



OFFICE OF THE
PREMIER
CAYMAN ISLANDS GOVERNMENT

Introduction of the Domestic Partnership Bill 2020

By Premier Hon. Alden McLaughlin, MBE, JP, MLA

27 July, 2020

Legislative Assembly

Madam Speaker, I beg to move the second reading of a Bill for a Law to provide for Domestic Partnership and for incidental and connected purposes.

The Bill before the House this morning is one that I think all of us would have to agree is the most contentious issue, addresses the most contentious issue that I certainly have known since I arrived in this House almost 20 years ago. It is with a great deal of deliberation, thought and prayer that we have arrived at this point and that I discharge the solemn obligation of moving the Domestic Partnership Bill 2020 and introducing it to this House. To say the Bill is contentious is an understatement. But it is a very important Bill.

There are those in the public who support it as it has been published; there are those who support it but say it does not go far enough; there are even those opposed to it

because it does not go far enough in their view. And then there are those who oppose it outright for varied reasons, including religious grounds. Because of that we can expect heated and spirited debate inside and outside of these Chambers for and against the Bill.

I would urge us all as we speak our mind and our conscience to remember always the importance of compassion and tolerance and to understand that however strongly our views may be held, others are entitled to theirs as well. It is other people – other parents, children; others' children's parents – that we are speaking about. My point, we are all God's creatures and we ought to, regardless of how strong we feel, to remember that.

Let me now describe what the Bill seeks to do. In broad terms the Bill contemplates two persons entering into a domestic partnership that is registered by the Registrar of Domestic Partnership. Madam Speaker those registering must be eighteen years or older, or if between 16 and 18 years old they must have the requisite consent of parents, guardians or the courts in the same way that consent is necessary for people of the opposite sex who propose to marry under the age of 18. Neither can at the time of registration be married or in a recognised domestic partnership; and of course, they cannot be related.

In short, the Bill, if it becomes Law, will permit two adults to enter into a formal, legal partnership with defined rights recognised by the state. It will be termed a Domestic Partnership. It is not a marriage

That is what this Bill is about, Madam Speaker. Before I get into the details I need to just say a few things about what this Bill is not about.

First, this is not a Bill about the legality or morality of homosexuality. The issue of the legality of homosexuality in these Islands has been settled for almost twenty years now, as required under the United Kingdom's *Caribbean Territories (Criminal Law) Order, 2000*, which took effect on 1 January, 2001. That Act, passed in the UK by Order in Council, decriminalised homosexuality in these Islands and all the Overseas Territories and confirmed that homosexual acts carried out in private shall not be an offence provided that the parties consent thereto. So regardless of our views on homosexuality, that has been the position in our Islands for 20 years. Homosexuality is not a criminal offence.

Despite that, Madam Speaker, when issues such as the one now before us are raised, often what we hear are thunderous speeches railing against homosexuality. I do not for a moment doubt the sincerity of the views held by many in these Islands on this subject, Madam Speaker. However, I do question the relevance of such views when it comes to the matter before us today and the issues contained in this Bill.

There is a very important principle at stake here today. But the rights and wrongs of particular lifestyles is not it. Rather, as I will explain, the principle at stake today and with this Bill is whether this Honourable Legislative Assembly of the Cayman Islands is willing to uphold the rule of law.

In my view, for lawmakers, principles do not come much more important than that and I hope Members will focus their minds on it as we deliberate here today. The late president of the United States John F. Kennedy in his message to the American people in 1962 on discrimination is one that is appropriate for this House to consider on this occasion. He noted that while citizens are free to disagree with the law they are not free to disobey it

Secondly, this is not a Bill about marriage, specifically marriage between same sex couples. We have sought in bringing this bill to ensure that we maintain what our law says about marriage and also the views of many in our church communities. But we have also acknowledged the need to abide by the law and to provide protections for same sex couples that the law and the Courts have demanded of us.

I was heartened to receive a letter on July 16th from the Cayman Ministers' Association where they recognised the efforts that we have gone through to protect the rights of people on both sides of the debate.

This letter states as follows Madam Speaker:

Quote

Dear Hon. Premier

Greetings!

I write on behalf of the Executive of the Cayman Ministers Association, regarding the Domestic Partnership Bill. We do appreciate the cordiality and consideration that both you and the Attorney General have always afforded us. We also sincerely appreciate

your sensitivity to the concerns of the Church and the wider community regarding same-sex relationships.

