



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2013/14 SESSION

11 December 2013

*First Sitting of the Fourth Meeting
(pages 381—418)*

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

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PRESENT WERE:

SPEAKER

Hon. Juliana Y O'Connor-Connolly, JP, MLA
Speaker of the Legislative Assembly

MINISTERS OF THE CABINET

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

EX OFFICIO MEMBERS OF THE CABINET

Hon Jennifer Ahearn	Temporary Deputy Governor, ex officio Member responsible for the Civil Service
Hon Samuel Bulgin, QC	Attorney General, ex officio Member responsible for Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon Anthony S Eden, OBE, JP, MLA	Deputy Speaker, First Elected Member for Bodden Town
Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town

OPPOSITION MEMBERS

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

INDEPENDENT MEMBERS

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

OFFICIAL HANSARD REPORT
FOURTH MEETING OF THE 2013/14 SESSION
WEDNESDAY
11 DECEMBER 2013
10:56 AM
First Sitting

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

The Speaker: I will ask the Honourable Deputy Premier to say Prayers.

PRAYERS

Hon. Moses I. Kirkconnell, Deputy Premier, Minister of District Administration, Tourism and Transport: Let us pray.

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

Bless our Sovereign Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal Family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Cabinet and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.

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

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

**MOMENT OF SILENCE
FOR FORMER SOUTH AFRICAN PRESIDENT
NELSON MANDELA**

The Speaker: Honourable Members, before we seat ourselves this morning, I am going to ask for a moment of silence in remembrance of the former President Mandela of South Africa.

[The House observed a moment of silence]

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

The Speaker: Thank you.

Please be seated.

Proceedings are resumed.

I have received no notices for absences or late attendance for this morning.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

OATH OF ALLEGIANCE

[Temporary Ex-Officio Member]

Hon. Jennifer M. Ahearn, Acting Deputy Governor: I, Jennifer Margaret Ahearn, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

OATH OF DUE EXECUTION

[Temporary Ex-Officio Member]

Hon. Jennifer M. Ahearn, Acting Deputy Governor: I, Jennifer Margaret Ahearn, do swear that I will well and truly serve Her Majesty Queen Elizabeth II, her heirs and successors, and the people of the Cayman Islands, in the Office of Member of the Legislative Assembly.

The Speaker: Please take your seat.

**PRESENTATION OF PAPERS
AND OF REPORTS**

TOURISM ATTRACTION BOARD FINANCIAL STATEMENTS YEAR ENDED JUNE 30, 2011

The Speaker: I recognise the Honourable Minister of District Administration, Tourism and Transport.

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

Madam Speaker, I beg to lay on the Table of this honourable House the Tourism Attraction Board [Financial Statements](#) for the year ended June 30, 2011.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Moses I. Kirkconnell: Just a short statement, Madam Speaker.

Madam Speaker, I would just like to say that the Auditor General, Mr. Swarbrick, has given a qualified opinion and he says: **“In my opinion, except for the effects of the matters described in the Basis for Qualified Opinion paragraphs, the financial statements present fairly, in all material respects the financial position of the Tourism Attraction Board as of 30 June 2011, and the results of its operations, statement of equity, and statement of cash flows for the year then ended in accordance with International Financial Reporting Standards.”** This is for the year 2011.

I would encourage all Members to have a look at it. Thank you.

PORT AUTHORITY OF THE CAYMAN ISLANDS FINANCIAL STATEMENTS YEAR ENDED JUNE 30, 2011

The Speaker: I recognise the Honourable Minister of District Administration, Tourism and Transport.

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

Madam Speaker, I beg to lay on the Table of this honourable House the Port Authority of the Cayman Islands [Financial Statements](#) for the year ended June 30, 2011.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Moses I. Kirkconnell: Again, Madam Speaker, just to make mention that the qualified opinion has been issued by the Auditor General's Office. Again he says that his opinion, except for possible effects of the matter disclosed and the basis for qualified opinion, the financial statements present fairly in all material

respects the financial position of the Port Authority of the Cayman Islands as of June 30, 2011.

I invite all Members to have a look at it. Thank you.

CAYMAN AIRWAYS LIMITED CONSOLIDATED FINANCIAL STATEMENTS YEAR ENDED JUNE 30, 2012

The Speaker: I recognise the Honourable Minister of District Administration, Tourism and Transport.

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

Madam Speaker, I beg to lay on the Table of this honourable House the Cayman Airways Limited Consolidated [Financial Statements](#) for the year ended June 30, 2012.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Moses I. Kirkconnell: Madam Speaker, just to note again that the Auditor General's Office has issued his opinion, he has done the audit on it and these are for the 30 June 2012. So, I invite all honourable Members to have a look at it. Thank you.

NATIONAL GALLERY OF THE CAYMAN ISLANDS FINANCIAL STATEMENTS YEARS ENDED 30 JUNE 2010 AND 30 JUNE 2011

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

Hon. Osbourne V. Boddin, Minister of Health, Sports, Youth and Culture: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the [audited reports](#) of the National Gallery of the Cayman Islands for the fiscal years ending June 30, 2010 and June 30, 2011.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Osbourne V. Boddin: Thank you, Madam Speaker.

Madam Speaker, I will give some brief remarks on the report. The National Gallery of the Cayman Islands was established on April 23, 1999, in accordance with the National Gallery law. Prior to this date, the Gallery operated as an unincorporated entity.

The Gallery, through its management board acquires art works and collects materials to be held in trust for the purpose of preserving them for posterity and promoting their usefulness in the development of the arts exhibition, research, and education for the public benefit.

Madam Speaker, the property of the Gallery is vested in up to four trustees appointed by the Governor in Cabinet and up to two of whom may also be members of the management board.

The Gallery promotes and encourages the awareness, appreciation and practice of the visual arts in these Islands through organising and maintaining permanent and temporary public exhibitions of works of art.

As at June 30, 2010, and June 30, 2011, the Gallery had six persons employed at the year ended 30 June 2011.

Madam Speaker, the audit reports for both years were qualified opinions and, of course, this means that there is a part of the financials that cannot be relied upon, and this is due to the Gallery deriving a portion of its income from donations, fundraising events and similar activities which are not susceptible to independent audit verification until they are entered into the accounting records.

The Auditor General found that the National Gallery's financial statements, however, present fairly in all material respects, the financial position of the Gallery as at 30 June 2010 and 2011, and the financial performance and cash flow for the years ended in accordance with International Financial Reporting Standards.

Madam Speaker, I also want to update this honourable House on the new home of the National Gallery since these reports. I want to congratulate the Management Board for the new permanent home of the National Gallery and its exhibits. The new building was built on the western side of the Esterley Tibbetts bypass opposite Camana Bay and adjacent to the Harquail Theatre on the four acres of land kindly donated by the late Mrs. Helen Harquail. The ceremony to start construction took place in November 2010. The building was completed in December 2011 and opened for public use in February 2012.

In closing, I would like to thank the Board and Management of the National Gallery of the Cayman Islands for producing these annual reports. I invite Members of this honourable House and the public to review these reports in detail.

Thank you, Madam Speaker.

CAYMAN NATIONAL CULTURAL FOUNDATION FINANCIAL STATEMENTS YEAR ENDED 30 JUNE 2010

The Speaker: Honourable Minister of Health, Sports, Youth and Culture.

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the [audited report](#) of the Cayman National Cultural Foundation Financial Statements for the fiscal year ending June 30, 2010.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Madam Speaker, the audited report, again, has a qualified opinion. This is due to the fact that the system of internal control of the foundation common with many other organisations of similar size and purpose is dependent upon the close involvement of the foundation's management.

The foundation derives a substantial portion of its income from theatre productions, donations, fund raising events and similar activities shown as other income in the statement of comprehensive income, and changes in the fund balances, which cannot be fully controlled until they are entered into the accounting records, are therefore not susceptible to independent audit verification. Accordingly, it was not practicable to extend the auditing procedures of such income beyond the amounts stated. However, the Auditor General found that except for the issue raised in his basis of opinion above, the foundation's financial statements present fairly in all material respects the financial position of the foundation as of 30 June 2010, and its financial performance and its cash flow for the year ended 30 June 2010 in accordance with International Financial Reporting Standards.

Madam Speaker, I invite Members of this honourable House and the public to review this report in detail. Thank you, Madam Speaker.

MINISTRY OF HEALTH, ENVIRONMENT, SPORTS, YOUTH AND CULTURE, ANNUAL FINANCIAL STATEMENTS YEAR ENDED 30 JUNE 2010 AND 30 JUNE 2011

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

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the Annual Reports of the Ministry of Health, Environment, Sports, Youth and Culture of the Cayman Islands for the years ended 30 June, [2010](#) and 30 June, [2011](#).

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Madam Speaker, the Ministry comprised the following departments of government as at the year ended 30 June 2010 and also at 30 June 2011: Cayman Islands Cadet Core, Department of Environment, Department of Health Regulatory Services, Department of Sports, Ministry of Health Administration and the Youth Services Unit.

The Auditor General issued qualified opinions on the financial statements of the Ministry for both periods ended 30 June 2010 and 30 June 2011. These qualified opinions meant that a portion of the financial statements could not be relied upon but that the rest of the statements can be relied upon by the user.

The Auditor General gave two main reasons under the basis of qualified opinion for issuing these qualified audit opinions. The basis for qualified opinions was identical in wording for both years.

The first reason under the basis of opinion had to do with the valuation of the Ministry's fixed assets. The Auditor General stated that the Ministry has not revalued its buildings within five years preceding the year ended 30 June 2010, and also for the year ended 30 June 2011, in accordance with the Financial Regulations (2010 Revision) that is required by IPSAS 17. He could therefore not determine if fixed assets were fairly stated as at 30 June 2010 and as at 30 June 2011.

Madam Speaker, the other reason given was with the verification of the Ministry's net worth. The Auditor General stated that he was unable to verify the amount presented in a net worth due to the uncertainties surrounding the value of the Ministry's fixed assets.

The Auditor General did state that except for the possible effects of the matters discussed on the basis of opinion noted above, these financial statements present fairly in all material respects the financial position of the Ministry as at 30 June 2010 and as 30 June 2011, its financial performance and its cash flows for the years ended in accordance with International Public Sector Accounting Standards.

Madam Speaker, I would like to publicly thank the staff of my Ministry for their hard work and perseverance in producing these annual reports. I invite Members of the honourable House and the public to view these reports in detail.

Thank you, Madam Speaker.

SEGREGATED INSURANCE FUND OF CAYMAN ISLANDS FINANCIAL STATEMENTS YEAR ENDED 30 JUNE 2012

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

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the audited [financial statements](#) of the Segregated Insurance Fund of the Cayman Islands for the year ending June 30, 2012.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Osbourne V. Bodden: Yes, Thank you, Madam Speaker.

Madam Speaker, the segregated Insurance Fund was established under the Health Insurance Commission Law, 2003. The Health Insurance Commission took over the administration of the Fund from the Cayman Islands Monetary Authority on January 1, 2006.

The Fund's primary function is to assist the Cayman Islands Government to defray the cost incurred for providing treatment to indigent uninsurable and partially uninsurable individuals. Contributions to the Fund are received from approved insurance providers in accordance with the Health Insurance (Amendment) Regulations, 2012, which require that all fees collected by the Health Insurance Commission be paid into the Segregated Insurance Fund.

An approved insurer collects a monthly \$10 contribution from individual policyholders with no dependents. Those with dependents pay \$20 per month to the Fund. At the time of these financial statements the monthly fees were \$5 per individual and \$10 per family per month. Health insurance providers then submit these collections to the Health Insurance Commission in its capacity as Fund Administrator. The current list of insurance companies contributing to the Fund is as follows:

- Aetna Life and Casualty
- ALICO (American Life Insurance Company)
- BAF Insurance Company (Cayman) Ltd.
- Cayman First Insurance Company Limited
- CayMed Plus
- CINICO
- Colonial Medical Insurance Company Limited
- Generali Worldwide Insurance
- Guardian General Insurance Limited

Madam Speaker, during the 2011/12 fiscal year, CINICO provided coverage for the largest number of persons (14,164), followed by Colonial Medical (12,829), and then Generali (6,830). Also, the total number of persons with health insurance in the Cayman Islands was 52,006, which was a 7.6 per cent

increase from the previous year 2010/11, that being 48,316. Madam Speaker, this represents over 90 per cent of the population with health insurance coverage.

The Segregated Insurance Fund collected \$2,439,795 from insurance companies for the period ended 30 June 2012. Operating expenses during the periods totalled \$9,000 and the amount of \$2,430,795 was deposited to the executive revenue account of the Ministry of Health.

The Auditor General has completed the audit of the Segregated Insurance Fund and has provided the financial statements duly certified pursuant to section 121 of the Health Insurance Commission Law (2010 Revision). The audit opinion for the period was an unqualified opinion which means that the information contained within the financial statements can be relied upon by the user.

Madam Speaker, I invite all Members of this honourable House and the public to review this report in detail. Thank you.

**FINANCIAL REPORTING AUTHORITY (CAYFIN),
CAYMAN ISLANDS GOVERNMENT, PORTFOLIO
OF LEGAL AFFAIRS, ANNUAL REPORT YEAR
ENDED 2012/13**

The Speaker: I recognise the Honourable Attorney General.

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

Madam Speaker, I beg leave of the House to lay on the Table of this honourable House the [annual report](#) for the Financial Reporting Authority for the period 2012/13.

The Speaker: So ordered.

Does the Honourable Attorney General wish to speak thereto?

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, only to say that the report itself, as usual, sets out very comprehensively the activities of the entity for the relevant period, and continued to demonstrate the Cayman Islands strong compliance culture. It quite properly documents the work of our money laundering reporting officers as well as other related stakeholders and how they interface with the Financial Reporting Authority.

Madam Speaker, this is further testament to the fact that we are an extremely strong compliance jurisdiction, not only in the area of crime-related issues, but also tax information exchange and related initiatives.

I certainly commend the report to Members of this House and to the public in general. Thank you.

OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS ANNUAL FINANCIAL STATEMENTS YEAR ENDED JUNE 30, 2012

The Speaker: I recognise the Honourable Attorney General.

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

Madam Speaker, with leave of the House I beg to lay on the Table of the [annual financial statements](#) for the Office of the Director of Public Prosecutions for the period ending 30 June 2012.

The Speaker: So ordered.

Does the Honourable Attorney General wish to speak thereto?

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, only to say that I think this is the first of this sort of report from the Office of the Director of Public Prosecutions since the separation from the Office of the Attorney General which took place in May 2011. This is the first report and it sets out clearly their financial activities for the relevant period. I commend it to Members and the public.

Thank you.

GENDER EQUALITY TRIBUNAL ESTABLISHED UNDER GENDER EQUALITY LAW, 2011, ANNUAL REPORT 2012/13

The Speaker: I recognise the Honourable Minister of Education, Employment and Gender Affairs.

Hon. Tara A. Rivers, Education, Employment and Gender Affairs: Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the [annual report](#) for the Gender Equality Tribunal established under the Gender Equality Law for the period of 2012/13.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Tara A. Rivers: Yes, thank you, Madam Speaker.

Madam Speaker, I am pleased to share with Members of this honourable House the very first annual report of the Gender Equality Tribunal. This report, which covers the period of 1 July 2012 through 30 June 2013, provides a summary of the Gender Equality Tribunal's operation, including general activities and discrimination complaints received during that time period.

Established on the 31st January 2012, the Tribunal exists to hear and determine complaints from

any person who has reason to believe discrimination has occurred, or is occurring, as defined under the Gender Equality Law. This Law prohibits discrimination in employment, training and recruitment on the basis of sex, marital status, pregnancy and gender. The Law also prohibits unequal treatment in other areas, such as access to goods, services and facilities, and in professional partnerships, qualifying and vocational training bodies and employment agencies, and addresses issues of pay discrimination and sexual harassment in the workplace.

Madam Speaker, three discrimination complaints had been received by the Tribunal since the Gender Equality Law, 2011, came into effect. Two had been closed and one remained in progress as of 30 June 2013. Since this inception, the Tribunal has also produced a complaint form and developed frequently asked questions and a comprehensive policies and procedures manual to assist the general public and parties to discrimination complaints in understanding the Tribunal's remit and the complaint process.

The Tribunal has also identified certain amendments to the Gender Equality Law which will provide further clarity on the submission and determination of discrimination complaints. Madam Speaker, I look forward to bringing the necessary amendments to the Law to this honourable House in the near future.

To enhance the transparency of the Tribunal's operations, summary determinations will continue to be published on the website www.genderequality.gov.ky. These documents will not identify any party, witness or other individual, and all information received by the Tribunal will continue to be maintained in accordance with the confidentiality provisions in the Gender Equality Law and in the Tribunal's policies and procedures.

