democratic arrangements of the Cayman Islands.

At this point, I would notify you, Mr. Speaker, and the rest of the House that there will be some tidying up amendments that we

need to consider at Committee stage. These will be introduced in due course. However, we have heard opponents of the port arguing for more substantive amendments to the Bill. We may hear those arguments repeated from the Opposition benches today Mr. Speaker. Those arguments amount to an attempt to rewrite the question in what they believe is their own interest or to alter the normal arrangements for voting in Cayman, presumably for the same reason. We have those standing arrangements about how we conduct public votes for a reason and that is precisely to stop the kind of manipulation of who is or who is not eligible to vote that our opponents are proposing. This is Cayman's first people-initiated referendum and it must be held in a fair and democratic manner. This Bill will achieve that objective.

However, it is not just for the sake of our democracy that this is important. The process and conduct of the referendum are significant concerns but it is the underlying issue to be decided that the nation should now focus upon.

On 19<sup>th</sup> December, Caymanians are being asked to decide on the future direction that this country will take. Opponents of the port project seek to portray this as a simple choice. At heart, their argument is that the development of a new cruise berthing facility and enhanced cargo provision will cause irreparable environmental damage. There are subsequent issues but this is the matter of principle at stake for the port's opponents. I have said in this House before that this is a principled position, which I can understand and which I respect.

It is not though a position that any responsible government can take. Like most Caymanians, we in this government believe that in considering the port project, as in considering other forms of development, there is a balance to be struck between economic and environmental issues. There is no right answer to how to strike that balance, no formula to follow that yields an unambiguous solution. In the end, it is a matter of weighing the evidence and making a judgment.

In initiating this project, that is what the previous Administration I led did. We assembled a business case and carried out an environmental impact assessment in order to inform us but in the end it was our political judgment that the economic benefits were so significant that they outweighed the potential environmental impact of the project. What the referendum is doing is asking Caymanians now to repeat that process and to exercise their own judgment. Just like the government has done, voters need to weigh the evidence and make their decision.

Again, our opponents have tried to muddy the waters here. We hear repeated claims that either government is hiding things or that it is seeking to mislead people. The claim is that there is not enough information for people to make an informed decision.

In reality, there is more than enough information available. What I do accept is that some of it is relatively inaccessible and

that it is spread across too many different documents. For that reason, the government will be producing an information booklet that will bring together into one place all the key information about this project. We will be making the booklets as widely available as we can in the run-up to the referendum.

To be clear, the booklet will be a presentation of the government's case. I do not claim it will seek to present our opponents' case for them and nor should it. This is a referendum about the delivery of one of this government's key policy objectives. Explaining government policy is one of the responsibilities of government and promoting and defending a project we believe is necessary for the future wellbeing and prosperity of the Cayman Islands is something for which we make no apology.

However, setting out our case does not mean that we will in any way be untruthful. We are happy to set out the facts and to

explain why we believe the project should move forward based on those facts.

The case for moving forward with building the cruise berthing and enhanced cargo facility is overwhelming. Consider first the economic case. Looking ahead, there is no status quo. Either Cayman's cruise tourism industry continues to grow with the benefit of the new berthing facilities or we face the very real risk of its gradual but inexorable decline. Either we protect and grow the jobs and businesses of Caymanians who depend on cruise visitors or we face those jobs being lost and those businesses failing.

The approach we have adopted in moving forward the port project not only guarantees that the new berthing facilities get built. It guarantees that they get used, not just by the two major companies who are partners in the project but by other cruise lines as well. Put simply, without a throughput of passengers the

Verdant Isle partners, including the two cruise lines, do not get their investment back. It is in their interests to bring their passengers to Cayman and to maximize the use of the berths throughout the week and in low season as well as high.

Without the new facilities, Cayman will increasingly be at the mercy of market forces that are likely to result in declining cruise visitor numbers. This will not happen overnight but the impact will be real and in the medium term will have a significant effect on Caymanian jobs and in Cayman's wider economy.

In the last couple of years, Cayman has delivered strong positive performance in terms of cruise visitor arrivals. Our opponents suggested this demonstrated that our assumptions in the outline business case were flawed and our views on the likely decline of the industry were merely scaremongering. When it was recently reported in the press that cruise visitor numbers for the first 6 months were down just over 5%, I did not hear anyone

rushing to defend our opponents' previous position. Worryingly, the numbers continue to decline. The first 6 months were buoyed by January 2019 being the best month on record. If we look at the most recent 6 months for which data is available (March through August 2019), our cruise visitor numbers are down 12.3% compared to the same period last year.