You did express however, the need to address the lingering matter of same sex unions, especially in the light of the ruling of the Court of Appeal. We as a CMA Executive are further appreciative of the manner in which you sought to protect heterosexual marriage, according to our constitution, and also to protect marriage officers and churches from any obligation regarding domestic partnerships.

We do wish to submit very humbly and respectfully a Formal Position Letter, which we would like you to consider in your decision making. This we also would be making available to the other members of the Legislative Assembly. Attached also are comments from The Rt. Hon. Dame Joan Sawyer, former President of the Court of Appeal and Chief Justice of the Bahamas.

We know that this is a very difficult matter and may God grant you wisdom in your decision making.

Yours Very Truly

Torrance Bobb

Chairman, Cayman Ministers Association

End Quote

Madam Speaker I will make available a copy of this letter and attachments on the table of this Honourable House.

The letter from the CMA spoke well to their recognition of our efforts to keep marriage and domestic partnerships separate. So Madam Speaker I say again that this Bill is not about marriage. This point is important, Madam Speaker, and I will say more about that shortly.

Before I do so, however, I need to remind the House of the background to this Bill.

Madam Speaker, the particular path that has brought us here is a complaint by Ms. Chantelle Day, a Caymanian Attorney, and Ms. Vickie Bodden Bush. A complaint that has been considered by the highest court in our land.

What the Courts – the Grand Court and the Court of Appeal - have determined lies behind that complaint is the failure over many years of this Hon. House to provide a solution that safeguards the rights of some members of our society. It is that failure we are being charged to rectify here today.

In April 2018, Ms. Day and Ms. Bodden Bush wrote to the General Registry requesting a licence to enter into marriage in the Cayman Islands. The application was properly refused given the clear requirements of our Marriage Law, which stipulates in section 2, that marriage is the union between a man and a woman as husband and wife.

Therefore, Madam Speaker, as a matter of law the General Registry could not properly, and did not, issue a license to them to get married.

That was the law then in August 2018 and that is the law today, in July 2020. Madam Speaker, more importantly, that will remain the law, even if this Bill is passed by this House. This Bill does not seek to change or supersede the existing Marriage Law.

Madam Speaker, having properly met with a refusal by the General Registry, Ms. Day and Ms. Bodden Bush applied to the Grand Court for a number of reliefs because, they argued, the refusal of their application to be married infringed rights guaranteed to them under our Constitution. In particular:

- their right to private and family life under S. 9(1) of the Bill of Rights in the Constitution;
- their right to freedom of conscience under section 10(1);
- their right to marry and found a family under S.14(1);
- And their right not to be discriminated against under section 16(1) of our Bill of Rights.

To correct what they viewed as a wrong they sought a declaration from the Courts that the Marriage Law should be read and construed with such modifications, adaptations, and qualification as may be necessary to bring it into conformity with the Constitution.

They had applied for a marriage licence so inevitably, their legal proceedings were focused on marriage. However, Madam Speaker, of particular significance to this debate today is their claim that while they were entitled to marry, they sought as a minimum, a declaration that provision should be made for them to enter into a “civil partnership”.

Madam Speaker, Honourable members would recall that the matter was heard by the Grand Court, and the Hon. Chief Justice delivered its ruling in March 2019.

The Grand Court ruled that the Bill of Rights in the Constitution did give Ms. Day and Ms. Bodden Bush the right to marry. And by way of remedy, the Chief Justice ordered that section 2 of the Marriage Law be amended to read as follows:

“marriage means the union between two people as one another’s spouse”.

Madam Speaker, the Chief Justice also modified section 27 of the Marriage Law to bring it into conformity with the amendment he ordered to section 2. Section 27 is the section that deals with marriage declaration. In other words, the Chief Justice, in seeking to provide Ms. Day and Ms. Bodden Bush with a remedy, legalised same-sex marriage in the Cayman Islands. That remained the law until the Court of Appeal judgment although the provision was stayed while the appeal was being pursued. This country has had same-sex marriage legalized here at that point. I say that because we may, if we fail to pass this bill, arrive back there very swiftly.