Madam Speaker, the Gender Equality Law is an important piece of legislation as it protects both men and women from unequal treatment and harassment in the workplace, recruitment practices and other settings. Discrimination on the basis of sex, marital status, pregnancy or gender is illegal, and not just under the Gender Equality Law, Madam Speaker, but it is an offence under other legislation, such as the Labour Law. Discrimination is also contrary to the spirit of equality enshrined in the Bill of Rights and inhibits the capacity of our human and social development as a country.

As Minister responsible for Gender Affairs, I encourage those who have been discriminated against to take the necessary actions to bring their complaints to the Gender Equality Tribunal. And on behalf of the Government I would like to thank the chairperson and all members of the Gender Equality Tribunal for their dedication to serving on the Tribunal and for providing their time and expertise to promote gender equality in the Cayman Islands.

Madam Speaker, in closing, I would like us to reflect upon a quote by the recently deceased great leader and former President of South Africa, Mr. Nelson Mandela. He said and I quote: **"I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to [achieve]."**

Madam Speaker, while great strides were made during Mr. Mandela's lifetime, and many of those strides in South Africa and around the world directly resulted from his own tireless advocacy and action, the fact remains, the ideal was not fully realised during his lifetime and we must continue in this pursuit.

I too hope one day to see a society free from gender discrimination and to see that all persons are valued and given equal opportunities. I know that other Members of this honourable House are also committed to the ideals of equity and justice. However, Madam Speaker, the unfortunate truth is that discrimination does still occur and we do not all have equal opportunities in our lives. Therefore, the Gender Equality Tribunal remains a necessary and important mechanism to protect the rights of men and women, and to provide them with recourse when they have been wronged.

I trust that the honourable Members of this House will note and find useful the information that is provided in the Gender Equality Tribunal's Annual Report. Thank you.

PUBLIC SERVICE PENSIONS BOARD ACTUARIAL VALUATION OF THE JUDICIAL PENSION PLAN AS OF JANUARY 1, 2008 AND JANUARY 1, 2011

PUBLIC SERVICE PENSIONS BOARD ACTUARIAL VALUATION OF THE PARLIAMENTARIANS PENSION PLAN AS OF JANUARY 1, 2008 AND JANUARY 1, 2011

PUBLIC SERVICE PENSIONS BOARD ACTUARIAL VALUATION OF THE PUBLIC SERVICE PENSION PLAN AS OF JANUARY 1, 2008 AND JANUARY 1, 2011

The Speaker: I recognise the Honourable Minister responsible for Finance and Economic Development.

Hon. Marco S. Archer, Minister of Finance and Economic Development: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the Actuarial Valuation Reports of the Judicial Pension Plan, the Parliamentarians Pension Plan and the Public Service Pension Plan as of January 1, 2008 and January 1, 2011.

The Speaker: So ordered.

Does the Minister of Finance wish to speak to it?

Hon. Marco S. Archer: Yes, thank you, Madam Speaker.

Madam Speaker, I shall speak to the 2011 Pensions Actuarial Valuation Report, given that the 2008 is well passed its date, and, of course, anything in there would have been also covered in the 2011 as the situation would have changed.

Madam Speaker, under section 10 of the Judges Emoluments and Allowances Order, 2005, section 10 of the Parliamentary Pensions Law (2010 Revision), and section 12 of the Public Service Pension Law (2011 Revision), the tri-annual actuarial valuation of the pension funds are necessary in order to determine:

1. The rate or rates of contribution required for the funds to meet their liabilities.
2. Whether the funds are capable of meeting their long term liabilities as at the current rate or rates of contribution. In the case of the Public Service Pension Fund, the fund must be capable of meeting its liabilities for a period of at least 40 years into the future. And at each tri-annual actuarial valuation, this 40 year capability is assessed.
3. The amount of liability arising from the actuarial valuation of the pension funds to be disclosed on the Balance Sheet of the Cayman Islands Government.

Madam Speaker, the balance sheet of the Government and the Public Service Pension Board reflects a CI\$178.3 million actuarial deficiency with respect to the three public service pension funds. The \$178.3 million figure arises from the January 1, 2011, actuarial valuation report. The next tri-annual actuarial valuation is to be carried out with an effective date of 1 January, 2014. The balance sheet of the Government and the Public Service Pension Board will be updated at the earliest opportunity following January 1, 2014, when the valuations have been completed.

Madam Speaker, it is important that I explain why the deficiency is not a cause for immediate alarm. The actuarial deficiency results from a comparison of the pension fund assets as at 1 January, 2011, and the value assessed for its liabilities that arise from future benefits due to public servants. The value of those future benefits discounted back to 1 January, 2011.

Madam Speaker, at 1 January, 2011, the three public sector pension funds had assets with a combined total value of CI\$316.5 million. The value computed for future benefits due to public servants discounted back to 1 January, 2011, stood at CI\$494.8 million. The difference between those, the

total assets of CI\$316.5 and future benefit obligations of CI\$494.8 million, equates to the \$178.3 million actuarial deficiency which I stated earlier.

It is important to note that the Government is permitted to address the actuarial deficiency over a 20 year period. The objective is to eliminate such a deficiency by the end of the 20 year period, Madam Speaker. The elimination of the deficiency will be achieved by:

1. The Government continuing to make additional or extra pension payments to the Past Service liability figure. In the present 2013/14 Budget, the Government intends to make an extra CI\$11.4 million payment towards reducing the actuarial deficiency. This \$11.4 million payment is in addition to the monthly pension payments that will be made during the fiscal year, Madam Speaker.

2. The Public Service Pension Board is expected to continue earning robust returns on the investment of assets of the public sector pension funds.

3. Conducting the tri-annual actuarial valuation to recommend the pension contribution rates required for the assets of the public sector pension funds to keep up with the value of benefits accruing to public servants on an annual basis.

Madam Speaker, a very brief history of the public sector pension arrangements will also help to explain why the actuarial deficiency exists at the present.

The current public sector pension arrangements, or benefits, were initiated in 1963, Madam Speaker. From 1963, the year pension arrangements originated, the establishment of the public service pension fund on 1 January 1990 is approximately 26, 27 years, Madam Speaker. Hence, when the fund was established on the 1st January 1990, it inherited 26 years of pension liabilities but did not have any assets to meet those liabilities. Therefore, a deficiency existed on the 1st day of the fund's existence. The fund was established with effect from 1 January 1990, but no benefits could be paid out of the fund during the 1990s since it was not capable of meeting the projected liabilities after taking into account the contributions and earnings of the fund.

During the 1990s and prior years, pension payments were made directly from the central government's general revenues. Since the year 2000, or for 13 years, Madam Speaker, pension payments have been made from the fund and not from central government's revenue. This in itself is evidence that although there is an actuarial deficiency, the actuarial deficiency does not pose any immediate financial danger to the continued payment of pensions by public sector pension funds.

Moreover, Madam Speaker, the Cayman Islands Government is ahead of many advanced countries because the Government discloses the value of the actuarial deficiency in its financial statements,

whereas, many advanced countries do not do so, thus, Madam Speaker, demonstrating a clear intention and desire to eventually eliminate the actuarial deficiency.

In summary, Madam Speaker, the existence of an actuarial deficiency is not a reason for immediate concern because the Government does have some time to eliminate the deficiency and is taking actions to do so. In the meantime payments of monthly pensions continue to be made from the public sector pension funds without difficulty.

Madam Speaker, the 2011 Actuarial Valuation Reports contain recommendation for pension contribution rates and Cabinet has accepted those recommended rates, Madam Speaker.

With respect to recommendations for the Judicial Pension Plan:

1. 10.76 percent of pensionable pay for the Defined Benefit participants is the recommended pension contribution rate.
2. 30 per cent of pensionable pay is recommended for the Defined Contribution participants.

Recommendations for the Parliamentary Pension Fund:

1. 119.15 per cent of pensionable pay for the Defined Benefit participants has been recommended.
2. 12.4 per cent of pensionable pay for the Defined Contribution participants has been recommended.

With respect to recommendations for the Public Service Pension Plan:

1. 12.4 per cent of pensionable pay for the Defined Contribution participants has been recommended.
2. With respect to the Defined Benefit participants, the contribution rates vary by employer.

For statutory authorities this rate is to be established by the Public Service Pension Board based on the results as specified in the 1 January 2011 Actuarial Valuation Report.

For central government an alternative short term financing arrangement has been agreed, which specifies contributions of [\$]23.75 million for the 2014/15 and 2015/16 financial years. The alternative short term financing plan also required pension contribution of [\$]19.86 million for the 2012/13 financial year. The arrangement also stipulated a contribution of [\$]19.69 million for the 2013/14 fiscal year.

Madam Speaker, in concluding, the Government will pass regulations to give legal effect to the contribution rates that I have just stated. Thank you, Madam Speaker.

STANDING BUSINESS COMMITTEE REPORT FOR THE THIRD MEETING 2013/14 SESSION OF THE LEGISLATIVE ASSEMBLY

The Speaker: I recognise the Honourable Premier.

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

Madam Speaker, I beg to lay on the Table of this honourable House the [Report](#) of the Standing Business Committee for the Third Meeting of the 2013/14 Session of the Legislative Assembly.

The Speaker: So ordered.

Does the Honourable Premier wish to speak thereto?

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

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

DATES FOR LEGISLATIVE ASSEMBLY MEETINGS

The Speaker: I recognise the Honourable Premier.

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

Madam Speaker, I have a short statement which I wish to make. I am pleased to make public the dates for Meetings of the Legislative Assembly for the remainder of the 2013/14 Session, and the opening of the 2014/15 Session.

Meeting dates for the remainder of the current Session are the 29th January, 2014, and 12th March 2014.

The Budget Meeting will kick off the 2014/15 Session on the 2nd May 2014. We have been working with the administration in this honourable House, Madam Speaker, and yourself to develop a calendar so that all Members of the Legislative Assembly can know when their presence will be required in this honourable House. I believe that it is only fair that everyone be made aware of these dates so they can plan and schedule their time with constituents, families and other business. Thank you, Madam Speaker.

The Speaker: Thank you, Premier.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

NATIONAL CONSERVATION BILL, 2013

The Clerk: The National Conservation Bill, 2013.

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

INSURANCE (VALIDATION) BILL, 2013

The Clerk: The Insurance (Validation) Bill, 2013.

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

NOTARIES PUBLIC (AMENDMENT) BILL, 2013

The Clerk: The Notaries Public (Amendment) Bill, 2013.

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

SECOND READING**NATIONAL CONSERVATION BILL, 2013**

The Clerk: The National Conservation Bill, 2013.

The Speaker: The Honourable Minister of Financial Services, Commerce and Environment.

Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment: Thank you, Madam Speaker.

Madam Speaker, I beg to move the Second Reading of a Bill entitled The National Conservation Bill, 2013.

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

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

Madam Speaker, I rise to present the National Conservation Bill, 2013, on behalf of the Government. With your permission I will just read the reasons: "A Bill is for a law to promote and secure biological diversity and the sustainable use of natural resources in the Cayman Islands; to protect and conserve endangered, threatened and endemic wildlife and their habitats; to promote for protected terrestrial, wetland and marine areas; to give effect to the provisions of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean region; to give effect to related provisions of the Convention on Wetlands of International Importance especially as waterfowl habitat, the Conven-

tion on the Conservation of Migratory Species of Wild Animals, the Global Convention on Biological Diversity and the United Nations Framework Convention on Climate Change; to repeal the Marine Conservation Law (2013 Revision); and for incidental and connected purposes".

Now, Madam Speaker, it is my distinct honour and privilege to be moving this Motion for this Bill on behalf of the Government to introduce a Bill for debate in this honourable House, and, hopefully, ultimate approval.

Madam Speaker, I think all Members will know that we conducted public meetings for the past week and a bit . . . well, all of last week except for Friday, and we did, lastly, East End on Monday night of this week. We have covered all of the districts, all of the Islands, other than Little Cayman specifically. And, as emphasised during the recent round of these public meetings and media appearances, which were all designed to ensure that people understood exactly what the legislation, the Bill for the proposed Law sets out, I believe that this Bill, given that it has been through various iterations over the last ten-plus years, has been thoroughly and comprehensively reviewed, commented upon, and it has benefitted greatly from the input from the wide cross-section of the community. It is a product of at least three separate Governments. The independent Members of the House have also certainly influenced, if not had their comments directly included in the Bill.

[Inaudible interjection]

Hon. G. Wayne Panton: "Influenced" is the key word, sir.

[Inaudible interjections and laughter]

Hon. G. Wayne Panton: All right.

Madam Speaker, as a result of all of this, as I said, three successive Governments, two political parties, have all had input and comment, and the result today is a Bill that has been substantially changed from the version that was introduced and first consulted on back in, I think, 2004.

Now, Madam Speaker, the refrain that I often hear from people, including some on the other side of the House, is that they are all in favour of conservation; they support conservation entirely. They think it is necessary. And then comes the 'but' . . . *but* they are not happy with certain aspects of the Bill; *but* they want to change this, they want to change that. I think, Madam Speaker, some people they would cut down an Ironwood tree so that they can sit on the stump and issue proclamations and speeches of what kind of conservations they are.

[Inaudible interjections]

Hon. G. Wayne Panton: Ironwood trees.

So, Madam Speaker, we have had ten years of discussion on this Bill. It has been amended; it has been discussed again. I do not think it is possible to amend this legislation further without rendering it absolutely useless.

We feel that what we have today and what we have presented and what we are about to debate is a Bill which reflects a substantial degree of compromise and principles that we should all be able to accept, particularly all of us who say that we are conservationists, we believe in conservation, we believe in the value to our country, to our economy, to the quality of our lives.

There is no doubt that conservation of our environment is integral to a successful economy. It is integral to our very existence, Madam Speaker. So, while I know there are some who would ask for the Bill to be delayed—some are saying three months, some are saying 12 months—it is pointless. Indeed, Madam Speaker, some are saying kill it and don't bring it back at all. But it is pointless from our perspective to take that approach and I feel very strongly that posterity will judge us as failures.

And it is not just the leadership of this Government, but many Members of this House have had some involvement in this Bill, owned this Bill to some extent or another. And it is our collective leadership that will be judged a failure if we do not take this Bill forward and deal with it, pass it into law, and finally provide something in the form of terrestrial conservation legislation, wildlife and habitat protection legislation.

Madam Speaker, just in terms of the chronology to remind Members and provide clarity for the listening public, in 1997 Government agreed to an extension of the SPAW protocol [Specially Protected Areas and Wildlife], and need for conservation legislation at that time was identified. Our existing laws were outdated and there was no appropriate legal framework to support that protocol.

Between 1998 and 2000, the first draft of this Bill was produced after consultation with key Cayman Islands government agencies that included, for example, Planning and the Department of Agriculture.

In 2002, a white paper outlining the main provisions of the Bill, along with the draft Bill, was tabled in this honourable House, Madam Speaker, by the now Leader of the Opposition (who, at that time, would have been the Leader of Government Business).

Between 2002 and 2004, Madam Speaker, there were meetings again with key government agencies to discuss details of the legislation and amend the draft Bill.

Between 2005 and 2009, the then PPM Administration conducted a detailed review on the Bill. The Bill was further amended and a new draft Bill was

then posted on the Department of Environment's website and public input was again solicited.

Following that, Madam Speaker, in 2010 there was again an extensive round of public consultation on the draft bill and that was done by the former UDP Administration (led by the now Leader of the Opposition), the First Elected Member for North Side . . . ah, West Bay. I'm sorry sir.

[Inaudible interjection]

Hon. G. Wayne Panton: You caught my attention.

[Inaudible interjection]

Hon. G. Wayne Panton: So, Madam Speaker, that is a short chronology of this Bill, the exposure it has had, the discussions it has had, the public consultation it has been subjected to. And that has all now resulted in the current Bill to which amendments were made on the basis of all of this public consultation, as well as a review by the Attorney General for human rights, compliance under our Bill of Rights in our Constitution.

Now, Madam Speaker, why do we need this law? We have in our 2009 Constitution certain aspirations described in the Preamble. It reflects how we see ourselves as a country and what we aspire to be as a country. Some of the statements that are relevant, Madam Speaker, are: that we see ourselves as a country that manages growth and maintains prosperity whilst protecting its social and natural environment. We also see ourselves, Madam Speaker, (again, quoting) as "A country that manages growth and maintains prosperity, whilst protecting its social and natural environment." (I think I have duplicated that. It is such a good statement, Madam Speaker, it bears repetition.)

In addition, Madam Speaker, there are provisions under the Bill of Rights which relate to protection of the environment. These are expectations that individuals in this country have in respect of the Government's obligation to them.