This is in large part due to a correction in the market as other destinations that were hit by hurricanes have been able to welcome back cruise visitors. We must be thankful for that in many ways but the impact on Cayman is real. The future of the cruise industry is about bigger ships and more passengers. Those ships are already passing Cayman by. The impracticality of tendering passengers in those numbers particularly when they would have to queue for hours in the Cayman Sun to return to their ships means Cayman would no longer be attractive for many cruise itineraries.



As well as that long term benefit, the short term job creation associated with the construction of the new port will be significant. I said some months ago when I introduced the SPS in this House, that all the indications are of a slow-down in the global economy in the next year or so. The port construction jobs will help shield Cayman's economy and Caymanian jobs from some of the potential impact of that slowdown. The jobs are real and are available to Caymanians as anyone who plans to visit the jobs fair scheduled for tomorrow by the Verdant Isle partners will be able to confirm.

The last economic benefit I want to highlight concerns the enhanced cargo facilities. We have to accept that our current port is too small, too cramped and too inefficient. It can barely meet the needs of the country now and if Cayman continues to prosper and grow, as this government certainly intends it should, we need better cargo handling facilities.

This project delivers Cayman's much-needed cargo port enhancement and creates the capacity we need to see us through the next 15 years or so of sustained growth. There will be an increase of almost 30% more in the useable cargo space. The current lack of space causes delays on the vessel operations and the availability of the containers for the retailers and other importers in Cayman. The addition of a 3<sup>rd</sup> small berth for smaller ships and barges hauling the likes of aggregate and cement will be a significant improvement, which allows operations of another vessel that cannot be done at this time. Moving that berth out of the way of container operations allows for the simultaneous operations of container vessel and bulk cargo. The improvements will mean that the port can use new specialist cargo cranes rather than the inefficient converted construction cranes it uses now. Taken together, these improvements will improve the efficiency of cargo handling at the port and will help to reduce shipping costs for importers.

The cargo improvements, if done on their own, would cost tens of millions of dollars. If the Port Authority had to finance the costs themselves, the only way it could do it would be to increase docking and handling charges, which in turn would increase the costs of imported goods. There is no viable 'do nothing strategy' for the cargo port. The throughput demand that we put upon it has outgrown the ability of the port to meet our needs. That position will only worsen as the port ages further and our demand for imported goods continues to increase. Enhancements to the cargo port are badly needed. Our choice is to move forward with the overall redevelopment project funded by Verdant Isle or to try to fund and build stand-alone cargo handling improvements. If we move forward with the planned project, we can achieve efficiencies to help to reduce import costs but if we try to finance a stand-alone cargo project then inevitably the costs will be added to the prices of imported goods. The cost of living in Cayman will go up.

If Central Government is asked to fund a stand-alone cargo dock then it would be by taking money from some other capital project. Which one should we take it from Mr. Speaker – Our school plant improvements? The John Gray High School? The just started mental health facility? Our road works programme? Which project should we sacrifice or slowdown to be able to make a start at paying for a larger cargo port facility? No, Mr. Speaker, that is not really a solution my Government or the public would accept. Neither would we entertain any new borrowing for this. The arrangement for additional cargo space coupled with cruise berthing that is funded by Verdant Isle partners and repaid from cruise ship passenger fees is an excellent arrangement, Mr. Speaker.

I have summarized the economic benefits of this project and in due course I will turn my attention to the costs.

There will be environmental impact and I will address that now. Before I do that, Mr. Speaker, I must first deal with an environmental non-impact of this project. Despite the oft-repeated claims of opponents of the port development, there is no impact on Seven Mile Beach.