Madam Speaker, members will recall that my Government then instructed the Honourable Attorney General to appeal the ruling of the Grand Court. At stake in the appeal was not just the substantive issue of same-sex marriage but the principle that this House, not the Chief Justice, should write the Laws of the Cayman Islands. And so if a law is determined by the Courts to contravene the Constitution then it should be for this House to have the opportunity to fix it. And so on that basis we pursued an appeal.

On 7th November, 2019, the Court of Appeal issued its ruling. I am sure that we were all relieved that the Court of Appeal disagreed with the Chief Justice as it relates to the right to enter into same-sex marriage in the Cayman Islands.

The Court affirmed that under the current legal framework marriage is only permissible between persons of the opposite sex. The amendments to the Marriage Law that the Chief Justice had sought to impose were struck down.

On the face of it, this was a success for the Government of the Cayman Islands. The Court had granted our appeal agreeing with our interpretation of the law and striking down the Chief Justice's attempt to change the legislation without reference to this Honourable House.

However, having delivered a favourable verdict on our appeal, the Court of Appeal went on to issue a declaration in absolutely unequivocal terms as it relates to the legal obligations of the Cayman Islands to put into law a framework to protect certain constitutional rights relating to private and family life under section 9 of the Bill of Rights protections in the Constitution.

Section 9, Madam Speaker, states that Government shall respect every person's private and family life, his or her home and his or her correspondence. In other words, whilst Ms. Day and Ms. Bodden Bush do not have a legal right to marry in the Cayman Islands, the Court confirmed that they do have a right to private and family life and as such the right to a legal framework that is not marriage but one that provides similar legal resolution and security.

Madam Speaker, the declaration was not only unequivocal. It was robust and scathing. Members of this House should be in absolutely no doubt of this. I have asked that copies of the judgment be circulated to all Members but I will read the exact language employed by the Court. Members can follow on page 36.

The appropriate declaration

“As we said in paragraph 6 above, the Appellants have finally accepted that section 9(1) of the Bill of Rights requires the Legislative Assembly to provide the Respondents with legal status functionally equivalent to marriage. Its failure to comply with its obligations under the law in that regard is woeful. That it had such an obligation has been apparent for several years. As the Chief Justice set out in detail, the Respondents, in broad terms, offered to compromise the present litigation on appropriate undertaking from the Appellants to establish an institution of civil partnership. Even now, when during the course of argument, the court sought information as to what the Appellants intended to do, we were merely told they were awaiting the outcome of the litigation. It is difficult to avoid the conclusion that the Legislative Assembly has been doing all it can to avoid facing up to its legal obligations. In the meantime, Ms. Day and Ms. Bush (and their child) suffer in the many ways the Chief Justice set out.

In our judgment, a declaration in the following form is appropriate:

“In recognition of the longstanding and continuing failure of the Legislative Assembly of the Cayman Islands to comply with its legal obligations under section 9 of the Bill of Rights

And in recognition of the Legislative Assembly’s longstanding and continuing violation of Article 8 of the European Convention on Human Rights,

IT IS DECLARED THAT:

Chantelle Day and Vickie Bodden Bush are entitled, expeditiously, to legal protection in the Cayman Islands, which is functionally equivalent to marriage.”

It is not appropriate to require undertakings from the Attorney General, as is urged upon us by the Respondents. Moreover, proper fulfilment of its legal duty by the Legislative Assembly should provide the protection sought.

A final observation

We feel driven to make this final observation.

This court is an arm of government. Any constitutional settlement requires the executive and the legislature to obey the law and to respect decisions of the court. It would be wholly unacceptable for this declaration to be ignored. Whether or not there is an appeal to the Privy Council in respect of same-sex marriage, there can be no justification for further delay or prevarication.

Moreover, in the absence of expeditious action by the Legislative Assembly, we would expect the United Kingdom Government, to recognise its legal responsibility and take action to bring this unsatisfactory state of affairs to an end.”

Madam Speaker, I said earlier, that the principle at stake today is whether this House will uphold the rule of law. The Court of Appeal has challenged us clearly and directly to do so. As the Court describes, it would be ‘wholly unacceptable’ for this House to ignore the court’s declaration and to refuse to act.

How can this Hon. House ask the Courts to implement and enforce the laws we pass in this Legislative Assembly if we ourselves refuse to be bound by the decisions of our Court of Appeal? Indeed, how we can expect the people of these Islands to be bound by the law if we as lawmakers refuse to do so. If we claim some moral right to ignore a very clear instruction from the Courts, what is to stop every other participant in legal proceedings in these Islands from doing the same?