Section 18(1), Madam Speaker, reads that **"The Government shall, in all of its decisions, have due regard to the need to foster and protect an environment that is not harmful to the health or well-being of present and future generations, while promoting justifiable economic and social development. (2) To this end government should adopt reasonable legislative and other measures to protect the heritage and wildlife and the land and sea biodiversity of the Cayman Islands; that—(a) limit pollution and ecological degradation; (b) promote conservation and biodiversity, and (c) secure ecologically sustainable development and use of natural resources."**

In addition, Madam Speaker, the Cayman Islands are a party signatory to a number of multilat-

eral environmental agreements (these are international agreements, some of which I will mention in a minute) which impose obligations on the country to have legislation which protects our environment and promotes conservation. There is also, Madam Speaker, an environmental charter which was signed, I think in 2001 or 2002 (it's a matter of public record) by, again, the then Leader of Government Business (now Leader of the Opposition), which was an agreement between the Cayman Islands and the United Kingdom. Again, there are obligations on the Cayman Islands to pass and implement conservation legislation.

Now, some of the multilateral environmental agreements I mentioned earlier will include the RAMSAR Convention (formally, the Convention on Wetlands of International Importance), the Bonn Convention on Migratory Species, the Convention on Biological Diversity, the UN Convention on the Law of the Sea and the UN Framework Convention on Climate Change. Madam Speaker, I will generally refer to those as legal imperatives, legal obligations.

We also, as a Government (that is the Progressives as well as the Independent Members who form a part of the Government with us) campaigned on the basis that we had no more time to waste and we would be in favour of passing conservation legislation, specifically a National Conservation Law. We were elected on that basis, Madam Speaker. Effectively, that is a promise to the people that we made and a promise to the people that we are now endeavouring to keep.

So, Madam Speaker, we have these, what I would call legal obligations (that is the multilateral environmental agreements), the Environmental Charter, Bill of Rights, and we have the aspirational statements in the Constitution. But then we have the moral and ethical obligations that I believe we all have in this country, and that is to ensure that we leave the best of Cayman—not just what is left of Cayman—as a legacy for our children. It is the most important thing I believe we can do. That is where, Madam Speaker, I don't think we can afford to fail.

Even if we cannot leave this place a little better than we found it, let's try not to make it any worse. Let us try to leave something that the children of tomorrow can recognise as a shared experience, a shared culture, a shared connection, a shared identity, a shared Cayman, Madam Speaker. We must not, and we cannot, fail there. In an ever more crowded world where others have left a better legacy, have done a better job, our failure to do that, to begin the process as leaders of today in these three tiny Islands that we have, these jewels that we have in the Caribbean Sea, will be judged harshly. We must not fail ourselves, we must not fail our own, we must not fail our children.

It's not just the softer side of the issue, Madam Speaker, but it is the economic realities as well.

The reality is that we will not have a successful economy without proper conservation measures. Our environment has immense economic value to us and we must not forget that, as Theodore Roosevelt said: “. . . **it will be just as important to our descendants to be prosperous in their time as it is for us to be prosperous in our time.**”

[Inaudible interjections]

Hon. G. Wayne Panton: Just as important.

Getting on to some of the details of the Bill, Madam Speaker, the current legal framework that we have for conservation, as I mentioned earlier is outdated, inadequate and ineffective. We have no legal requirement for conservation consideration in our decision-making process for terrestrial and wetland environments. We have no legal protection for any native or endemic plants, including our national tree, the “Silver Thatch”, and our national flower, the “Banana Orchid”.

There is no legal protection for most of our endemic animal species. We only have protection for birds and iguanas. And our only native mammal, the bat, has no legal protection. Many other endemic species like the beautiful green anole Lizard that we have in Cayman. You remember that Caymanian, pretty green lizard with a big throat business?

[Inaudible interjections]

Hon. G. Wayne Panton: Why is their protection?

Now, Madam Speaker, an example of this is that people can come to the country today, and it has happened in the past, to collect specimens from other organisations, other countries. And there is nothing you can do about it. You can't control it, you can't stop it, the only opportunity is if they are caught while leaving the country the specimens can be taken away, I believe, under the Customs Law. But other than that, they cannot be controlled.

There is no legal framework as well, Madam Speaker, for the environmental impact assessments, some of which are very topical. We are obviously doing one in relation to the port just now. It will be done in relation to the airport's expansion as well. And there is no legal means to operationalise these concepts to bring them into effect to ensure that we have sustainable development in this country, Madam Speaker.

There is, unfortunately, currently no legal requirement, as I said earlier, for the environment to be considered alongside socioeconomic issues and factors in decision-making processes in this country. There are also significant deficiencies in our ability to even enforce the laws that we have, for example, in relation to the marine environment. Our marine enforcement officers have very restricted, or limited,

powers. The Bill seeks to address that as well very specifically.

There are many other loopholes in existing laws that may be relevant that we need to address and this Bill seeks to do that.

Now, what are the main provisions of the law, Madam Speaker? There's been a lot of discussion regarding the content. Some people think it is overly ambitious. Some have said, for example, that it should have provisions for recycling, waste management, pollution abatement, a whole variety of things like this. And some of these have been stated quite recently as examples or reasons why the Bill should be delayed or put off and reconsidered.

But, Madam Speaker, there is no reason for environmental health to fall under this Bill. It is not under the Ministry of Environment. These statements, these requests, are simply, in my mind, excuses to delay the Bill. No one has ever stated or claimed that this Bill is anything other than conservation legislation, a proposed conservation law which seeks to conserve our native biological diversity and, in so doing, give operation to the concept of sustainable development. It is not an overarching piece of environmental legislation which deals with all of these other wide ranging issues. I have great confidence that my colleague to my left who has responsibility for Environmental Health will be addressing that very shortly.

Madam Speaker, this Bill is essentially about firstly protecting ecologically viable examples of our native habitats within protected areas, providing for the management and conservation of our native and endemic species, establishing a National Conservation Council to provide technical advice to the Cabinet as well as other entities making decisions in the country which have an impact on the environment.

It also seeks to insert consideration for the environment in national decision-making processes by requiring all government agencies and entities to consult with the National Conservation Council before making a decision, approving any plan or taking any action which may impact the environment. And, Madam Speaker, while I am on that let me just say quickly, there is a "Gentleman's Agreement" in place today (and I will probably mention it further on) through which decisions which potentially have an impact on the environment such as planning decisions, for example, where any proposals that are received in respect of those before the decisions are made will be sent to the DoE [Department of Environment] for review. It is all currently a part of the process but there is no legal basis for that. There is no legal underpinning for that.

So, Madam Speaker, another feature, as I mentioned earlier, is that the Bill seeks to recognise the Department of Environment's conservation officers and provide them with the requisite powers to enforce the law. Essentially it proposes to give conservation

officers the same powers as constables so that they may do their job appropriately. One of the issues that has come out and seems to be common whenever there is a public consultation is that people feel that, particularly the Marine Conservation Law, rules and regulations, are not being enforced appropriately. A part of the reason is that the conservation officers have these limitations and restrictions on their abilities to do their job properly, which this Bill seeks to address.

Lastly, Madam Speaker, the Bill seeks to create a mechanism for management of the Environmental Protection Fund and appropriations made from it.

Now, during recent weeks the public consultation process, the road trip that we have been on through the various districts, the media appearances, we have talked to and listened to many people and it has become clear that there is a huge amount of misinformation regarding the Bill which is repeated and perpetuated by those who oppose it—including, unfortunately, a significant media house in the country. And obviously for some people that has created some genuine confusion and misunderstanding.

I would like to now outline some of the provisions of the Bill in respect of, particularly, the areas that were identified to us as creating or being the basis or foundation for some of the misinformation and confusion. I think as I talk through this, Members will see also . . . I will indicate where we have indeed taken on board some suggestions that have been put to us, that we believe enhanced the legislation, enhanced the operation of the legislation further.

I would refer to Part 3 of the Bill, Madam Speaker, which is "Conservation of Land", specifically dealing with the protected areas designation. Now this one has been one that has been significantly abused by certain people, and it has been used to create a lot of confusion and fear. I don't mind repeating, for probably the 500th time over the last few weeks, Madam Speaker, that the Bill makes it very clear that only Crown land may be designated as a protected area, and that it is Cabinet, under the Bill, not the National Conservation Council (NCC), which has the authority to designate an area as a protected area.

Madam Speaker, section 9 of that Part sets down the designation process in some detail, beginning with the fact that anyone, including any person, a member of the public or an organisation or the National Conservation Council on its own initiative can identify and recommend to the NCC that an area of land be considered for protection on the basis that it has some significant environmental value.

It goes on to require that proposals are evaluated by the Council, as well as it provides that the landowner of any private land, any area which is private land under consideration, be notified and consulted in respect of his or her willingness to sell the land to the Crown at fair market value. Madam

Speaker, the Council under this section is required to evaluate any such proposal in respect of any area identified as having potential environmental value against the specific criteria which was set out in section 8 of the Bill.

Section 9 also provides that the National Conservation Council will hold public meetings, or there will be a public consultation process and they may hold public meetings to assist in evaluating this proposal. In addition, it is a requirement that a notice is published in two issues of a newspaper in two consecutive weeks which identifies the area under consideration and specifies where, including a place in a relevant district, the proposal can be reviewed by the public.

The Council, Madam Speaker, may also use the public input to amend the proposal before sending any recommendation to Cabinet for a designation order.

[Inaudible interjection]

Hon. G. Wayne Panton: I will mention shortly, Madam Speaker, that there will be a committee stage amendment to specifically address some of the concerns that have been expressed; that somehow consideration of a particular parcel of private land to assess its environmental protection value means that the Government could utilise the Lands Acquisition Law for a compulsory acquisition of that land if the landowner does not want to sell. There is no mechanism in this law in that respect, Madam Speaker.

The Lands Acquisition Law is older than I am and it has . . . except for one small example that I have identified it is only ever been used in respect of roads acquisition or road corridors. There is one narrow example that exists in relation to a piece of beach land that was taken through that process to provide a public beach in Bodden Town, the Coe-Wood Beach, because the owners, I understand, had not been contactable or in touch with anyone for many years.

[Inaudible interjections]

Hon. G. Wayne Panton: So, Madam Speaker, moving on, section 9 is not going to be used to take people's land in conjunction with the Lands Acquisition Law. As I said—and will repeat again—there are no provisions in this Bill which facilitate or indicate that the Lands Acquisition Law will be utilised to take or acquire someone's private property. The Bill is very clear that protected areas will only be considered in respect of Crown land. So, any designation will not occur unless . . . and as I said, there will be a committee stage amendment to make it clear that a private landowner who indicates in writing that they are not interested in selling any land—irrespective of whether it has identified environmental value—if they do not

wish to sell it that would be the end of it. No recommendation will be made to Cabinet.

Of course, Madam Speaker, the purpose of the public consultation process is to see exactly what concerns people have. And if this is an area which has been identified as some concern, amendments are considered to try to address those concerns.

Madam Speaker, moving on, conservation areas are also provided for under this section, and that is where a private landowner who recognises the inherent environmental value of his land and does not wish to sell his land but wishes to enter into an agreement with the Government, an agreement to be called a "conservation agreement" through which the landowner and the Government will agree that Government can assist in managing the land to ensure that its environmental value is preserved. That agreement, Madam Speaker, may include a range of terms, including financial compensation for the landowner.

Madam Speaker, I will move on to Part 4 which deals with "Conservation of Wildlife". This is another key component of the Bill, in that it seeks to protect, put in place protection provisions for our native and endemic species of plants and wildlife. Unfortunately, there are some areas here in this Part which have been abused in terms of misinformation and fear-mongering as well. We have heard all sorts of allegations in respect to the effect of the species protection provisions, and I am referring to the bugs, slugs and whatever else it was described in some of the editorials in the public paper—

[Inaudible interjection]

Hon. G. Wayne Panton: You're looking straight ahead, sir.

—suggesting that people will be arrested if they accidentally step on a bug or a species that is protected, and that this will somehow completely sterilise their land. And I guess if the allegation is going to be "stepped on it", it might be an allegation that they "paralysed" them as well and they can't move around. But that is far from the truth, Madam Speaker. These allegations, the statements that are made have gone from the sublime to the ridiculous at times. I would like to, therefore, take a few minutes to say exactly what the Bill says.

There is a productive species Schedule, Madam Speaker, which lists all of the species protection provisions. And it is made up of species that are endemic—that is, completely unique to the Cayman Islands—species, which are already protected under Cayman law and species which are subject to international protected measures as well. The Bill requires that the National Conservation Council develop conservation plans in respect of each of the species contained in the Schedule. And it is these plans, Madam

Speaker, which will outline the specific management interventions that will apply to particular species.

The conservation plans will also be required to identify whether there is any critical habitat in respect of a species that is applicable to the species in question. Not all species, Madam Speaker, are going to need, or will have, critical habitat identified within the Cayman Islands. Some are diversely located. Some are very narrowly geographically constrained. The more they are constrained, the more the possibility that there may be critical habitat issues. And they would be identified under the conservation plans.

Most importantly, Madam Speaker, these species conservation plans are not just made up and dreamt up and signed off behind closed doors. The Bill requires that each plan be put out for public consultation, for public review and input before being approved by Cabinet—not by the Council, not by somebody else, not by DoE, by Cabinet. The mere presence, as I said before, of a protected species on a piece of land does not mean that there is any special protection status conferred on the land. That can only be achieved under Part 3 of the Law in the manner in which I mentioned earlier in relation to protected areas under section 9 and protected areas can only be owned by the Crown.

I have been mentioning the National Conservation Council that is created under the Bill, Madam Speaker, so, I would like to turn to that in some detail for a few minutes because it has also been the subject to some discussion. I think one of the issues is—and I've had it put to me in some representation—that the Council is powerful. That is so far from the truth. The Council will not actually be making any decisions. You have heard earlier that these decisions are going to be made by Cabinet. Ninety-five per cent, perhaps more than that, of the work of the Council in respect of matters which involve impact on the environment will be advisory only.

Madam Speaker, in fact, that provision was changed. It was prior to 2009. I think it was back in 2005, 2006 during the time when the then PPM Administration considered the amendments to the Bill before they put it out for public consultation. So, that has existed, that concept has existed for a very long time. It has certainly existed as long as the previous Government was in office and dealing with this Bill in terms of the public consultation that they were involved with in 2010.

Hon. W. McKeeva Bush, Leader of the Opposition: You sit down there. If you think they are [INAUDIBLE].

The Speaker: I believe this is an appropriate time for the luncheon break. We will convene at 2:00 pm.

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

Proceedings suspended at 12:36 pm

Proceedings resumed at 2:43 pm

The Speaker: Proceedings are resumed.

I invite the Honourable Minister to continue his debate.

BILL

SECOND READING

NATIONAL CONSERVATION BILL, 2013

[Continuation of the Second Reading debate]

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

Madam Speaker, when we took the break I was about to talk about the National Conservation Council which is proposed to be created by this Bill. Madam Speaker, the makeup and functions of the National Conservation Council is another area where there has been criticism by those who oppose the Bill. There have also been questions, which I take as genuine questions to seek clarity on it. But I think in most cases when people refer to the Council in their questions, and in their public commentary when they refer to it as all powerful or an all-powerful body made up of a majority of civil servants, I think it is quite clear that they are not simply seeking clarity, they are seeking to make an issue because they are opposed to the Bill.

For clarity, Madam Speaker, the Bill sets out the Council membership as being 13 members who are made up as follows: There are five civil servants from relevant areas. That would be the Director of Environment or a designee; the Director of Planning or a designee; the Deputy Director of Research in the Department of Environment; the Chief Officer of the Ministry; and the Director of Agriculture. There is also one person who is nominated by the National Trust, but appointed by Cabinet, in addition to seven other members who are appointed by Cabinet. And the Bill provides, Madam Speaker, that of the seven additional private individuals, three of those should have relevant technical or scientific expertise.

Now, Madam Speaker, some of the comments I received have reflected obviously a complete misunderstanding. I have seen comments suggesting that, in light of that composition, it means that the civil servants are somehow a majority. I think those comments are based on a conclusion (although what I have seen has not said so) that because the quorum for the council meetings is a simple majority (i.e., 7 members of the 13), that somehow five civil servants are always going to turn up and they will always then be a majority at the meetings. I seriously doubt that

that will be the case. In practice, civil servants are as busy as anybody else, and civil servants are sometimes as unavailable as anyone else. Certainly, they are also just susceptible to illness and other circumstances which prevent their attendance as anyone else.

Hon. W. McKeeva Bush, Leader of the Opposition: The DoE is very much in attendance [INAUDIBLE].

Hon. G. Wayne Panton: I hope so.

Now, the important point, Madam Speaker, is that all key decision-making power is vested in Cabinet or the entities that are consulting with the National Conservation Council.

In respect to decisions like designating protecting areas, approving species conservation plans, and therefore also approving any critical habitat areas, those decisions are exclusively for Cabinet. The Council does not make any decision in that respect. It makes recommendations and it gives advice to Cabinet and those decisions are made.