All of the scientific evidence compiled for the environmental impact assessment demonstrates that fact quite clearly. Put simply, sand on Seven Mile Beach comes from the northwest and that flow is undisturbed and will be undisturbed by the redeveloped port infrastructure. After exhaustive scientific modeling of the tides, wind, wave climate and associated sediment transportation processes that operate along that whole coastal stretch, the conclusion in the Environmental Statement produced by Baird & Associates in 2015 is clear and inescapable:

*Quote* - “There is no apparent sediment transport linkage between George Town Harbour and Seven Mile Beach; therefore,

**the proposed project is not expected to have any impact on Seven Mile Beach.** Fluctuations in the beach width will continue but the proposed project will not cause any changes in the erosion or deposition patterns along Seven Mile Beach.” *End quote*

Opponents of the project are usually keen to talk about the conclusions of the Environmental Impact Assessment but for some reason, this one, perhaps one of the most important in the whole study, is the one they chose to ignore. Actually, it is not just a matter of ignoring this evidence, they seek to deny the science through a mix of anecdote and assertion. I say to the country, do not be misled. The EIA is available, go and look at the evidence for yourself. You will see the rigour of the model, which allows testing of every combination of weather and sea conditions that has hit Cayman for decades. You will see the clarity of the report’s conclusions as I have just quoted them. Please ask those who assert that Seven Mile Beach will somehow

get denuded of sand because of the port development to show you the detailed science behind that claim. My only advice to you is not to hold your breath while you wait for them to produce any relevant scientific data to support their wild assertions.

But Mr. Speaker, whilst the opponents of the project do not seem willing to accept the science that indicates that Seven Mile Beach will be safe, I am pleased to advise this Honourable House that, significantly, the Environmental Assessment Board has accepted the findings and endorsed the scientific methodology followed by Baird & Associates. The Environmental Assessment Board noted in its report on Baird's Environmental Statement that it found the data collection and results outlined by Baird to be robust given the timeline for completion of the EIA. In referencing Seven Mile Beach specifically, the Environmental Assessment Board report states that:

*Quote* “we note the conclusions in the Environmental Statement that no large scale changes to the prevailing sediment transport patterns will arise as a result of the project. The EAB is satisfied that the results of the sediment transport modeling confirm/verify previously understood mechanisms for sediment transport regimes between George Town Harbour and Seven Mile Beach.” *End quote*

This information has been said many times Mr. Speaker but has been deliberately ignored. I hope that after today we will no longer have people and organisations who should know better continuing the narrative that Seven Mile Beach is at risk by this project.

Leaving aside the more fanciful claims; however, the Government does accept that there will be important environmental impacts in terms of detriment to the close-by marine environment. Most significant is any potential degradation



that may be caused by dredging to the coral in the area of the redeveloped port.

The Environmental Impact Assessment, which was completed in 2015, estimated the extent of the potential impact but it also considered how that impact might be mitigated. Before I talk about mitigation; however, I want to emphasise the work that has gone on since then to reduce the likely environmental impact. In response to concerns in our community, raised after the publication of the EIA, I gave a commitment that as we progressed this much-needed project, the government would take the opportunity to find ways to reduce the potential damage. The procurement approach that we have taken means that the contractor is responsible for designing the new facilities so we challenged the bidders to come back to us with designs that fulfilled the government's pledge to the country.

I am delighted that they have been able to do so. The designs were made public a couple of weeks ago so people can see for themselves but the headline changes from the original proposals are that the cruise berths themselves have been completely redesigned and the cargo enhancements have been scaled back. Recognising the concerns over dredging in particular, the redesign moves the piers to deeper water. As a consequence, the footprint of the new port design requires 30% less dredging than the original design and eliminates completely the need for any dredging in Hog Sty Bay. In fact Mr. Speaker, despite stated concerns about the impact of the project on Eden Rock, I am advised that the reefs in that location are approximately two football fields away from the marine work by the dock and are extremely unlikely to be impacted at all by the dredging.

Even with the significant improvements in the design, there will be areas where coral will be impacted by the new facilities. Here

is the role for mitigation. It is not possible to move the dredging so that it avoids the coral completely but it is possible to move coral so that it can thrive in areas well away from the working of the new port.