I have spent almost 20 years in this House. I have been proud to be a Member. I have been proud to uphold the law and to observe the sacred oath that I swear – each of us swears - when taking office after each election. Madam Speaker, before taking up our seat in this honourable House, each of us is required to speak the Oath of Allegiance. Indeed, we cannot act as Members of this House without doing so.

Let me remind members of that Oath. “I swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.”

I will simply observe that the Constitution allows the words “So help me God” to be omitted by Members who wish to affirm. But I also note that the words “according to law” may not be omitted. That is the core of the Oath we take. “According to law.” That is how we must act as Members of this House; according to law.

Increasingly I am seeing and hearing calls for a People Initiated Referendum on this matter, or from some in this House and outside of it for a general referendum at the next election so that the public can decide on this issue. Madam Speaker this is not a policy decision. This is a matter of Law and indeed a Constitutional matter. To repeat again, our Courts are requiring that the Legislative Assembly provide the protections that they have identified. They are requiring that this Legislative Assembly cease the continuing breach of both Article 8 of the European Convention on Human Rights and Section 9 of the Bill of Rights of the Cayman Islands Constitution. Compliance with these provisions is not a matter of choice for this House or for this Government. Rectifying these issues is a matter of complying with the law as articulated by the Court of Appeal.

A People Initiated Referendum does not apply to Constitutional matters and a general referendum, as allowed by section 69 of the Constitution, is also not suitable to decide this matter. It has been decided by the Courts that this Legislative Assembly as everyone in this house is aware.

Some have argued that we can, indeed should, continue to prevaricate. Why, some ask, are we rushing ahead with legislation when the matter is on appeal to the Privy Council?

To answer that Madam Speaker I can do no more than repeat the words from the court of appeal.

“This court is an arm of government. Any constitutional settlement requires the executive and the legislature to obey the law and to respect decisions of the court. It would be wholly unacceptable for this declaration to be ignored. Whether or not there is an appeal to the Privy Council in respect of same-sex marriage, there can be no justification for further delay or prevarication.” That is why the Government must proceed as we’re doing today.

Honourable Members should recall that the Court of Appeal was almost incredulous that despite having conceded the legal principle the Government – my government, the government which I lead - had no plan or timetable for legislation to enact domestic partnerships. We do not have to wonder then what view would the Privy Council take if months later we go before them in February next year and still have no plans to resolve this impasse?

Moreover, I ask that Honourable Members also recall that the appeal to be heard by the Privy Council is not about domestic partnerships or civil unions. It is about same-sex marriage; what is being appealed by the appellants there is the decision of the Court of Appeal, which found in favour of the Government and the Legislative Assembly position that our Constitution does not require same-sex marriages. Members must also recall that it has already been established and affirmed by the Court that some form of domestic partnership, rather than same sex marriage, is necessary to safeguard the

rights of individuals, such as Ms. Day and Ms. Bodden Bush. That fact will not change. It will not.

And so if we fail to act then the Privy Council will, I am certain, act in our stead and implement same-sex marriage because they have no means of assuring that persons in same-sex relationships are protected as are required by both Article 8 of the European Convention on Human Rights and Section 9 of our Bill of Rights. The issue before them is solely that; whether or not same-sex marriage is required under our Constitution. And if we do not have a domestic partnership law in place then same-sex marriage will not be a difficult decision for them to make.

And we in this House would have only ourselves to blame Madam Speaker. And many of those public voices now against this Bill, despite whatever they say now, will hold us to account if same sex-marriage is introduced because we - this Legislative Assembly - failed to act.

This is our moment of truth - we can act and have a hand in making our own destiny or we fail to act and dither and allow others to do as they see best.

Madam Speaker, the circumstances over recent months with our response to the COVID-19 Pandemic have caused a delay in bringing this forward, but as the Court made its expectations clear, we should delay no further. We must act and we must act now.

There is also, in my view, added risk in delay. Notwithstanding any appeal to the Privy Council, the Court made itself very clear that the protections sought by Ms. Day and Ms. Bodden Bush must be put in place. Again, I quote:

“Moreover, in the absence of expeditious action by the Legislative Assembly, we would expect the United Kingdom’s Government, to recognize its legal responsibility and take action to bring this unsatisfactory state of affairs to an end.”