So, the Council is purely a technical advisory body for the vast majority of the time. The only time, Madam Speaker, that the Council would have any real authority is in relation to applications which have an impact on protected areas or critical habitat areas that Cabinet has already gone through with the assistance of a significant public consultation process and made a decision that those should be protected areas and critical habitat areas. So, the Council's only real authority under the Bill is for the purpose of protecting areas that Cabinet has already deemed should be protected with the assistance of the public.

Now, there are permanent provisions for the Council, licensing provisions for the Council which relate to the existing provisions under the Marine Conservation Law and the regulations under the Marine Conservation Law in relation to things like licences for fish pots, speargun licences, those sorts of stuff. But other than that, the Council is advisory and the majority of the time it is giving advice only to Cabinet and any other entity that may be making a decision in relation to matters which can have an impact on the environment in this country.

Now, it is a little bit amusing, Madam Speaker, that certain Members on the other side only this morning were claiming that this was a recent change, that is the elevation of any authority from the Council up to Cabinet. That change was made to the draft something like six or eight years ago now, and the version of this draft which went out to public consultation in 2010 certainly had that provision in it. So even as far back as that time the Council had no real authority and it was 95 per cent and purely an advisory body.

So, just to clarify again, Madam Speaker, the only time, outside of issues in relation to protected areas and critical habitat areas (which they have the

authority to protect by virtue of Cabinet's decision to make those areas protected) is in relation to the issuing of licences and permits which relate primarily to the Marine Conservation provisions.

Madam Speaker, it is also important to note that all Council decisions are appealable to Cabinet, or will be appealable to Cabinet by virtue of section 39. And section 49 empowers Cabinet to issue directions to the Council in the public interest. So, clearly, Madam Speaker, this Council is intended to function in a technical and scientific capacity providing advice to government agencies and entities on habitat and species conservation and environmental management issues. It is not primarily a decision-making body other than in respect of Crown-owned protected areas and the critical habitat of protected species which has been approved by Cabinet. I stress that over and over, Madam Speaker, to try to drive the point home because in a number of our public meetings the same question was raised over and over and over, even by the same people who attended a number of the public meetings.

Now, in relation to the functioning of the Council, great care, therefore, needs to be taken to ensure that the technical and scientific advice is not watered down by the consideration of interests other than environmental interests primarily received by the agencies and entities that take the advice of the National Conservation Council into account along with the other things such as socioeconomic factors that help them to make their decisions and reach their conclusions.

Madam Speaker, there is section 41 of the Bill which imposes an obligation on all entities to consult on environmental issues before approving plans or projects. I mentioned the Gentleman's Agreement earlier, and I will mention it again. But, suffice to say at this point, this is where we will be putting into law and giving this Gentleman's Agreement statutory legs, making it a legal obligation for entities that are making decisions which have an impact on the environment, should have information which can provide consideration for the environment in their decision making to consult with the Council.

Now, Madam Speaker, in addition to this concept of the Gentleman's Agreement, this is where we are also addressing some of the legal obligations that the country has by virtue of these multilateral environmental agreements. Also section 18 of the Bill of Rights as well, and this will be where we be effecting an approach to sustainable development at a statutory legal level, by placing and injecting environmental considerations—not above, not below, not secondarily—at the same level as other factors considered in making decisions on matters in this country, particularly in relation to the development approval process.

Section 41(1), Madam Speaker, places a general obligation on government agencies and entities to consult before approving plans.

Section 41(2) allows the Council to effectively give guidance to entities of what their obligations are under the law and how they comply with those obligations.

Section 41(3) mandates that the current level of consultation (in relation to this Gentleman's Agreement) continues, and is made consistent, because in practice today, Madam Speaker, it is not something that is done on a consistent basis. It is very often done but it seems it is not entirely consistent. It should be consistent, and this Bill will require that it be done completely on a consistent basis.

The advice which is given by the National Conservation Council in relation to proposals or actions which may cause harm to the environment must be taken into account by the entity which is making those decisions. But it is clear from the language that it is non-binding. They can take it into account, they can decide it is not relevant, or they can decide to what degree they want to consider it, but it is not binding.

In earlier drafts of the Bill, Madam Speaker, it was considered to be binding. This is one of the areas where over the last ten years we have significantly watered down (for lack of a better expression) the strength of the provisions so that at this point the advice that is being given to entities in respect of decisions which have a potential impact on the environment are effectively non-binding. The law will require that it takes that advice into account only; it does not say that that advice shall be paramount, shall prevail, shall hold the day, shall dictate the decision. It does not say that at all. It is essentially non-binding.

Now, the one caveat there, Madam Speaker (again, this is repeating the point that has been made a few times earlier), in section 41(4) the Council can be asked to give the same advice if that advice, or that proposal in respect of which it is giving advice, has an impact or a potential impact, negative impact on a protected area or a critical habitat area. And again, these are areas that with the assistance of significant public consultation, Cabinet has deemed it appropriate to protect them, to designate them as protected areas or critical habitat areas. It is only in that case where the action being proposed has a potential negative impact on either one of those two areas that the advice of the Council is required to be followed.

So, the Council can consider such an action or proposal, and if there are ways to mitigate the effects of those actions on a protected area or a critical habitat area, or, indeed, to eliminate those impacts, then the Council will undoubtedly provide advice to that effect. If after due consideration there is no possibility of mitigating the negative effects, or eliminating the negative effects, then the Council has the ability to

say, *No, that proposal can't go forward as structured or as planned.* It would have to change so that they could reconsider it to see if there is any other way that they could mitigate the negative effects. But again, Madam Speaker, just stressing, this is where the Council is acting as the surrogate of Cabinet to protect the areas that Cabinet has said must remain protected after public consultation, public input. Protected areas will always, by virtue of this Bill, be Crown property. It is possible that critical habitat areas could be on private land, however.

Now, Madam Speaker, Part [7] of the [Bill] in section 43, gives the Council the ability to require environmental impact assessments for certain types of development. Now a decision to require an environmental impact assessment is a technical decision. And this is the way it is in all jurisdictions where this methodology and this procedure, as far as we are aware, is conducted and implemented. We already have a number of examples of significant projects in this country where there has either been an environmental impact assessment in progress, completed, or contemplated. So we certainly have a lot of examples of the sort of circumstances under which that arises.

And, Madam Speaker, the Department of Environment, as a result of the previous consultations in 2010, have had drafting instructions for the environmental impact assessment [EIA] process on their website. They have also had a flowchart showing the decision-making structure and process on their website, and indeed these are the guiding principles that underpin the environmental impact assessments that have been conducted and are contemplated being conducted in this country at this point in time.

So, it would have to be a very significant project. It would have to be circumstances where the Department itself feels that it is unable to properly make any sort of assessment. It would have to be a very large project on the order of the port, the airport expansion and that sort of thing before any EIA. And that today is effectively the kind of circumstances under which we would pursue an environmental impact assessment as it.

Madam Speaker, it is also important to note that these environmental impact assessments are simply tools to help make decisions. They do not make the decision for us. There is no programme where you punch in factors, you punch in numbers, you punch in circumstances and the answer pops out. It is data, information which assist in making the decisions and, therefore, it is purely a tool for that process. The decisions will continue to be made by the entities that are involved whether that is the Central Planning Authority (CPA) or the Development and Control Board in the Brac. It might even be Cabinet.

Madam Speaker, the recognition of conservation officers and the provision of powers in respect of those officers is obviously one of the very important

features of the Bill as well. Conservation officers are not recognised currently in any other legislation and they have no powers other than those of volunteer fisheries officers under the existing Marine Conservation Law which is in place.

[Inaudible interjection and laughter]

Hon. G. Wayne Panton: Madam Speaker, for the benefit of Members who apparently were not listening, we are talking about conservation officers and not the National Conservation Council.

Hon. W. McKeever Bush, Leader of the Opposition: You think everybody not listening, but we are listening.

Hon. G. Wayne Panton: Conservation officers, Madam Speaker, right now have restricted or no powers to enforce the laws of this country in relation to conservation matters. It is a point that has been driven home, it is an issue that has been raised by everyone at every public meeting that we have had. Every public consultation we have had, every opportunity that we have had to engage people in whatever media, the same issue has been brought up.

The people of this country feel and want better enforcement powers for conservation officers. Who wouldn't? They want to see the laws of the country enforced appropriately. They recognise the inherent value of the species that are being protected by the laws. And at this point we are unable to properly and effectively protect them because of the limitation on the powers of conservation officers. So, this Bill will give conservation officers the powers necessary to enforce the law. I think they will have the same powers as a constable to effect arrest.

Very importantly, the definition of "arms" under the Bill does not include firearms. That was a point which I think was raised a few times; concerns about conservation officers having firearms. So, by the definition of arms, that is excluded. But in addition to that, there is a specific provision under the Bill which says that they will not carry firearms. So, this Bill, Madam Speaker, seeks to provide enforcement officers with the reasonable powers to enforce this law, the provisions of this Bill and the regulations under the Marine Conservation Law which will move across once this Bill becomes law.

There is one section of the Bill which has caused some concern. We have had several people in the public mention it, and that is section 32(2), which essentially shifts the evidentiary burden from the enforcement authority to the individual in respect of offences in protected areas.

This proposal was included, Madam Speaker, to allow better enforcement of the provisions that apply to protected areas. What has happened in the past

is that you have a boat either anchored or drifting, individuals in the water, individuals in the boat wet, they have specimens, they are in a marine park and an officer approaches and the explanation is, *We didn't get these here. They didn't come out of the marine park, they came out of the area which is a take zone as opposed to a no-take zone in the marine park.* So, it has become very difficult to effectively pursue enforcement in those sorts of circumstances.

The proposal to shift the evidentiary burden exists in a number of other provisions in the laws of the Cayman Islands. It is not breaking any ground; it is not a new concept or a new provision. The individual's rights are obviously of concern but they are protected through the normal scrutiny. Obviously, the officers have certain discretion when they approach people. They will typically be observing people that may be . . . and this may be relevant too. So they exercise a certain level of discretion in ascertaining whether or not someone should be stopped or whether someone should be arrested.

Of course, there is the normal scrutiny of the directive, Public Prosecutions Office, that is applied to all matters brought before the courts in Cayman or indeed, simply ascertaining whether a charge should be brought at all. In which case they will not be brought before the courts of the Cayman Islands, because the Director of Public Prosecutions (DPP) may decide that the circumstances in the evidence do not warrant that; do not support that sort of action.

Now, Madam Speaker, there is also a mechanism for management of the Environmental Protection Fund under the law. And sections 46 and 47 make provisions for the continuation of the Environmental Protection Fund as a discretionary reserve under the Public Management and Finance Law (PMFL).

Madam Speaker, before my colleague, the Minister of Finance, raises his eyebrow in concern, let me say quite clearly that it provides that appropriations from the fund go through the normal budget process and they are subject to the normal process of appropriations by Finance Committee. The Council is then charged with managing any such funds that are appropriated by decision of the House in Finance Committee at the direction of Cabinet.

Madam Speaker, I think the issue of land acquisition that was mentioned earlier has been addressed and dealt with. I have mentioned the amendment that is being proposed in respect of that. So, I do not believe that anyone can maintain any basis of an argument that this Bill includes any provision for acquisition through some kind of mandatory process under the Lands Acquisition Law. There is nothing in here which contemplates compulsory acquisition at all. In fact, it is quite clear by the terms of the Bill that it is entirely Crown property that will be considered. Where there is any private property it will only be considered after it becomes Crown property through a

normal negotiation for the purchase of that land on normal commercial terms. And, of course, that requires a willing buyer in the form of government, and it requires a willing seller in the form of the individual private landowner.

The statements, Madam Speaker, that the Council is all-powerful; again, I think we have addressed that. The reality is that this Council in 95 per cent of the time, or 95 per cent of the occasion of which it considers any matter, any application to any entity of government, is going to be purely advisory. I think the *Compass* at some point over the last two weeks concluded—I'm not sure how they did that, how accurate they are in their conclusion—suggesting that only 6 per cent of the land in the Cayman Islands is Crown land. In that case, it is only going to be a very, very small number of applications which may have some direct impact on protected areas given that protected areas have to be Crown land at the time of designation.

As I said, again, I think it bears repetition: The only circumstances in which this Council has any power is where it is acting as surrogate for Cabinet to enforce the protected areas that Cabinet has designated as such, and the critical habitat areas that Cabinet has designated as such.

[Inaudible interjection]

Hon. G. Wayne Panton: On Crown land in respect of protected areas.

[Inaudible interjection]

Hon. G. Wayne Panton: Madam Speaker, the other important thing that I want to stress which will be a result of a committee stage amendment that we are proposing, is that the actions, the meetings, the agenda, the Minutes reflecting decisions of the National Conservation Council entirely public. The meetings will be open to the public. And I think that will be the first board or council, or any such thing in the Cayman Islands, that will operate in that manner. Complete transparency. So, there is absolutely no opportunity and no need for anyone to have any questions of trust, Madam Speaker.

I think I want to stress as well, Madam Speaker, that, we are proposing through an amendment to extend the time for appeals to a total of 21 days. In one case it was 10 days in the draft bill, in another case it was 14. They are both now being extended to 21 days and that reflects . . . sorry, there will be . . . that's the proposal which reflects comments from some of my colleagues, and it reflects comments from some member to the public as well.

I am near to finishing, Madam Speaker, but I just want to make one or two other points very quickly.

Because the process that the National Conservation Council will be engaged in with entities in this country of making decisions is, by and large, operated through this Gentleman's Agreement that exists, there should not be any change to the process, to the timing. And there should not be any issues or arguments about expense because effectively the Council is going to be in the place of the Department of Environment that currently does this work. And the input, the conclusions are not going to take any longer.

The circumstances under which an environmental impact assessment could be required or might be required, is then only in respect of very significant, very large projects, as it should be. We have taken that approach in all of the large projects that have been proposed in this country over the last few years as well. The one important thing to stress is that this Bill is now going to give complete clarity, complete certainty to developers who come along with their proposal which will require an environmental impact assessment. In the past, or today without this Bill, a developer could go into planning. One day they might get a decision which will say that they need an environmental impact assessment and tomorrow—under the same circumstances but a different developer—there may be a different decision which says that they do not need an environmental impact assessment.

Developers want certainty. Any business people want certainty. This Bill will provide the certainty and the clarity that the process is fair and consistent for everyone.

Now, Madam Speaker, I would like to just note that there have been many, many individual members of society who have written expressing great support for the Bill. I have had comments as well from some of the trade associations. It's probably split. Some are suggesting there should be a delay on the Bill, but they are not opposed to conservation. There's probably one who is saying that they do not want to see the Bill at all. The rest, some of whom have gone public (and I feel like I can mention them), the Caymanian Bar Association, CITA; that was the one I was trying to remember. Sorry. Yes, the Cayman Islands Tourism Association (CITA) was the last one. CASE is the one I was trying to remember.

[Inaudible interjections]

Hon. G. Wayne Panton: Cayman Architectural Society and Engineers. Yes.

So, we have a number of associations who are in favour of it. We have some that are not in favour of taking it forward at this point. We have probably just one that I am aware which says: *Don't do it*. But we have a whole vast array of individuals, private individuals who are taking the view that it should be supported.

I think, Madam Speaker, that that gives me a lot of confidence. It gives the Government a lot of confidence that it is the appropriate thing to do, it is the responsible thing to do, it is the right thing to do. And I think before I close, Madam Speaker, I do think I need to again stress one particular point, and that is in relation to the Marine Conservation Law, and what happens to the Marine Conservation Law if and when this Bill passes.

The proposal under the Bill, Madam Speaker, is that the Marine Conservation Law will be repealed. The regulations which currently exist under the Marine Conservation Law will, by virtue of section 51—

[Inaudible interjection]

Hon. G. Wayne Panton: Sorry?

[Inaudible interjection]

Hon. G. Wayne Panton: —will be saved. I'm being told the correct terminology is "saved." I would just say it slides across so that people will understand. It comes underneath. Those regulations that exist under the Marine Conservation Law will exist after, if and when the Bill is passed under the National Conservation Law. And they will continue to exist unless and until Cabinet makes any changes to them.

There is one point that relates to some changes to regulations which will need to be made to preserve the current position under the Marine Conservation Law, and that is as a result of certain provisions which exist under the Marine Conservation Law itself. I think they relate to certain things like catch limits on lobsters, for example. They will have to be into the regulations in order to ensure that the status quo is maintained. So, the important point is that no changes are being proposed in respect of the Marine Conservation regulations and the species restrictions, limitations, catch limits, locations, except that some of those limitations and restrictions are currently in the Marine Conservation Law itself, as opposed to the regulations. So, if the law is repealed then we have to put those back into the regulations.

[Inaudible interjection]

Hon. G. Wayne Panton: Always did.