Perhaps surprisingly, this too has become an area of controversy in the project. Coral has been impacted in Cayman before, many times, not least by damage caused by cruise ship anchors. Mr. Speaker, let me remind the House of Cayman's recent experience. There have been two large-scale coral re-attachment cases in the recent past in West Bay and Eden Rock. Shipping incidents dislodged and fractured large sections of the limestone reef and damaged thousands of corals at both sites. Polaris, Applied Sciences Inc., the proposed Verdant Isle Coral Relocation Partner, restored both of these sites in 2016 and 2017. Coral fragments that are broken and disturbed by vessel anchors and ship hulls should arguably have a lower survival rate than those removed more carefully as will be case with the port project

yet monitoring studies have reported 89% survival of tagged specimens in the West Bay site two years following the restoration compared to 93% of unaffected coral colonies. Rather than joining with us to ensure that environmental mitigation works effectively, our opponents seem now just to want to decry those mitigation efforts and tell us that they will not be successful. In my view, exactly the same coral species, in the same vicinity, relocated by the same teams provides the best evidence of likelihood of success for this project.

This is not to underestimate the challenges involved in carrying out a coral relocation project at the scale envisaged in George Town Harbour. It is clear that the proposed coral relocation will never completely mitigate the ecological impacts of the port improvements. However, the experiences both locally and elsewhere can help us as we meet those challenges, drawing on the experience of what has worked, and what has failed, here in Cayman and around the world. There is every reason, as I

have said, to be confident that the same experts who have been so successful in relocating coral in Cayman previously will be able to develop and implement an equally successful coral relocation plan for this project. We should be confident that they can achieve high survival rates and that they will help us to achieve the plan's aim of no net loss of biodiversity, which is in keeping with the overall goal stated in the Cayman Islands National Biodiversity Action Plan, 2009. Indeed the project will include a coral nursery as part of its coral recovery plan so as to grow and transplant coral onto local reefs that are being degraded.

The last issue of substance for the decision on whether the country should move forward with building new cruise berthing and enhanced cargo facilities is the question of financing and affordability.

The upfront costs of building the new cruise berths and the enhanced cargo facilities amount to CI\$200M. All of that will be

paid for by Verdant Isle, the successful bidder. There will be no government cash contribution, no government borrowing or bonds and no government guarantees. The entire cost and all the risk sits with Verdant Isle.

They make their money back from the per passenger tax that is levied on all cruise ships calling at Grand Cayman. Here comes the first piece of misleading information about the finances put out by our opponents. They calculate that the total income that Verdant Isle will receive over their 25-year tenure will be \$450M. I will not quibble with that calculation so let's just accept it. They then express their indignation that a private sector entity will be receiving \$450M in income when the build cost is only \$200M. The \$250M extra sounds like a massive profit flowing into the hands of the business partners in the consortium.

The first issue with it is that our opponents are conveniently forgetting that the contract also requires Verdant Isle to maintain

the new facilities or the next 25 years. It is estimated that the maintenance costs are likely to total around CI\$75M in that period. That reduces the surplus to \$175M. That still sounds like an awful lot of profit to make though, doesn't it? Well, no actually. \$175M over 25 years equates to \$7M per year. Against an upfront capital investment of \$200M, that equates to an annual return of just 3.5% - again this assumes that the \$450M is correct. If the partners in Verdant Isle were just looking to make money on an investment they would do better just lending their money out on the markets – they would get a better return.

Do not forget as well that the CI\$200M projected cost includes the vital cargo port enhancements.

The other issue raised by our opponents is that, they claim, the Cayman people will be paying for the new facilities. The basis for that claim is as follows. The amount of the passenger tax that Verdant Isle will receive is mostly a replacement for the tender

fees that the cruise companies will no longer be paying. However, in order to make the overall financial model work, the government is reducing the amount per passenger it receives by a small amount. That is absolutely true. The amount that was discussed previously by the Ministry was US\$2.32 per passenger. However, this amount was based on the original design option that would cost some CI\$229M. The option that we have chosen Mr. Speaker is one that will cost just under CI\$200M – thus we do expect that the final per passenger cost, once the final contract numbers are agreed, should be less than US\$2.32 per passenger.

On the basis of those facts our opponents have come to the conclusion that Cayman is, therefore, losing out financially. That is totally and factually incorrect.