I can tell you that stated expectation certainly caught the attention of the UK Government.

Some have argued that we should hold out against this change and let the United Kingdom impose it upon us. They seem to believe that in taking what they regard as a principled stand and it is better for us to refuse to accept the change and have it forced upon us.

I contend that approach is not one of moral principle that would lead us into further delay. Rather it would in my view equate to moral neglect to not seize the moment and act when we should. If we do not act then this House is abdicating its responsibilities.

But just suppose we do take such a course and delay. There must be an added risk that if the United Kingdom Government were the ones to push a change they would decide to impose same-sex marriage on these Islands rather than domestic partnerships. It would not take very much to simply reinstate the ruling of the Grand Court judge. And many of those public voices now against this Bill, despite whatever they say now, will hold us to account if same-sex marriage is introduced because we failed to act.

There is, I think, a view that to accept domestic partnerships would be the thin edge of the wedge and that same-sex marriage would be bound to follow. The experience in the UK and elsewhere in the world may indicate that there is some substance to that argument.

However, same-sex marriage has come about in those jurisdictions because legislators in the UK and elsewhere have voted for it. It was not imposed on them by the courts. I strongly believe that if we put in place these arrangements for domestic partnerships now that gives us the greatest chance of keeping future decisions about same-sex marriage in the hands of future Caymanian legislators.

The issue about whether same-sex marriage should be part of our legislation should properly be left for the future and the future legislators who follow us. Let us not preempt their ability to make that decision by our failure to introduce the Domestic Partnership Law.

Rather, as I have said, the issue for us is whether this Hon. House will uphold the law. Whether we will put in place the legislation necessary to safeguard the rights of a section of our population who do not have those rights protected now. The Courts could not have been clearer about their expectations of the steps that this House needs to take.

There is one further risk I would like to highlight and that is a political risk of inaction. This Government, with the support of the Opposition, has invested considerable effort in

negotiating a range of Constitutional amendments with the UK Government. I have said before in this House that I believe these changes represent a step forward in our relationship based on the UK's view that democratic institutions and governance arrangements are maturing in Cayman and that as such it is appropriate to give us more control over our own affairs.

If we now refuse to act when obligated to do so by the Courts, we would be demonstrating not political maturity but adolescent irresponsibility. It would be hard in such circumstances to make the case to the UK that they should press ahead with the Constitutional changes we have fought for and which were supported on all sides of this House.

To be clear, Madam Speaker, no one on the UK side has yet threatened us with withdrawal of the proposed changes. There is no *quid pro quo* at play here. I am just realistic enough to recognize the risk and the consequent damage both to our much-improved relationship with the UK and to our wider international credibility.

It follows, Madam Speaker that in the circumstances the Government has an obligation to give effect to the pronouncement of the court. The rule of law requires the government to do so. Indeed, both leading Counsel from London who argued the case for us are quite firm in their advice that we should do so before the matter is dealt with at the Privy Council.

It is for that reason that I am asking all Members of this Assembly to support this Bill.

However, in so doing I have assured those in my Cabinet and on the Government benches that they can vote their conscience with regard to this Bill, or not vote as they see fit. And I understand that the leader of the Opposition has also told those on his team to do the same.

I have a good sense as to who on my side supports the bill. And based on what they have said to me, or said publicly, I believe that I have a good sense as to who on the benches opposite will also support the Bill. Of course, they may have changed their mind since last we spoke and I will certainly see once I take my seat.

But Madam Speaker, I must commend one-member opposite especially for his understanding that what is before us comes down to us doing our duty according to the law; but also it will provide protection to the Marriage Law as well as providing legal protections to individuals like Ms. Day and Ms. Bodden Bush. I speak of The Member for North Side. In his public statements he showed a clear understanding of what is at stake. In an interview to the Compass in November 2019, he said (Quote), “My fear has always been if we don’t do what we want to do, the United Kingdom will do what we don’t want to do, and that is tamper with our Marriage Law”.

This summarises the position very well. I commend Mr. Miller for it. I commend him also for the strength of his conviction when he said in the same interview that if he would lose the election because of his support for civil unions, such as offered by the Domestic Partnership Bill, then so be it. He went on to say “That’s my position and it is a considered position that is not a flippant position.”