So, just for clarity then: There was earlier this year a public consultation in respect of a proposal to enhance our marine park environment. None of those proposals will be reflected in the regulation that will exist once, if and when this Bill is passed under the law that will be created; the National Conservation Law. So, I know that there have been public meetings, discussions where these issues have been conflated and people have said that this Bill is going to change some of the marine conservation regulations as had

been discussed in the marine Parks enhancement proposal. That is not the case. None of those things are being changed. The proposal that did exist in relation to marine parks, or marine parks enhancement, will at some future date go back out to public consultation for discussion amongst all of the districts.

The rationale there, Madam Speaker, is when we put in place the marine parks 25 to 26 years ago, 1986 I think it was, thereabouts, it was essentially guess work. We have now had the benefit of empirical data, scientific assessment, and, as controversial as it may have been at that time, those people who expressed views against the proposal back then will now tell you . . . and there are people who are on CIG TV who have expressed these very sentiments. They were against the proposal in the past when they were first in effect. They now realise the value of those and support the consideration at the very least of any future changes.

So, based on the empirical data that exists today, the scientific assessment that has been conducted and the evidence, while the parks have been very successful, they have not solved all of our problems. And the same way this Conservation Bill as a whole will not solve all of our problems, it is a first step. It is a necessary step; it is something that is essential for all of us as leaders to leave that legacy for the future.

The Bill is a compromise. It certainly has its fans on either side.

[Inaudible interjection]

Hon. G. Wayne Panton: I say that facetiously, of course. There are those who love the Bill. They think it is the right balance, does the right thing. There are those who hate the Bill for different reasons. Some think it goes too far. Some think it is absolutely not far enough. And usually when you are in the middle somewhere, you sort of think you probably got the right balance and the right time to implement this kind of legislation as a first step, as a measure that is, we feel, appropriate.

While this Bill is about today, it is certainly about today, it is largely about tomorrow. And if we are not smart enough to start taking this issue more seriously, then our tomorrows are going to look entirely different. This Bill is not going to be the death knell for development in this country. This Bill is about making sure that development can occur in a sustainable way. It is about making sure that development takes into account the environment in a responsible way. It is not about dictating anything. It is about injecting the information, the data, the appropriate consideration so that decision-makers can say that they have information which is helpful to them in making decisions which reflect the right balance, Madam Speaker.

We have a duty, and it is not only this generation but future generations—our children and their

children—to ensure that this country remains the kind of country we have today, that it has a healthy functioning environment and that we have a healthy prosperous population. That can only occur when we have the injection of the right considerations at the right time without any dictate. Of course, we have all of the legal obligations—the Bill of Rights, our constitutional aspirations, the multilateral environmental agreements; the Environmental Charter that was signed with the UK. Those are imperatives, yes. But, to me, the most compelling one is the legacy that we leave for our children and what adds to our quality of life.

The things that make up our natural world, that are part of our psyche, help to define as a people. And we need to preserve some of those special things, some of those special areas that we cherish, our children will cherish, and the resources that we use, that we enjoy to sustain us. Because all of that is an integral part, Madam Speaker, in our identity as Caymanians, and provide us all with a common reference point.

I thank you very much, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Member for North Side.

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

Madam Speaker, I wish to make a short contribution to the debate on this Bill entitled “A Bill for a law to promote and secure biological diversity and the sustainable use of natural resources in the Cayman Islands; to protect and conserve endangered, threatened and endemic wildlife and their habitats; to promote for protected terrestrial, wetland and marine areas; to give effect to the provisions of the Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean region; to give effect to related provisions of the Convention on Wetlands of International Importance especially as waterfowl habitat, the Convention on the Conservation of Migratory Species of Wild Animals, the global Convention on Biological Diversity and the United Nations Framework Convention on Climate Change; to repeal the Marine Conservation Law (2013 Revision); and for incidental and connected purposes.”

Quite a mouthful, Madam Speaker!

We call it “The National Conservation Law.” And we sell it to the public that the purpose of the Bill is to conserve for future generations. And we worry about our children and grandchildren.

Madam Speaker, oh what a day of rejoicing this will be for the conservationists. They’ve finally found a Minister who is new enough, probably did not have time in his life before politics to pay much attention to these conservationists, to be cajoled into pre-

senting this draconian Bill. You heard the title. Only a dragon could fit that description. A Bill, that in my view may be ultra vires with the Constitution in that it facilitates, authorises and enables a Council established by this [Bill] to issue directives to the Office of the Director of Public Prosecutions, the Audit Office, the Office of the Complaints Commissioner. And, in accordance with the law, they shall comply with those directives.

Now, Madam Speaker, the mover of the Bill says he has filed some amendments and I think one of his amendments is to try and get around that unconstitutionality of this Bill, which up to this point was the best Conservation Bill that has ever been drafted in this country.

Now, Madam Speaker, I will get to the definition of “directives” as is found in that dictionary later, because it is being promoted that directives are really not forceful things, they are just advice that somebody might want to give you, and you can ignore it or not. But, Madam Speaker, on the other hand, what a day of lamentation it will be for private landowners and their ability to extract economic benefit from their land in the future, especially those landowners in North Side who I represent, as well as those in East End and Bodden Town.

Now, Madam Speaker, it is necessary, and I crave your indulgence, to set the context of these landowners’ opposition to this Bill. And the opposition has never been against conservation or a conservation bill. The opposition has always been about specific provisions of the Bill, which, in our view, threaten our ownership of land and our ability and our grandchildren’s ability to extract economic value from that inheritance 20, 30, 40 50 years down the road.

Madam Speaker, we understand that as the developers and owners of land in George Town and West Bay extract their economic benefit, regardless of the destruction of the environment, it is going to be a continual exercise by those very people in supporting the conservationists to take it from us to appease their consciences so they can have something to show their children that we have saved.

We are the ones who have conserved to this date. We are not anti-conservation; we simply believe that it is possible to have conservation on private land.

Madam Speaker, I know that the Minister has said, as has the Director of Environment at all the public meetings, that there is no intention to acquire peoples’ land. I need him to repeat it a couple of more times because I do not believe him. Our position is that the law facilitates it. And even the amendment that he has filed, which I will get to in a little while, only goes half way because it retains the troubling part in the clause above. And I believe he has the clause wrong but we will get to that later. We can straighten that out in committee.

Madam Speaker, this Bill is the final attempt by these conservationists to get control of our land in North Side and East End.

Madam Speaker, they started in 1970 with a cadastral survey. When, all of a sudden, swamp land in West Bay, George Town was valuable privately owned land. As soon as they got to Crewe Road, anything that sat in water was for the government. And it led to probably the biggest demonstrations this country has ever seen. And then, Madam Speaker, we turned them back on that and laid claim to our land. Of course, the conservationists supported by the judges still took plenty land from people. My family alone, in a court case they awarded 600 acres of waterfront swampland in the north sound to government and gave us a 30 foot right of way along the side of it to get to the rest of our land. So, when they talk about *they don't intend to take it*, we are going to demonstrate that not only do they intend to take it, but they have taken too much already.

When we had the buffer zones under the Development and Planning Law, 300 feet around George Town and West Bay was okay. Got to North Side, it had to be 1,000 feet. So we have given up lots already. We ain't giving up any more.

Then we went through the various development plan exercises and zoning where we had overlay zones from Rackley Canal straight to Frank Sound Fire Station. You get to some of those people that are advocating land, follow the boundary for thousands of feet right around it and come back and take more of those North Siders' land again. No, nothing in that property that needed to be protected. That was their land. So, Madam Speaker, when we speak that we believe they want our land, we have plenty of precedence to fall back on.

When we had the first Conservation Bill, we had to turn that back. We had to collect 2,200 signatures. And then we had the second one, the 2009 Bill. And I heard the Minister say that there was lots of public consultation on that Bill. I don't recall too many meetings in my constituency about it, though. And, Madam Speaker, I am going to show, before I sit, that this Bill in some respects is worse than the 2009 Bill. In the areas which concern us, it is worse! And I will start right now.

If you look at the definition of "entity" in the current Law, it includes the Director of Public Prosecutions, the Audit Office, the Office of the Commissioner and Cabinet. The Minister filed an amendment . . . which he was telling me in North Side . . . but that wasn't what he said, though, you know. But they have found out now . . . some of their legal minds over there figured out that this really was not right in the last couple of days so they bring down amendments at ten o'clock this morning to change it back.

In the 2009 Bill, if you check the definition of "entity" it means "**any ministry, portfolio, statutory**

authority, government company, the Office of the Complaints Commissioner and the Audit Office."

No Office of the Director of Public Prosecutions and no Cabinet. But they tell us now . . . the Minister just repeated—unfortunately more times than he repeated that they were not going to take my land—that the Council do not have any power. I need him to repeat that he is not going to take my land a couple of more times, because we believe—

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh I know they are going to try to take it. But we believe that intentions can be binding if we get them recorded in this Hansard here today that they do not intend to take people's land. I hope that the rest of the Ministers are also going to get up and make it clear that they are not supporting the Bill to take anybody's land.

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh we know that. We are going to spend plenty money in that courthouse.

And, Madam Speaker, when I get to deal with the Council under Schedule 2, that he claims has no more authority, it's just advisory, it is an innocuous body that is not going to do anything, that too is worse in this Bill than it was in 2009!

Hon. W. McKeeva Bush, Leader of the Opposition: Sure it's worse.

Mr. D. Ezzard Miller: Well, I will tell ya that in 2009 at least *unna* had a representative from Cayman Brac and Little Cayman on it. You don't have that in this Bill.

I have filed an amendment to give us a representative from each district on it. Because, we believe that the owners of private property and the people that we represent have a right to be involved in these decision-making processes, and it is not done entirely by a bunch of technocrats who want to create a silo for themselves. Because when this mushroom cloud at the top of that silo that we are creating here today explodes, all of us are going to weep.

Now, Madam Speaker, they are telling us that a protected area can only be based on Crown land. That is true. That is what the Law says. I will give them credit for that. That is what the Law says. But that is not all that the Law says. And I quote from section 9 which the Minister just referred to: "**A nomination of an area for protected . . .**" We want that removed too but we know they are not going to do that so . . . but subsection (4): "**The Council shall determine whether the nominated area serves a purpose or objective specified in section 8(1), having regard to the criteria in section 8(2) and- (a) if the**

area is Crown land, whether to recommend to the Cabinet that a protected area order be made; . . .”

So, it is Crown land and the protected order has to be made. But the troubling thing is in (b) **“if the area is not Crown land, whether to recommend to the Cabinet that the area be acquired by the Crown and a protected area order be made or a conservation agreement be made with the proprietor of that area.”**

Now, Madam Speaker, if there is no intention to go after private land why do we need that section in the Bill?

It is true that they are not going to put a protected area on it in Cabinet until it is Crown land. But that is the facility to convert private land to Crown land whether the person wants to sell it or not. Because in North Side—I don’t know about George Town—“acquire” means something different from buying. Up there if you are going to buy something it requires a willing seller. Acquiring land . . . and government already has on its books the necessary statutory authority to acquire land that it determines it wants to acquire for whatever reason. So, if you don’t intend to convert private land to Crown land to call it a protected area, then just take that part out.

I have filed an amendment that simply says if the area is not Crown land, a conservation agreement be made with the proprietor of the area. No need to acquire anything. But they won’t accept that amendment. Why? Because the object is still the same.

They have destroyed George Town, West Bay and Seven Mile Beach, and they need an Ironwood tree to show their grandchildren so they got to make sure that government takes some private land in North Side that has an Ironwood tree on it.

Mr. V. Arden McLean: And East End too.

Mr. D. Ezzard Miller: But I am going to deal with the Ironwood tree a while later. I am not ready to deal with them on the Ironwood tree yet.

Mr. V. Arden McLean: I got one to bring for you so you [INAUDIBLE].

Mr. D. Ezzard Miller: Madam Speaker, you know the Minister in moving this poked fun at us and said that we cut down the Ironwood tree and we sit down on the stump and claim to be conservationists. That might be true. But, Madam Speaker, the people who are pushing this cut down the Ironwood tree, sold the tree for money, took up the stump, sold that, sold the land, now they do not have any land, no Ironwood tree and they want to come to North Side and acquire peoples’ land to get an Ironwood tree to show their grandchildren. That is what this is about.

We support conservation. If you don’t want to acquire private land take it out of the Bill. Because,

Madam Speaker, they double up on it, you know. They are not only satisfied now with taking a piece they define as a critical habitat, but [section 9](5) gives them the authority to go after adjoining land—contiguous land they call it.

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh you trying to take it out but you haven’t taken out the real part, you see? But we *nah fool-fool*. We country people but we wise in the ways of protecting our land.

[Inaudible interjection]

Mr. D. Ezzard Miller: Politics? Yeah this is serious politics, trust me!

Mr. V. Arden McLean: Especially your type of politics. You got to know what—

Mr. D. Ezzard Miller: This is what [section] (5) says, Madam Speaker: **“Where the Council recommends that a protected area order be made under subsection (4)”** (which is on Crown land or on private land that they have acquired to make it Crown land so that they can call it a protected area) **“in respect of any land, the Council shall also determine whether any contiguous land which is not Crown land should be”** (what Mr. Minister?) **“acquired by the Crown or whether a conservation agreement should be made with the proprietor of the land.”**

Again, Madam Speaker, if the Government does not intend to acquire private land, let’s take it out!

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

Mr. D. Ezzard Miller: The amendment that they filed does not do that. The amendment that I have filed does it. The amendment I have filed says, and the clause will read: “Where the Council recommends . . .” We’ll delete the words anything to do with “acquire”.

[It] will say “Where any contiguous land which is not Crown land should be acquired by the Crown or whether a conservation agreement should be made . . .” We delete all of that. We substitute the words: “. . . whether a conservation agreement should be made with the proprietor of the land where the contiguous land is not Crown land.”

The people whom I represent, Madam Speaker, have always advocated two things for conservation: 1) you can have the protected area on Crown land. But again, Madam Speaker, we don’t want that done secretly up in Cabinet. Most of the things to do with land use in Cayman come to the Legislative Assembly. If you are going to designate

Crown land bring it down here so that myself and other landowners around can hear about it, not do it up in Cabinet in secret.

Hon. W. McKeeva Bush, Leader of the Opposition: Hear, hear.

Mr. D. Ezzard Miller: Protected area on Crown land. On any private land that the Department of Environment on a scientific basis . . . and, Madam Speaker, we are talking about scientific basis now. We are not talking about this voodoo science that was brought here in these wetlands where they sent one man down in white mud and hung up one yellow construction bucket in the tree and he left it there for two months and went back to measure the water in it and calculate how much rainfall and then produce all of these fool-fool numbers about the amount of nutrient, laden water that was running off of the wetlands into North Side to feed the fish. All of us in North Side know that fish cannot live in fresh water.

You know, Madam Speaker, they told us then that the wetlands were responsible for rainfall. Well I went to the government records and got the rainfall for every year from 1954. The year with the least rainfall was 1958. Trust me, Madam Speaker, we had plenty swamp land round here then. But how come the rainfall was so low if that was what was giving us rain?

To get the amount that their scientists calculated and presented to Rotary as the runoff, even if you assume that everything was already at flood stage, the wetlands up there would have to be bigger than the state of Florida with the annual rainfall to produce that amount of water. But that is how they frighten us. They come down here, they claim they are this, they claim they are that, they tell us, like the parrots, *they are endangered*, but we do not know how many we have. We only have 40 they say. Any Monday, Tuesday, Wednesday you can come in my yard I have at least half of that in my backyard.

One of the things they have been presenting to the public in these presentations is that we need this Conservation Bill because so many things are extinct. So many things are threatened but they cannot say that the Banana Orchid is threatened. How many do we have in Cayman? Anybody know? No, but we know it is threatened.

Silver Thatch, not protected, being threatened. How many we have? How many have we lost in the last five years? They don't know. They just make up these stories and go up there to try to frighten the country people about this thing. Thatch trees in George Town and [INAUDIBLE], they always had to go to Savannah to get tops. And the West Bayers had to come to North Side by boat to get tops. But you see the scientists present this stuff and the Government is gobbling it up and bringing this draconian legislation down here with the ability to take peoples' land.

We believe that if you find one of those habitats on private land that needs to be protected and there is some species on it, right . . . but again, Madam Speaker, they have to tell us what species it is because they came North Side a couple years ago to take 300 feet around Malportas Pond and they could not identify a single species that under threat in the pond. This is the historical context that this [Bill] has to be looked at and accepted by the people or rejected by the people. Because first of all, Malportas Pond is not a pond; it is just a rock hole that settles water. But if you find one of those and there is a species that needs to be protected and you can do it, simply do a conservation agreement with the private landowner and leave it in the hands of the private landowner. That's all you need to do.

The management plan must not prohibit that person from extracting the economic benefits from the rest of his land because the habitat might be one acre out of 200 acres, or one acre out of 40 or one acre out of 10. There should be environmental considerations for any development that takes place, but it must be reasonable and people must be allowed to continue to enjoy and extract their economic benefits.