What we are giving up is income that we would not have unless the project goes ahead. To understand this, remember the



point I made at the very beginning. If we build the new cruise berths the number of passengers goes up. If we do not build the new berths the number of visitors to these Islands will decline. Put very simply, the Government's total income is greater if the project goes ahead. It will be greater than we get now and much greater than if we do not build the new berths. The reason is that we are getting a slightly lower amount per passenger but the increased number of passengers means our total income goes up. Ask any Caymanian whether they would rather sell 20 mangoes for \$6 each or have 25 mangoes that they can sell for \$5 each. For the benefit of Members opposite, 20 mangos at \$6 each yield an income of \$120, while 25 mangoes at \$5 each yield \$125. Would any Caymanian think that in the latter case they were better off because their total income was higher or that they were losing out by giving up one dollar per mango? If our opponents think that 20 mangoes for \$6 each is the better option I invite them to come and buy their produce from my farm.

I have heard it said that the financing sounds too good to be true. Someone else builds Cayman the new cruise berths and enhanced cargo facilities it needs. They are willing to fund the project entirely themselves with no contribution or guarantee from the government. The total income to government from passenger tax goes up. Throughout the build and operation of the new facilities, the port stays the property of the Cayman people and it will continue to be operated by the Port Authority. There has to be a catch, right?

Wrong. There is no catch. This has been achieved because my government has been willing to go to the market positively and confidently, negotiating from strength in order to secure the kind of solution that has never been seen in the cruise industry before. Bidders were willing to take part in the procurement on those terms because of the strength of the Cayman offer to cruise visitors. Cruise passengers enjoy coming to Cayman and they want to continue to do so. The only barrier is the logistical one

caused by the lack of berthing facilities. The model is attractive to the two cruise companies that anchor the consortium not because they will make money from the port itself but because keeping Cayman on their schedules helps them to sell cruises. That is where they make their money out of this.

Mr. Speaker, I confess that in some ways this referendum can be seen to be an unnecessary distraction. However, as I said earlier, I respect the work that has gone into gathering the necessary signatures and a referendum we will have.

In some ways though, this is a fitting debate for our country to be having. As a people, we need to decide the direction that our Islands will take in the decades to come. In doing so, let us reflect on what our people have achieved over the sixty years since we first gained a measure of self-government with the granting of our first written Constitution.

No doubt there were people then saying that Cayman should remain 'the Islands that time forgot'. But there were others, Mr. Speaker, who were not content to leave things the way they were. People who wanted to improve the quality of life for Caymanians. They were willing to put in place the legal frameworks that brought the first banking and finance businesses to Cayman. They were willing to balance some loss of environmental amenity to build our airport and then, yes, our existing cargo port; to welcome hotel developers; and to invest in the necessary infrastructure to allow these Islands to grow.

Alongside those pioneers, some now recognized as our National Heroes, the Caymanian spirit of enterprise and entrepreneurship meant our people founded and grew the businesses that could take advantage of the new economic opportunities that presented themselves. Mr. Speaker, I believe that spirit is still alive and thriving in these Islands. Our people are not waiting for the government to come up with answers to

questions about where tourists will go and what will they do. The government will play our part, but Caymanians will exploit the opportunities and create the businesses that answer those questions for themselves.

This is what occurred after the wharf on the ironshore was converted into a modern cargo dock facility in 1977. A cargo dock that has served us well and has been expanded over the years, but that is again in need of expansion.

But Mr. Speaker, as you well know the George Town Port Project that was opened in 1977 was controversial in its time. There were those who, like some opponents today, lacked vision and did not appreciate the need to modernise and improve our infrastructure.

Some of that history Mr. Speaker was captured in a supplement published by the Nor'wester Magazine on July 16<sup>th</sup>, 1977, to celebrate the completion of the George Town Port

Project. I ask the indulgence of the House Mr. Speaker to lay a copy of this supplement on the table of the House and to recite a few words from it that mention the comments made by Mr. Berkley Bush when he spoke at the opening:

*Quoting from the article* - "In his speech Mr. Bush outlined the history leading up to the construction of the port facility. Although he had been a central figure with his drive, determination, and enthusiasm in getting the port project started, he summed up the part he played by saying 'There was a job to be done and someone had to do and I just happened to be that man.'

The ceremony also gave Mr. Bush an obviously welcome opportunity to answer his critics who had carped about the facility and its positioning for many years. With obvious relish he pointed out to those who had said it was utter stupidity to build in George Town because of nor'westers, that the dock had survived two seasons of nor'westers while under construction.

To those who had pointed out that the Island had done alright with just the ironshore during the boom period, and why therefore was a dock facility needed, he wondered where the country would end up if such prophets of doom were in the driver's seat.