Again, whilst I wait to see how the Member for North Side debates and votes on the Bill I certainly commend him for his publicly stated position.

Madam Speaker, the Member for George Town Central is a renowned fence sitter. I say this somewhat tongue in cheek Madam Speaker but on this matter the Member has certainly had his feet on one side of the fence or the other from time to time. But his statements to me personally and in the media does give the impression that he supports it.

Madam Speaker, Cayman News Service in an article on 21 July, 2020, noted that the Domestic Partnership Bill will Likely get the support from the two independent Members, Ezzard Miller and Kenneth Bryan, who have both said publicly that ... “it is better for Cayman to draft its own legislation to deal with this controversial issue than have it imposed” on us by the UK. Again, I completely agree with this sentiment and I congratulate the member from George Town Central for taking that position. I will see during the debate which side of the fence my colleague from George Town Central will be on when he rises to debate.

I am hoping that my debate here has successfully outlined the reasons why the majority of members present should vote in favour of and to pass this Bill into Law. I hope too that

I have sufficiently outlined the risks if we do not.

Having asked Members for that support, I will just quickly outline the main provisions within the Bill, Madam Speaker, which reflects substantially, the arrangements which obtain in Bermuda following their Domestic Partnership Act 2018.

Madam Speaker, as usual, clause 1 deals with the short title and commencement.

Clause 2 contains a number of relevant interpretations; including Madam Speaker, that of domestic partnership, which means a domestic partnership formalised and registered in accordance with this law.

Clause 3 Madam Speaker is of particular significance in that it contains an overview of the eligibility to enter into a domestic partnership. In particular it stipulates that two persons over the age of 18 years may enter into such partnerships. However, Madam Speaker, it also provides that persons sixteen years or older but not yet eighteen may also enter into such a partnership provided there is parental consent or consent from a legal guardian or the court.

The clause also stipulates that if persons are already married or involved in a domestic partnership or an overseas formal relationship they would not be able to enter into a domestic partnership. Similarly, Madam Speaker, neither person should be in the prohibited degrees of domestic partnership, that is, must not be related as siblings, child, parents, etc.; the same prohibitions that obtain for marriage.

Madam Speaker, clauses 7, 8 and 9 together deal with the issue of notice and issuance of licenses for domestic partnerships.

In essence Madam Speaker, if there are no legal barriers or caveats then the Registrar is required to issue the requisite licence once the required notice period has been met.

There is also provision for a special licence to be issued by the Deputy Governor.

Part 4, Madam Speaker, which covers clauses 14 and 15 speak to the formalisation of a domestic partnership. It provides that once either the Registrar, or a domestic partnership officer is satisfied that all the necessary legal pre-conditions have been fulfilled they may formalise the relationship. The formalisation will take place in the presence of two or more witnesses.

It should be noted that it also contains provision for what is called partnership in “extremis”, that is a type of “death bed” partnership where, in the opinion of a medical practitioner, at least one of the parties is in a dying state but is still able to comprehend the effect of entering into a domestic partnership.

Madam Speaker, a feature of the Bill is the ability for a person who has any lawful grounds to object by way of a caveat to the issuing of the licence for the domestic partnership. Once an objection is lodged it has to be recorded by the Registrar and eventually transmitted to a Judge of the Grand Court for an administrative decision as to its merits. If the caveat is upheld the partnership cannot go ahead.

Madam Speaker, part 6 of the Bill covers issues such as when a domestic partnership may be said to be void or voidable, including instances where there is lack of legal capacity by one of the parties to the relationship.

Madam Speaker, also of significance is part 7 of the Bill dealing with the formal registration of a domestic partnership. Clause 21 in particular contemplates that the Registrar General shall maintain a Register of all Civil Partnerships, including all notices given, and all the domestic partnership entered into under the law.

Clauses 25-27, Madam Speaker cover matters dealing with the appointment by the Deputy Governor of domestic partnership officers and for the list of those officers to be published by the Registrar General.

Madam Speaker, it is worth emphasising that according to clause 29, a person who is a marriage officer is not permitted to formalise domestic partnerships unless that person is also expressly appointed as a domestic partnership officer. Of equal significance Madam Speaker is the fact that a marriage officer cannot be forced to use any place of worship under his or her control to formalise a domestic partnership, hence Madam Speaker the reason for the caption protection of marriage officers at part 10 of the Bill.