And if the Government wants the conservation area they must pay the people an annual market lease for the area so that the person is getting the benefit from the land when he is giving it up. Not just acquire it, make it a protected area and then he gets nothing and because his land joins that he cannot develop it. Because, Madam Speaker, if you look at some of these definitions they are really frightening. And I think the court is going to have a lot of fun with this stuff. If you look at "adverse effect," it is very wide. Very, very wide.

"'Adverse effect' means an effect that may result in the physical destruction or detrimental alteration of a protected area, a conservation area, an area of critical habitat or the environment generally and includes- (a) alterations that may impair the capacity for an area to function as a habitat [beneficial to wildlife]; (b) development that may . . ."; (not that it will). And if we are doing this thing scientifically we should be able to determine what developments are going to adversely affect these areas, not just drop a coin and flip it and say well it may so therefore it is "may" and we can't do it.

"(j) alterations that may hinder or impede the movement of migration of wildlife;" I mean they take one extreme, Madam Speaker, as to what it says. Take the other extreme. That means you can't put up a cement fence—because crab can't get through cement fence—around your property. And if you put up chain link fence you better make sure that the crab that comes is the size so he can get through the hole in the fence. Right? So, you know, be careful.

I have never seen any crab yet that could climb up steel floated cement. I don't know if they

have those kinds out in Bodden Town or down in Newlands, but the ones we have in North Side, those little claws won't allow that.

Madam Speaker, the Member went to great lengths . . . and I heard the Deputy Premier and Premier reminding him to say that it was a protected area only. And a protected area is on Crown land only. Right? That's what he said.

[Inaudible interjection]

Mr. D. Ezzard Miller: Okay.

Now, let us look at the definitions in clause 2 of "protected area". "**Protected area**" means- **(a) an area designated as a protected area under section 7; (b) an area specified as a conservation area under section 13;**

So, they can issue the directives because the "protected area" definition includes the conservation areas. I've filed an amendment to delete (b). Let's see if the Government is going to accept it. Because if it is only intended to be on Crown land then (b) does not need to be there. But you see, Madam Speaker, these are the little ways that the truth comes out. And I don't care how they manipulate the writing here, every now and again they forget some little thing that catches them. And the real intent is maintained in the law.

Now, Madam Speaker, the other thing that the Minister took great pains with at the meeting in North Side—because I only went to one meeting—and he did it here again today, is that this Bill has been under public discussion for 10 years. Now, Madam Speaker, that is not true. He can claim that the matter of a conservation law has been around for maybe 10 years, but this Bill is 26 days old today. And, as I pointed out already, there are things in this Bill that are worse than the 2009 Bill. So, Madam Speaker, it is not correct to say that we need to pass this today in this big hurry because we have been talking about it all of these years. This Bill has only been in circulation 26 days today. There are people in my constituency who own large pieces of land who will not have seen this Bill in that period of time.

Madam Speaker, let me deal with this Council that we have just been told is totally innocuous and is a nice little thing, and we absolutely need it and, you know, nobody should be worried about it because all it can give is advice, and this thing and the next thing and . . .

Madam Speaker, let's look under "Part 2-Administration." Madam Speaker, you know I don't think it should be lost on the public that we are changing the name here from what all of us are used to—"Marine Conservation Board" to a "Council." That is not per chance; that is deliberate, because most people understand that a council wields more authority than a board. And that is why it has been changed

from the National Conservation Board to the National Conservation Council.

Madam Speaker, one thing that bothers me in this Council is the structure of this Council. First of all, if we look at Schedule 2 of the current Bill and we look at Schedule 2 in the old bill, we see that the Council shall consist of, "**(a) the Director or his nominee from the Department of Environment; (b) the Deputy Director of Research in the Department of Environment.**" The old one says "the Assistant Director of Research". I guess the person they want on it got promoted to Deputy Director instead of Assistant Director. [And (c) is] "**the Chief Officer of the Ministry.**" The old one says "Permanent Secretary", Chief Agricultural of . . . and (e) "**the Director of Planning or his nominee.**"

Now, Madam Speaker, the people in my constituency were told that these people are ex-officio non-voting members. That is not what the Bill says.

[Inaudible interjection]

Mr. D. Ezzard Miller: Eh?

[Inaudible interjection]

Mr. D. Ezzard Miller: We were told in the meeting in North Side by the Director of Environment, that the civil servants on the board were ex-officio non-voting.

[Inaudible interjection]

Mr. D. Ezzard Miller: Maybe I was drunk again. I didn't hear you and I didn't hear her. Okay?

Anyway, if that is what you mean, put it there—"ex-officio" after the names.

[Inaudible interjection]

Mr. D. Ezzard Miller: Okay. All right.

So what is here is what you intend it to be, Mr. Minister—that they have full voting power?

Now, let me point out that that is extremely unusual in any other board in government; that two members of staff of the Authority sit on the board with full voting power. The common thing in legislation is that the Director of the Authority is a secretary to the board—not sitting on the board with full voting power and having the assistant there as well.

And then, Madam Speaker, let us look at the person nominated by the National Trust, appointed by the Cabinet. Well, Cabinet can appoint National Trust members. Not going to get that off of it so we will have to accept that but that is fine.

In (g) the old law says: "five persons appointed by the Governor in Cabinet, including at least one resident of either, Cayman Brac and Little Cayman, and two selected from a list of persons with appropri-

ate scientific or other relevant expertise compiled for that purpose by the director.”

This Bill says: “(g) **seven persons appointed by the Cabinet, at least three of whom shall have relevant scientific or technical expertise.**”

Now, where in Cayman are we likely to find people with relevant environmental and technical experience for this law? Only one place to look, the Department of Environment. So, you have the director, the deputy director and the potential to add three members of staff as well. If you got them walking around town with all of these qualifications, tell 'em today. I can't find any that are not employed there. And we make the quorum seven, the potential for five people from the Department of Environment to be on the Council and the quorum is seven.

Madam Speaker, it gets worse: [Schedule 2, paragraph 2] “**The Council shall elect a chairperson from amongst its members.**” Again, very unusual on government boards. Usually, Cabinet appoints the chairman.

Then, Madam Speaker, we go back to the Administration section of the Bill and we see in [subsection] (4) “**The decisions of the Council shall be by simple majority and the chairman shall have a casting vote only.**”

In (5) “**The Council may co-opt such persons as it considers necessary to be additional members of the Council, but such persons shall not have the right to vote at meetings of the Council or any of its committees or subcommittees.**”

Now, Madam Speaker, this is the oldest trick in the book to these environmentalists. They have been doing that in the National Trust for years. And when local people come and pay the thing they say, *We have changed the rules, Mr. Miller. These 20 people you brought from North Side here tonight at the National Trust can't vote because they have not been members for two months.* But when they are not getting their way they go out and bring in 15, 20 people with no numbers, *Here you go, Mr. Minister.*

Now, they bring in 15, 20 people who agree with what the Council wants to do, or what the director wants the Council to do, or what the Cabinet wants the Council to do, and all of these people are in favour of this thing and you only have seven people there and only three of them are not from the Department of Environment. Those three people really are going to stand up to the 15 plus the five? There is no need to have this in the law. Take it out, because you have a provision further down that they can select subcommittees to do certain things. But why are they allowed to co-opt members to the Council? It can only be to get the decision that they want.

Mr. Minister, I know you can be happy with this. Sorry I can't be. I have been down the road with these people too many times. Already this year this

Parliament passed changes to the National Conservation Board to take away the authority of the National Marine Conservation Board to write legislation, and they take it right back in this law.

Hon. W. McKeever Bush, Leader of the Opposition: Yes.

Mr. D. Ezzard Miller: They put the facility right back in this law, that the Council can write legislation by amending schedules, the Schedule attached to the law. But they can amend the Schedule and they do not even have to tell us that they did it.

Secondly, this Parliament unanimously passed a motion to cull Lion Fish at \$5 a pound. It has not been implemented! That was specifically recommended by the people in my constituency so that they could stop taking conchs because they could take Lion Fish and get \$5 per pound for it. But that does not suit what they want to do, and they have ignored it! And I am not prepared to vote for a law that gives them this kind of freedom and authority to go out there and do what they want to do with people's land and environment.

The Minister in his debate spent a lot of time talking about the Government's requirement and the Government's obligation under the Constitution and the Bill of Rights. He conveniently forgot about 15 on property rights. Never mentioned that. I wonder why. Don't want the people to know it exists.

Madam Speaker, the general consensus in my community is: *Ezzard, we know you can't stop the law this time. The Government has made it clear that they are going to pass the law. We just ignore the law. They can't find three police to give you to help us with the burglaries and the break-ins, where are they going to find conservations on a flying fire truck to come down White Fowl to out a fire and a grass piece?* So, they are just going to just burn the grass piece.

Madam Speaker, if these kinds of laws are going to work as they should, the community must feel that they are a part of it, and that they are not being driven out. The only thing they have not protected here is those North Side farmers. They got all kinds of other things in here. I don't see any compensation for their crops that they lose with the parrots. But they are endangered too, but don't know how many we have.

Madam Speaker, successive Governments have gone off and signed these international obligations. No consultation with the landowners at what effect. Or, no consideration even for what adverse effects it would have on the landowners and their ability to utilise their land.

Madam Speaker, I must repeat—people who are opposed to specific sections of this [Bill] are not opposed to conservation. We can have conservation by private owners. We can have conservation on private land. You do not need to acquire peoples' prop-

erty to conserve it. And, Madam Speaker, I must tell you that when I look at what happened in the Dart deal, I really cannot have any comfort in the fact that it is Crown land because they will give that away too. There's precedence for that. Not because it is protected.

Madam Speaker, let's just read the definition of "directive" so that we can see the intent here, because, Madam Speaker, I believe that they've gotten enough objection to this 41-clause throughout the Island; that the Minister has been forced to file some amendments to take the word "directive" out of it.

"Directive" does not include any advice. "Directive" in this *Chambers 21st Century Dictionary* says: "**An official instruction issued by a higher authority, e.g. by the EC to the government of member states; having the power or tendency to direct.**" It is not saying anything about advice. Or that it might be ignored if you do not want to. Now, I have filed an amendment to change it to read "advice", because "advice" in the dictionary says: "**Suggestions or opinions given to someone about what they should do in a particular situation.**" Now that is advice. But a directive is not that you must take what I have directed you to do into consideration in making a decision. It means you do what I say you must do. And 41(4) makes clear that it can apply to a conservation area under the definition of protected area in clause 2.

The Minister—

[Inaudible interjection]

Mr. D. Ezzard Miller: Huh?

[Inaudible interjection]

Mr. D. Ezzard Miller: Madam Speaker, the Minister complained that during this process over the ten-year period, the authority of the Council, the provisions of the Government to protect areas and to conserve land have been so watered down that, you know, they are almost meaningless now. I don't agree with him, Madam Speaker. You must know how bad they were in the other two if they still . . . right? If he considers what is in this to be watered down, imagine what he would have put here if he had his way.

Madam Speaker, you know I have filed 33 amendments to this Bill. It is going to be interesting to see how many, if any, the Government will accept. And I will bow to the Minister if any of the amendments that I filed before him have been re-filed by him. I will withdraw my amendments and he can pass them and say he did it. I just want the amendment made, but it has to match mine in its entirety, it can't be what you are doing with [clause] 9 (4) and (5).

One of the amendments that I filed, Madam Speaker, was because it was also indicated that . . .

and I think the amendment he has filed is now leaning towards that, but it is not clear enough for me, that if the landowner objects to a conservation area on his property, that would end it. Or if he said he did not want to [sell] it would end it. I will take that but I want (4)(b) deleted as well, and (5) adjusted appropriately too. And what is missing from the Management Plan is that we need to insert there that the landowner will be compensated on annual basis according to market value for the protection and use of his land, or any area of his parcel that is being used. I think that is fair.

[Inaudible interjection]

Mr. D. Ezzard Miller: Yes, but by agreement . . . when you talk about Government making an agreement . . . most of the time Government has it way if it is not here. And if Government says it is not going to pay there is no provision here that they must be paid. We want it put there specifically that you are going to pay the people for the use of their land. And before the Management Plan was submitted—

Moment of interruption—4:30 pm

The Speaker: Member for North Side, we have reached the hour of interruption.

I recognise the Honourable Premier to suspend Standing Order 10(2) for the Business of the House to be continued beyond the hour of 4:30.

SUSPENSION OF STANDING ORDER 10(2)

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

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

Madam Speaker, we had indicated to Members that we would work until 6:00 pm this evening.

The Speaker: Thank you, Premier.

The question is that Standing Order 10(2) be suspended to allow the House to continue the business until the hour of 6pm today.

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

Ayes and one audible No [Mr. D. Ezzard Miller]

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Member for North Side, please continue your debate.

Mr. D. Ezzard Miller: The minority is being trampled on again, Madam Speaker, by the majority vote. They won't give us any break. I could go home and make notes and come back tomorrow morning more fully prepared.

[Inaudible interjection]

Mr. D. Ezzard Miller: Yeah, yeah, yeah.

But, Madam Speaker, we want to put in the Bill the specific provision that the landowner must be compensated financially for the use of his land. And, Madam Speaker, there are some places in here where, for instance in [clause] 11(3)—“**Until such time as a management plan has been adopted for a protected area, the Council may, on the advice of the Director, issue such interim directives as the Council considers to be urgently required to protect the area, including any of the measures set out in subsection (2).**” I think that should read “Cabinet”, not the “Council”. But that is part of the authority that they claimed they don't have.

Madam Speaker, it is all fine and good for the Minister to say that we should not be concerned about what the Council does because everything is appealable to Cabinet. That is time consuming, and it costs money. And it could be very important for them to do some of the things they got under here and have to go through the appellate process.

Again in [clause] [12](1)—“**The Cabinet may, after consultation with the Council, and subject to subsection (2), by order, remove the designation of any land as a protected area by amending or revoking an order made under section 7.**” I think all of those designations for land use should come to the Legislative Assembly, not to be done in secrecy in Cabinet.

Conservation of Wildlife, [clause] 16(1), Mr. Minister, this is . . . “**Subject to the following provisions of this section, the Council may make by order such modifications to Schedule 1 as it considers necessary or desirable for any of the following purposes.**” Again, I don't think the Council should be empowered to do that. I think that should be a decision of Cabinet. In fact, if it is going to change the Schedule to this Bill it should come to Parliament to amend the law. You are giving the Council here the authority to change the Schedule that we legislate, and that is what we took away in March this year from the Marine Conservation Board.

In [clause] 16(3)—“**A petition under subsection (2) shall be in such form and contain such information as the Council may specify.**” I think those things should be in regulations, Madam Speaker, not that the Council can vary them as they see fit. We are talking about consistency. If it is in regulations it is likely to be more consistent than some Council making it and changing any time they want.

In [clause] 16(5)—“**If the Council determines that a candidate species should be protected under this Law, the Council**” (is what it says) “**shall list the species in the appropriate Part of Schedule 1.**” Again, Madam Speaker, I think it should be Cabinet and not Council.

In [clause] 16(9)—“**Until such time as an order is made under this section the Council may, on the advice of the Director, make such interim directives as may be urgently required for the immediate protection of the relevant species, including the prohibition of hunting or collecting of specimens and disturbance of its critical habitat.**” Again, Madam Speaker, I do not think it should be the Council; I think it should be Cabinet. This is not a situation where Cabinet is hundreds of miles away from the Department of Environment or that Cabinet cannot deal with something urgently the next week, on the bottom line, if the species is that critical and that important.

I am also concerned, Madam Speaker, that it appears to me that the Council can communicate directly with some of these international conventions. I do not think that should be allowed. I think it should have to come through Cabinet before the communication is made.

Again, in [clause] 18(3)—“**Within thirty days of any determination under subsection (2) that the range of the species includes the Islands, the Council shall by Order add the species to Schedule 1 as follows-**”. Again, I do not think it should be the Council; it should be Cabinet. We are talking about legislation.

Madam Speaker, I have no problem with the Marine Conservation officers carrying firearms. I think the police should be carrying them too. If you are going to ask them to do a job, they need to protect themselves. Allow them to protect themselves. I have said in many forums that I know what a police *force* is, I have no idea what a police *service* is. And if they are going to be trained properly and have the same authorities as a constable, I think they should be allowed to carry firearms when necessary.

I do not agree, Madam Speaker, that they can enter and search any private premises, including any dwelling house, garden, yard or other land that such suspected persons has entered without a warrant. That is dangerous territory. You could be chasing somebody, they run into my house and I don't know who the person is. They might not even run into my house, they might only think they ran into my house and then kick down my front door and come inside. Let's hope it is before ten o'clock at night.