To those who had said that he had lost his seat in the Legislative Assembly because of his involvement with the dock and insistence that it be in George Town, he replied in ringing tones that he would rather have the dock facility, and have it in George Town, than occupy every seat in the Legislative Assembly, representing people who did not want the port." - *End quote*

Mr. Speaker, I want to mention another recorded statement from that supplement – that of Captain Charles Kirkconnell who spoke after Mr. Berkley:

*Quoting from the article* - "Captain Charles also pointed out that a gateway to larger and more up-to-date cargo ships had been

opened and would link the Islands with international terminals. This was bound to result in savings to the consumer... The manner in which cargo was handled on the old wharf had caused damage and losses to the imported goods, which naturally forced prices to rise.” - *End quote*

Mr. Speaker, I thank God and we all should that we had representatives like Berkley Bush and Charles Kirkconnell who had vision and understood the need and benefit of vital infrastructure projects – in this case a modern port facility that has benefitted the country and our people hugely over the past 42 years. I do believe Mr. Speaker that 40 years hence those who occupy these hallowed halls will recognise that the building of this cruise berthing and enhanced cargo port was similarly significant for the future development and success of our Islands and our people. And Mr. Speaker, they may undoubtedly state how glad they are that the prophets of doom had failed to stop the project by way of this referendum.



The question on the ballot paper in this referendum is about cruise berthing and enhanced cargo facilities. The question for the country is whether we still have the confidence in ourselves and in our future to grasp the opportunities before us - the opportunities to start new businesses; the opportunities to improve still further our world-class Caymankind cruise tourism offer; and, yes, the opportunity to show we can deliver a world-leading coral relocation programme.

I believe in a strong and prosperous future for Cayman. I believe in opening the door to economic opportunity - not slamming the door on the jobs of the hundreds of Caymanians whose livelihoods depend on cruise visitors. Finally, I believe, Mr. Speaker, that the majority of Caymanians believe as I do. The referendum gives them the chance to show their confidence in themselves and in a prosperous future.

The choice facing the people of the Cayman Islands on 19<sup>th</sup> December is a clear one. On the one hand, we can choose to move forward with building our new cruise berthing and enhanced cargo port facilities. If we do so, we guarantee that cruise ships will continue to bring their visitors to Grand Cayman and in so doing we safeguard existing jobs and create more employment and business opportunities for Caymanians. The enhanced cargo facilities will mean that the port can handle bigger ships and more cargo more efficiently and this helps drive down the costs of all the goods we import. This redevelopment of our tired and inefficient cargo port can only be funded because it is being linked with our new cruise berths. Cayman can choose to move forward with building our new cruise berthing and enhanced cargo port facilities. We can and we should choose prosperity.

On the other hand, we could turn our backs on the redevelopment of our port. As cruise ships grow in size, they will increasingly pass by Cayman on their way to other destinations

that have the facilities needed to cope with their passengers. Visitor numbers in Cayman will fall. Caymanians will lose their jobs and their businesses will fail. We could try to make do with cargo facilities that are already too small to meet our current needs, let alone meet the needs of a growing population. We could choose decline.

The deal the Government has negotiated with Verdant Isle partners ensures that no government funding is required to build the dock but the facilities remain in our ownership. Increased visitor numbers mean total revenue to government increases so we can afford to continue funding other things like schools and road improvements. There is no financial risk to Cayman, its government or its people.

The government has responded to people's environmental concerns and the redesign of the port development has significantly reduced the environmental impact of the project.

There is no dredging in Hog Sty Bay and no risk to Seven Mile Beach. There will be damage to existing marine environments but millions of dollars will be invested to relocate coral and we aim to achieve no net loss of biodiversity. The Government has done all it can to safeguard Cayman's economic future while minimizing any environmental impact from Cayman's port redevelopment. Prosperity or decline? This government chooses prosperity for this and future generations of Caymanians. We must get on and move forward with building the cruise berthing and enhanced cargo facilities that help to secure that future prosperity.

I ask all members of this Honourable House to vote aye to this referendum bill, and that those Caymanians who go out to the polls on referendum day to vote a resounding **Yes** to the question, "Should the Cayman Islands continue to move forward with building the cruise berthing and enhanced cargo port facility?"

Thank you Mr. Speaker.