Madam Speaker, like the issue of the ability to permit gambling on Cayman Registered Vessels in international waters, the issue of the ability to formalise domestic partnership has also been mooted for some time.

You may recall Madam Speaker that the gambling issue has been resolved, with an amendment to the Gambling Law (1996 Revision) in 2016.

Madam Speaker, part 11 of this Bill seeks to address the granting of licence by the Hon. Deputy Governor to the master of a Cayman registered ship to be a domestic

partnership officer and thereby facilitating formalising of Domestic Partnerships aboard such ships on the high seas.

Madam Speaker, in part 12 of the Bill are provisions that will, among other things, allow for the recognition, in the Cayman Islands, of certain overseas relationships to be treated as domestic partnerships. These Madam Speaker are relationships that are either specified in the Bill or having met certain other general conditions and that are registered in the relevant overseas countries. For these Madam Speaker, I would ask members to refer to schedule 2 of the Bill where both the countries and the description of the relationships are listed.

Another feature of the Bill Madam Speaker is found in part 13, which stipulates that in instances of breakdown and dissolution of a domestic partnership, the provisions in the Matrimonial Causes Law and the Maintenance Law would apply to their court proceedings.

Then Madam Speaker there is part 14 of the Bill, which creates certain offences to do with domestic partnership, e.g. a person who, not being a Registrar or a domestic partnership officer, purports to formalise a domestic partnership.

There is provision in clause 45 for the publishing of annual reports of summary of domestic partnerships registered during each year.

Then Madam Speaker there is part 16 of the Bill, which allows for references from other Laws to be also applied to domestic partnership, (see column in clause 46 for the list).

Part 17, Madam Speaker, seeks to, among other things, clarify the position as it relates to marriage, but also goes on to provide that certain overseas same-sex marriages, may be recognized if entered into before this Bill becomes law.

Also Madam Speaker, there will be a slight committee stage amendment to, among other things, provide that thereafter, such marriages can only be recognised and treated in Cayman as a domestic partnerships in certain circumstances.

So Madam Speaker that is a general outline of some of the main provisions of the Bill. It is not an exhaustive summary, given the length of the Bill. Additionally, Madam Speaker, I shall advise Hon. Members that if this Bill becomes Law, there will be a number of other Bills to effect certain consequential changes to other Laws in order to give full effect to the declaration of the Court of Appeal as it relates to “functional equivalency to marriage.”

These Madam Speaker include Laws such as the Penal Code Law, Mental Health Law, Immigration Law, National Pensions Law, Adoption Law, Succession Law, Wills Law and some others.

In closing, Madam Speaker, I would like to take this opportunity to thank the Attorney General and his staff for the work they have done to produce this Bill. It is a necessarily complex piece of legislation given the requirements laid down by the Court and the need to ensure we can demonstrate that the resulting legislation reflects the needs to

safeguard the Constitutional rights of those who were not previously offered such protections.

In asking Members to vote to pass this Bill, I am asking them to uphold the rule of law and the principle of respect for the decisions of our Courts. I know this is a difficult decision for some, including some of my colleagues on the Government benches. However, there is no place for us as lawmakers to hide. Either we accept the rule of law and make the changes we are bound by our Oaths of Allegiance to make or we do not. There is no middle ground. The idea that we might simply sit on our hands while either the Privy Council or the United Kingdom Government solve this for us is at best to abdicate responsibility and at worst to fail in the most fundamental tasks of government – to uphold the law and to safeguard the rights of our people.

This is now a question of political leadership. Are we, as lawmakers, going to face up to our responsibilities or abdicate them and leave it up to the Privy Council or United Kingdom Government to discharge the sacred function that we swore an oath to do?

Are we prepared to bear the burden of leadership as we were elected to do or shall we leave it to the United Kingdom either by their judges in the Privy Council or as a result of the extension of an Order in Council for these Islands to make the decision, which each of us in here campaigned that we were able and competent to do; that is the question which each of us must ask ourselves.

There is a reason why it is called the burden of leadership; it is often heavy to bear. We shall see whether we are capable of bearing that burden or whether it shall cause us to bow and pass that responsibility to another country and another people to discharge.

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