I have great concern with [clause] 27(1)—“**Where a conservation officer seizes a specimen under this Law he may, after making a written inventory of the specimen seized- (a) return such specimen to its natural habitat;**” (no problem with

that); **“(b) retain it for production in evidence to a court; or (c) dispose of it in any manner he considers expedient.”**

Now, Madam Speaker, I really can't have him taking the conchs from somebody in North Side and carry them home and eat them. The fact that he has to report it to somebody afterwards that he ate them, do not really say that he can't eat them you know. We know that normally, up to this point under the Marine Conservation Law . . . I don't think it was specific in the Law, but it was our understanding that when you seize stuff like that they gave it either to the Pines or the Prison or somewhere like that. Put it here!

I can tell you that I have had reports by certain conservation officers taking things from certain people and inviting certain people to dinner at their house to eat the same thing the next night. So don't tell me it does not happen.

And, Madam Speaker, I know that the Minister tried to explain [section] 32(2). But, Madam Speaker, there can't be any explanation for that. The marine conservation officers must do their job.

If you see me in a marine park and I am overboard or I have somebody from my boat diving, et cetera, it is normal to assume that the person is taking something out of the water—otherwise they would not be in the water—especially if you see them handing the conch over the side of the boat. This is easy to do with spy glasses. And I will use myself as an example, Madam Speaker, because I do it regular. I launch my boat at the Kaibo, travel through the Marine Park between Rum Point and Cayman Kai, go up to Round Key and Bowse and pick up my six conch limit.

If, on my way back through that Marine Park to pull my boat up—because I can't pull up my boat on a pillar you know—one of their marine officers decides to stop me and search my boat . . . and I've had this happened, Madam Speaker! It happened to me. I wasn't even in the marine park when he stopped me and searched the boat. And I will tell you it was a disgrace to see how he bounced that Robalo boat over that shallow reef in order to get to me, and a channel was less than 100 feet away.

He said he needed to search my boat for lobsters and conchs. I said, *Go right ahead, it's out of season.* I had four fry Jacks. I wasn't worried. But I asked the gentleman and said, *Sir, why did you not use the Channel?*

[He replied], *Channel? What's a channel?*

[Laughter]

Mr. D. Ezzard Miller: I said, *You see that white water boiling up there, that is where we dig hole in the reef so we can get through it and the boat do not hit the reef.*

So I said, *Please sir, that is a government boat. Let me help you pull it off the Bar, put it in the*

Channel and take it out through the Channel. Right? But these are marine enforcement officers.

If he stops me, there is no way that I can prove that the six conchs I have in my boat did not come out of that Marine Park at Rum Point. It is impossible for me to prove that because all of the conchs that I see in North Side all have the same number of horns, they all have pink on the inside of the shell; they all look alike. Now, unless the marine officer has tagged every conch in the marine park and all of those elsewhere, how can he . . . you know?

But onus is not for him to prove it—which is what it should be. The onus is on me to go to the expense to go to court to prove that I did not get them out of the marine park. Now how am I going to prove that?

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh he is going to arrest me and charge me and then I have to go to the expense and go to court and I can't prove it. Right?

It says [in clause 32(2)]: **“Where in a protected area”** (that includes a marine park) **“a person has possession or control of a specimen or a natural resource, he shall be deemed, unless he proves otherwise to have taken it within that area.”**

That is too onerous. It reverses the burden of proof. It will not help with conservation. It simply means that the marine officer is going to be able to mark a few more scratches on his six-gun with a conviction in the courts, because I cannot prove that the six conchs did not come out of the marine park. Because when I go down there, Madam Speaker, it only me one or my six year old daughter, and you know they are not going to accept her in court to give evidence. I'm filing an amendment, Madam Speaker, to delete that section. It is unnecessary. You don't need it.

Madam Speaker, there may be some international convention or some agreement between us and other governments that I don't know about. But I do not see why we are exempting vessels belonging to other governments to go into a marine park and things like that if they are not supposed to be there. If we from ya can't go there, why are they coming from over there to go there for? Because they have some other flag on them and there is some agreement and what not. We have to respect their laws; they should respect our laws and abide by the law.

Now, Madam Speaker, [clause] 41, that troubling clause that the Minister told us he has neutered. I think he has changed it to read . . . deleting the words “directives giving” and inserting the words “guidance notes”. I am assuming that that is for every place that “directives” is placed in 41. Replace it with “guidance notes” to make it advisory.

Under [clause 41, sub-clause] 5(b) it says: “if the Council . . . well, let’s read [sub-clause] (5): **“In the case of a proposed action to which subsection (4) applies, the Council may, having regard to all the material considerations in this Law and regulations made under this Law- (a) agree to the proposed action subject to such conditions as it considers reasonable, in which case the originating authority shall ensure that the proposed action is made subject to such conditions; or (b) if the Council considers that the adverse impact of the proposed action cannot be satisfactorily mitigated by conditions, the Council shall so direct the originating authority and that authority shall refuse to agree to or refuse to proceed with the proposed action.”**

You have to delete (b) now that it is advisory. You are a legal mind. Are you comfortable that “guidance notes” in (4) does not necessitate the deletion of (b)?

Madam Speaker, there is provision in the Law here that if some developer is doing something wrong, they do not necessarily have to stop, they can just pay a fee to the environmental fund to buy land in North Side. I don’t think that is right. I think the law should say if you are doing something wrong you must stop doing something wrong and must still pay for the mitigation to correct what you did wrong. But you should not be allowed to continue the development or to simply make a donation to buy a piece of land from some poor farmer in North Side who needs to sell it to send his kid to college.

Madam Speaker, the big developers that have been destroying the Island are the ones who are going to have the resources to fight this in court. My landowners in North Side who are, for all intents and purposes, like me—cash poor—are not going to be able to afford legal advice. There is a couple that I can promise that when you go at their land you are going all the way to the Privy Council in London. I can promise you that.

There are others who are going to be totally intimidated and who are simply going to cave in. And there is another consideration, Mr. Minister, which I do not have enough legal background to advise you on, but there are large tracks of land in North Side and East End and Bodden Town, I’m sure, which are estate properties under the executor of a Will, which may be registered to a proprietor at the land registry, and he might be out there in the big graveyard and you are going to have kind of a bit of difficulty communicating with him. So, I don’t know whether you need to put in here that you have to notify the executor of the Will or, if it is the case of an estate, with the proprietor of the land being dead, as registered in the Land Registry Law. Because until the estate is settled, I believe that it remains in the person’s name and not his estate.

If the Will has not been probated it is in his name. And I can tell you there are large stretches of land in North Side that the Will has not been completely probated. And it is just something you may have to consider. I leave that to your legal expertise.

[Clause] 46(1), I see . . . I think you have filed an amendment to 46(1) too. Right?

[Clause] 47—

[Inaudible interjection]

Mr. D. Ezzard Miller: No I have it here.

[Inaudible interjection]

Mr. D. Ezzard Miller: Well I mean it might not pass but I have to debate what is before me.

Anyway, [clause] 46 [(1)] says: **“There continues to be established and managed an environmental protection fund to be used for the acquisition and management of protected areas . . .”** Again, Madam Speaker, since we have been assured in every possible public forum, and we have been assured here today, and all of the Ministers who speak after me and all of their Backbench supporters are going to assure the people of this country that they have no intention of acquiring private land, then take the word “acquisition” out of the Bill. Don’t need it. And simply say . . . *protection fund to be used [for] management of protected areas.* Not for buying any land, not for acquiring any land.

Madam Speaker, in 46(5) I believe that all regulations under this Bill are so important that they should be subject to an affirmative resolution of the Legislative Assembly and not simply a negative resolution where they are laid here and if there is no objection in so many days they are passed. I believe that the Minister should have to come here and move a motion to get the regulations approved in an affirmative way which is going to force debate and therefore public knowledge of the regulations.

Madam Speaker, I have also filed some amendments to Schedule 2 to take all of these civil servants off of it to make the director, the secretary to the Council . . . Cabinet must appoint the chairman of the Council. The director of the Department of Environment must be the secretary in keeping with what is common on boards and stuff in government. And, Madam Speaker, this is the most unusual provision of all. In [Schedule 2] 8, **“The Director shall cause the names of all members of the Council as first constituted and every subsequent change to the membership to be published in the Gazette.”** That should be Cabinet, not the director.

I’ve also filed an amendment under the Administration where it says that the Council can adopt its own procedure to say that it must operate under [Robert’s Rules of Order](#), under the Standards of Pub-

lic Life, and any other overarching legislation that comes in place. Because, Madam Speaker, when we give these people the ability to set up their own procedure, there is no limits on what they can do. We can say, *Well oh, the current ones might not do this and the current ones might not do that.* But 10 to 15 years from now that might not hold.

We need to write legislation that protects us in the future and also, so that people can understand what the rules are. I don't like the idea that the common thing in boards in government here is that you accept that, as one board member once told my father when he had something coming before the board, my father said, *Well you should not be going to the meeting. Oh, he said, Neddy don't worry about that man, I just going and I'm going to tell them guys I going outside while they approve this thing for me.*

If you are a member of the board and you have something coming up, it is highly unlikely that your fellow board members are going to vote against you, even if you go outside. And we know from the ICTA Board that that is not even necessarily required. And what we do with that manager, instead of punishing him under the law, as we should, we give him an award of four months' salary and send him home.

I don't think they should be able to walk out. If you know you have something coming up, resign from the Council. Come away from it all together.

Madam Speaker, in Schedule 3 I would like to add a new subsection (4) that reads: "The consent approval and agreement of the proprietor of the land under the management plan."

With those few comments, Madam Speaker, unless sufficient changes are made to the Bill as I have asked, I will be voting 'No' on the National Conservation Bill. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause]. Final call: Does any other Member wish to speak? [pause].

I recognise the Fifth Elected Member for the district of George Town.

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Thank you, Madam Speaker.

Madam Speaker, if we start from the premise that there has to be controlled and sustainable development, and it is logical to have a series of rules which set out parameters for such development, I stand to support the Member for Bodden Town and the Bill before us.

We have to ensure planned and managed growth and development that is in harmony with the natural environment. The natural resources of the Cayman Islands should be protected and managed responsibly to ensure that future generations inherit a healthy and viable environment.

I too had concerns about the draft Bill when I first read it, Madam Speaker. Some of these areas have already been debated and raised and, according to the Minister and by the paper that we see before us in terms of draft amendments, a number of them have been taken on board.

Madam Speaker, a number of my constituents raised issues with the Bill. I presented those to the Minister and the rest of caucus and we had debate. As insinuated by the Minister, there are views on either side of this hallowed room where not everything is in black and white. I am happy to report that in those deliberations a number of the matters forwarded to me by constituents, and those of my own matters were at least discussed, and on some of them we reached compromise.

We have to step back, Madam Speaker, and look at what we are trying to achieve. What is it that we want to leave behind? What has to be protected? Why?

We also have to look at what our legacy will be and this generation's legacy for those who come behind us. We also have to start looking at how much land we want to put aside for the environment and future generations. I do not think that number is 6 per cent, Madam Speaker. So, if people are up in arms now, I can't imagine down the road when we arrive at a greater number what will happen.

People raised very valid concerns. I think that it's normal to be fearful, especially because of experiences in the past. When we look at what Caymanians consider a sacred right in landownership, what is important to them, what is important to their way of life, we cannot just push that to the wayside. It is one of the things that as Caymanians we have always been proud of—to own land, to pass on land, to give the next generation a start.

Madam Speaker, when we as legislators are looking to pass laws, we also have to ask some very personal questions. What do I want out of this? What do I deserve out of this? What have I worked so hard for? What is my inheritance? And what will legislation do to that? We also have to ask ourselves, especially those parents amongst us, what we want to give to our children, their children and their children's children.

Madam Speaker, I am satisfied with the amendments brought by the Minister as some halfway house in this first step because . . . I need to reiterate that. By no means should this be the entire approach to a national environment plan that looks at sustainable development and the things that we need going forward, like proper waste management, recycling and other things. We have to sit back and really think about all of these things and then encapsulate them into legislation. If we do not, then this, and any other thing that we do piecemeal, is going to be lip service.

But we have to take a step. For ten years we have been talking about the environment. For ten years we have been talking about taking a first step. This is by no means perfect legislation. It could have adverse effects, but we do not know that. We have to have the faith to take the step and then to correct any missteps down the road. What I do know is that if we do not take any step then we will not have anything in the future for the next generations.

Madam Speaker, what I would have liked to have seen, and I express this on behalf of the constituents, are some draft plans, some draft reviews of what is going to be proposed as critical habitats, et cetera. I guess that will come in time and we can debate it all over again. Again, that's a perfect world. What I do know is that any government has to be fair to its people. So, in terms of anything identified for environmental purposes there should be proper and fair compensation within a very reasonable period of time. And I think that the Minister, again, has addressed those in the amendments. With that, I am comfortable with this compromised bill.

I've heard the questions asked over and over and I've heard the answers given over and over, so I do not think that any more questions and answers in this setting will appease everyone. What we have to look at is the proper checks and balances on the Council's ability to affect people's lives. And those checks and balances as stated here is in appeals to Cabinet. If we elect a Government we have to trust that Government to act on our behalf. If they misplace that trust, then every four years we have the ability to correct that. Madam Speaker, we have a democracy, we have rules and we have to trust the people that we elect to make and carry out those rules.

Madam Speaker, I've read a lot of the dialogue that this proposed Bill is in contravention of the Constitution, specifically section 18, "Protection of the Environment". I cannot concur with that where there is some historical language that is in contravention. I think that we know the Constitution will touted and be paramount. So, it has to be read in conjunction with and in the spirit of the Constitution. It can't be thrown out because it has a few typos or some things that do not jell perfectly well.

Madam Speaker, I am not saying that this is the Bible when it comes to conservation. I am not saying that this is the perfect and magic bullet to all of the ills. But, again, I must stress that it is that first regular step which we need to take in order to get to where we have an overall and overreaching plan to preserve our environment. If we ask ourselves what would happen without conservation, then maybe other people would be taking that first step with the Government. If we ask ourselves, *What if we were that future generation, what would we have expected from this generation?* Then, we would have more people taking that first step. It's all about balance, Madam Speaker; pro-

tection of the environment along with justifiable economic and social development.

When I was reading the Bill and just trying to see some of the arguments presented to me by constituents, family members and otherwise, in some areas my mind was changed by some of their arguments. But in other areas I had to look at the overall reason why this Bill is needed.

The Iroquois Indians have a concept that surrounds seven generations. This ecological concept urges the current generation to live with sustainability and work for the benefit of the seventh generation in the future. According to the Great Binding Law, as they call it, you have to look about 140 years into the future when making any decision when you are in a position of authority. I think that that would bode well for us sitting here in this honourable House today, because if anyone has ever asked themselves what Cayman will look like in 140 years if we do not start preserving parts of the environment, if we keep going at a break neck pace with development, I don't think it will be as pretty a picture as we have today.

What that Iroquois Constitution also states is that in every deliberation when we consider the impact on that seventh generation, we have to act, even if it requires having skin as thick as the bark of a Pine. None of this will be easy. Change never is. But sometimes you have to be brave in spite of all the obstacles in the way. And I think if we cast some of the self-interest aside, and look at the greater good, then some of the things that seem so important today may not be in time. What our legacy will be for passing this, time will tell. But it is important that we take that first step.

Like I've said before, I think that if something is deemed critically important in relation to the environment, there should be fair compensation. If something is going to benefit all of us, then that landowner should be paid for giving up that piece of land. But there are also things that we should require of developers, where we ask them to replenish as they tear down and develop. I think that is all about fairness on all sides. We cannot have Government taking a stand without involving dialogue. But, at the same time, we can't let people just go on abandoned.

In the end, Madam Speaker, after the Minister and Cabinet have taken on board those points, or some of those points and concerns that I brought on behalf of my constituency and myself, I am comfortable with the draft Bill in its current state with the amendments brought by the Minister this morning that will be discussed in Committee stage, and I rise to support that collective piece of work. It is ten years in the making. It is not comprehensive. It is not perfect. But it is the right step.

The regulations need to come soon, though, because I think that that is where we will clear up a number of questions. That detailed proposed critical

habitat map, draft management plans for proposed protected areas, and draft conservations plans should be circulated and commentary invited in short order. This, again, is Government's first step towards a sustainable development plan which is greatly needed in the Cayman Islands. It is saying that we recognise that Government needs to foster sustainable development. But, at the same time, Madam Speaker, we as lawmakers we need to realise as well that there is a delicate balance, not only in the environment but in that process of development where we do not put road blocks in place to frustrate some of the development.

We all have to play our part, from legislators to civil servants, to the man on the street. We all have to start moving in the same direction with a plan. And I think, Madam Speaker, this is that first step in the plan. With that I end my contribution to the debate. Thank you.

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

I recognise the Honourable Minister responsible for Finance.

Hon. Marco S. Archer, Minister of Finance and Economic Development: Thank you, Madam Speaker.

Madam Speaker, I want to start by commending the Minister and his team for the energy and effort they put into piloting this Bill through the Legislative Assembly, and prior to that, of course, the back-to-back public consultation meetings that they undertook.

I recall thinking that the Minister was spending quite a bit of time, Madam Speaker. And I must say that it gave me a whole new level of appreciation for his desire to see this piece of legislation succeed. As a matter of fact, Madam Speaker, it enabled me to give him a new nickname, which I think he probably earned. And I must say it was complimentary as well Ma'am, not derogatory, just in case the public is wondering.

[Inaudible interjection]

Hon. Marco S. Archer: Actually, Madam Speaker, I will tell the public what it is, given that they have made it a habit of calling me names in here.

[Laughter]

Hon. Marco S. Archer: So, Madam Speaker, for your benefit and that of the listening public, as well as his official name and title, you can refer to him as the *Bodden Town bully* as well.

[Inaudible interjections]

Hon. Marco S. Archer: Madam Speaker, it is complimentary in the sense that it shows his tenacity and his desire to accomplish those things that some might think are difficult, and that others would turn away from. But I do think that he has done a remarkable job. And I know when this Bill was first introduced, I, like many people, too had grave concerns as to what exactly their intentions were and what impact it would have on the lives, the assets and the desires of people for property that they have acquired, some to develop, some to hold on to, some to just admire as well as maybe pass on to their children.

Madam Speaker, I am one of those people who acquired property for the benefit of my children, recognising that if it is scarce today, then, when they come of age, if it is not scarcer at that time, then perhaps it is just simply unavailable. He and I had some discussions as to where the Bill was going, what were the intentions. And I attended those meetings that were afforded to me so that I could better understand what was being proposed.

Madam Speaker, today I am satisfied with what the legislation is proposing. I agree it is not perfect because I wish that perhaps this legislation included some of the provisions that are being . . . or let me not say provisions . . . some of the incidents of destruction to natural vegetation. I wish that this legislation actually dealt with some of those matters. And perhaps if it did then I would have been even more supportive than I am. But, Madam Speaker, I attended the George Town meeting. I didn't quite have the time to travel to the various districts as the Minister had an obligation to do. I, of course, attended just the meeting in George Town and told as many people as I could that there was a meeting in George Town. And I was somewhat disappointed that the attendance was not better.

[Inaudible interjection]

Hon. Marco S. Archer: And because the attendance was not better, Madam Speaker, then many people may have missed an opportunity to have given their support, or their criticism, to what the legislation seeks to achieve. But, Madam Speaker, it was not so much my access to the Minister that enabled me to come to grips with the importance of this legislation. Rather, Madam Speaker, it was my own spiritual life that enabled me to understand that we have an obligation to protect, preserve, conserve, and all of those words that mean proper management and stewardship of the environment in which we live.

Madam Speaker, I remember as a child I was free to roam and I remember seeing many things that I encounter only occasionally today. I remember driving on the West Bay road and you could go for miles and miles and would see lots of tall Casuarina, or what we call Weeping Willow, trees. You could see an

abundance of Cocoplum trees. The Thatch trees, of course, were always plentiful, but not as much anymore. You have to really go into the forest to find those.

So, Madam Speaker, it was on the morning of November 26, when I was doing my devotions that I really came to realise that this Bill is absolutely necessary. Being a small Island, Madam Speaker, we have done well. Many people have become extremely wealthy because of development. And in developing they have bulldozed and built. And sometimes they replanted, but they never replanted anything indigenous. Even just across the street in our National Heroes Park, we have Palm trees, Madam Speaker.

[Inaudible interjection]

Hon. Marco S. Archer: I'm being told that they are native. The truth is, Madam Speaker, though they are native, they do not fit the environment in which they are located. We have replaced Guinep trees and Neaseberry trees and other trees that we enjoyed with the Black Olive tree.

[Inaudible interjection]

Hon. Marco S. Archer: You will get your turn, Mr. McLean.

We have replaced indigenous with imported that serves absolutely no purpose but to drop leaves.

So, Madam Speaker, when I read Psalm 104 on the morning of the 26th November, 2013, I realised that I had an obligation to support this Bill because of the message that I received at the time. But, like I said, I know that there are those who are in favour of this Bill and there are those who are not in favour of this Bill so the Bill itself is not perfect. But with your permission, Madam Speaker, I would like to read Psalm 104.

The Speaker: Please proceed.

Hon. Marco S. Archer:

Praise the LORD, O my soul. O LORD my God, you are very great; you are clothed with splendor and majesty.

He wraps himself in light as with a garment; he stretches out the heavens like a tent and lays the beams of his upper chambers on their waters.

He makes the clouds his chariot and rides on the wings of the wind.

He makes winds his messengers, flames of fire his servants.

He set the earth on its foundations; it can never be moved.

You covered it with the deep as with a garment; the waters stood above the mountains.

But at your rebuke the waters fled, at the sound of your thunder they took to flight; they flowed over the mountains, they went down into the valleys, to the place you assigned for them.

You set a boundary they cannot cross; never again will they cover the earth.

He makes springs pour water into the ravines; it flows between the mountains.

They give water to all the beasts of the field; the wild donkeys quench their thirst.

The birds of the air nest by the waters; they sing among the branches.

He waters the mountains from his upper chambers; the land is satisfied by the fruit of his work.

He makes grass grow for the cattle, and plants for man to cultivate—bringing forth food from the earth: wine that gladdens the heart of man, oil to make their faces shine, and bread that sustains their hearts.

The trees of the LORD are well watered, the cedars of Lebanon that he planted.

There the birds make their nests; the stork has its home in the junipers.

The high mountains belong to the wild goats; the crags are a refuge for the hierarchs.

The moon marks off the seasons, and the sun knows when to go down.

You bring darkness, it becomes night, and all the beasts of the forest prowl.

The lions roar for their prey and seek their food from God.

The sun rises, and they steal away; they return and lie down in their dens.

Then man goes out to his work, to his labor until evening.

How many are your works, O LORD! In wisdom you made them all; the earth is full of your creatures.

There is the sea, vast and spacious, teeming with creatures beyond number—living things both large and small.

There the ships go to and fro, and the leviathan, which you formed to frolic there.

All creatures look to you to give them their food at the proper time.

When you give it to them, they gather it up; when you open your hand, they are satisfied with good things.

When you hide your face, they are terrified; when you take away their breath, they die and return to the dust.

When you send your Spirit, they are created, and you renew the face of the earth.

May the glory of the LORD endure forever; may the LORD rejoice in his works—he

who looks at the earth, and it trembles, who touches the mountains, and they smoke.

I will sing to the LORD all my life; I will sing praise to my God as long as I live.

May my meditation be pleasing to him, as I rejoice in the LORD.

*But may sinners vanish from the earth and the wicked
be no more. Praise the LORD, O my soul.
Praise the LORD.*

Madam Speaker, I read that scripture on the morning of the 26th, as I stated earlier, and then I turned to my daily devotional. The topic for that day, Madam Speaker, was “Everything Beautiful”. And quoting verse 24 of Psalm 104: “Oh Lord what a variety of things you have made. In wisdom you have made them all; the earth is full of your creations.”

“Our summer skies used to be filled with the multicolour butterflies. They flitted and flirted with soft wing abandon. But now many of them are endangered of becoming extinct. What a shame. Our grandchildren may never see or chase them as we did. Some things are being irretrievably lost from our world, never again to grace the earth and sky. And who is to blame? Magnificent man who failed to be what he and woman were created to be—masters over all life.” [UNVERIFIED QUOTE]

Madam Speaker, in reading this, I realised what was being said to me. It goes on to say: “The mandate was clear. God delegated the oversight of his bewildering and beautiful creation to humans and told us to be masters over the fish and birds and all the animals.” Perhaps we thought being masters meant being tyrants and exercising brute force. And maybe we misconstrued the mandate to multiply and fill the earth and subdue it, as given us free rein to pursue our own purposes without thought to the well-being of God’s handy work; Madam Speaker, obviously, not so. But all is not lost. There is still time for us to look again with wonder on the fish, the birds and the animals, to study them as our first fathers who named them did, and then to see them as the Psalmist did.

“Oh Lord, what a variety of things you have made. In wisdom, you have made them all; the earth is full of your creations.

“The oceans teemed with life, the forests are full of his creatures, pastures and mountains are the habitation for his handy work, stalks among the firs, badgers among the rocks, young lions in the bush and goats in the mountains.

“All these things silently testify to the wonders of God’s creative mind, the glory of his wondrous skills and the beauty of all that he has made.” [UNVERIFIED QUOTE]

Seeing this, Madam Speaker, man should learn to worship the beauty of what God has created; those big and small. Joining with creation in acknowledging the One from whom we come, and through whom we live and move and exist. This attitude will not only leave to the preservation of that which was entrusted to our care, but will also contribute to our adoration of God as we exercise our God-given ability to see something of the wonder of Him who is hidden

from the natural eyes, but who shines forth for the eyes of faith in the things He has made.

Madam Speaker, I’m just having to pause, as I am being purposely interrupted.

In closing, Madam Speaker, with a reading: *Each time the man of faith sees a beautiful butterfly flutter by he should see a revelation of God’s wonder and raise his praise to the Lord.*

Madam Speaker, it was that scripture and that text in my daily devotional that led me to conclude that despite whatever suspicions, or whatever thoughts, I may have had that this Bill might adversely affect the rights and privileges of my children and their generation to enjoy land that we have bought to pass on to them, I thought that as stewards of what have been entrusted to us, we have a great obligation to ensure that we protect today what we hope to pass on tomorrow, otherwise, we can give them title to the property but perhaps there is nothing left on the property to appreciate.

So, Madam Speaker, I am not here today supporting the argument because I am a Minister bound by collective responsibility. I take great pride in saying that I am supporting it out of conviction because I believe it is the right thing to do. And I also take great pride in saying that I am not in any way connected to anyone who may have a vested interest in seeing this legislation go through or seeing it blocked. I walk a straight road. I keep few friends and few associates so that I can always act according to my conscience, and I am doing so today.

On Saturday past, Madam Speaker, I was preparing for a funeral the following day. And I was searching for something on my computer when I came across something that my nine year old daughter had written a year earlier. And I was amazed that, here I am, the country is in an uproar about a . . . well, not all of the country, just perhaps one or two in an uproar about a piece of legislation that my child, or perhaps her class, had seen the importance of sometime before.

You have to admire the innocence of youth. Their minds are not influenced by big development or some of the other things that have created some of the opposition to this Bill. They see things as they are. And, Madam Speaker, the title of her homework piece is “The Importance of Natural Vegetation.” There were four questions that she had to answer. And this is written by a nine year old.

The questions were: *What is natural vegetation?* And [she answered]: “Natural vegetation is something that is not manmade but grows naturally. There are a lot of plants that grow by themselves in Cayman. For example, mangroves, buttonwood, logwood, dry evergreen woodland and swamp woodland are all natural vegetation.”

Why are they important? [She answered], “When my grandma was a little girl they used many of

the natural vegetation I just named to you for lots of things. For example, building of catboats, walls for houses like wattle and daub and roofs. Silver Thatch was used for making shoes, rope, bags, belts and hats. Guava trees were used to make spinning tops. One of the most important of the natural vegetation are the mangroves because they help protect the coastline from erosion and protect us from storms.”

What will happen if all the natural vegetation dies (or, Madam Speaker, is bulldozed)? “If all of the natural vegetation dies out we would all suffer a lot. Mangroves hold together a soil which prevents the soil from being washed away into the sea, and if this happens, homes that are built on the shoreline will eventually be destroyed and washed away. The mangroves also protect the coastline in severe weather. If the mangroves are destroyed, Cayman will eventually be no more.”

Why do we need to protect the natural vegetation? “A natural and healthy environment is green and will live a long time. That is what we want; right? An unhealthy environment is brown and you can see that limbs are going to fall off or break off. There would be a lot of dead trees, plants and animals. We do not want that so we need to protect it and treat it right. For plants to be healthy they need water, a calm area with lots of space to grow, sunlight and soil. If we take care of our natural vegetation it will take care of us and in return Cayman will exist for a long time.” [UNVERIFIED QUOTES]

Madam Speaker, when I saw it and read it and realised it was written by my nine year old child, I myself felt convicted. But if at nine years old she realises the importance of the natural vegetation, then who am I to wonder about whether or not I will be able to develop it? The fact is, I am supposed to be leaving it for her. So, I am supposed to protect it so that when she inherits it, having learnt and appreciated the importance of it, she will in turn also protect it and perhaps keep it for the next generation.

Madam Speaker, I also received an email from a concerned citizen, and the concern had to do with . . . and I will just list these, Madam Speaker. I won't go into any great depth—unrestrained destruction of our natural environment; Planning's only concern is for the physical built environment, not for the natural environment and sustainable development.

This legislation, Madam Speaker, allows us to meet obligations as stated in the 2009 Constitution and other international obligations, such as the Environmental Charter signed with the UK in 2002.

Another interesting fact that the writer of the email pointed out, which I was not aware of [is that] there is a bird called the Cayman Thrush which is now extinct. But our only image of it, or memory of it that I can show my children, is on the back of the one cent coin. Isn't that ironic that perhaps because of development the bird became extinct? I don't know if there

was some disease that may have caused it to become extinct. Perhaps its habitat may have been bulldozed. I don't know. But the only memory that I will now have of the Cayman Thrush is on a one cent coin.

Another interesting fact, Madam Speaker, which the email provided to us, is that we are the last overseas territory in which a bird has become extinct. Now, we are one of the more developed of the overseas territories, so, perhaps there might be a direct correlation between unbridled and unrestrained development and the extinction of animals.

Again, another interesting thought that the author of the email provided is, that while some people are concerned that this legislation may actually affect development adversely, the truth is it may actually protect neighbouring landowners from unwanted development that may be profitable for the developer, but may also be damaging, or may also have an adverse impact, on the value and peaceful enjoyment of neighbouring properties.

Madam Speaker, I do not think it is written anywhere that by seeking to protect the environment you are automatically going to adversely affect development. I have been to many countries and have seen many things. I think I have travelled widely enough to realise that you can have sustainable development that is planned so that the environment does not suffer, but people and business can co-exist in an environment that is conducive to the survival of animals and the protection of the environment itself.

In closing, Madam Speaker, like I said before, I think the Minister should be commended for his efforts. He did not just take the piece of paper and say that it is a Bill and he is taking it to the House. He took it to the people to educate and inform and to have them provide their feedback on it. So, Madam Speaker, like I said before, I am not voting for it because I am bound by collective responsibility, I am voting for it out of conviction. Thank you, Madam Speaker.

The Speaker: As we only have a few minutes remaining, I will ask the Honourable Premier to move the motion for the adjournment, and to also indicate that leave has been given for a statement on the adjournment from the Member for North Side.

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Madam Speaker, I move the adjournment of this honourable House until 10:00 am tomorrow.

RAISING OF A PUBLIC MATTER

(Standing Order 11(6))

LOCAL COMPANIES CONTROL LICENCE

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Thank you, Madam Speaker. Madam Speaker, in accordance with Standing Orders, I wish to bring to the attention of the Members of Government responsible for telecommunications and commerce, the matter concerning the issuing of a Local Companies (Control) Licence (LCCL) to K.N. Network Services Limited. And, Madam Speaker, I have given them copies of what I am reading and the necessary supporting documentation for their perusal, not necessarily for publication. But I gave it to the Minister of Commerce and Minister Tibbetts for Technology.

[Inaudible interjection]

Mr. D. Ezzard Miller: Huh?

The Company, according to their advertisement in the *Cayman Compass* newspaper on September 30th, 2013, under the caption "Cayman Participation sought" is a company that would be involved in telecommunications and constructing a fibre optic to the Cabinet and is requiring an initial investment of US\$2.5 million for 60 per cent, or a total capital outlay of US\$4.2 million.

I have had representation from locally owned and operated companies that employ Caymanians who are in this telecommunications business who have invested heavily in capital and training, as well as have a current business licence. These companies have tried to get information in order to object and to appeal the decision of the Trade and Business Licensing [Board] to grant an LCCL to this foreign company. If this decision is allowed to stand and K.N. Network Services Limited is allowed to operate, it will negatively impact the Caymanian companies and deprive [them] of much needed economic opportunities which are small in number, given the nature of the business.

Madam Speaker, I have evidence, and I have supplied this to the two Ministers, that, although one of the conditions of the approval for the LCCL is that the company must employ Caymanian labour, the company has opted to advertise the jobs for Cayman overseas before advertising them locally.

Madam Speaker, I am further concerned that although the licence is restricted in this business dealing to working with LIME, the licence is for 12 years, but can be amended by the Trade and Business Licensing Board.

Madam Speaker, I am asking the Ministers responsible to investigate these matters and report to this Assembly on the need for the continuation of the availability of LCCLs to foreign companies to compete with local companies, given the local growth and development since the introduction of the LCCL.

Madam Speaker, I urge the Government to urgently consider the repealing of the legislation which enables the creation of such companies with 100 per

cent foreign ownership for 12 years to compete with local companies.

Thank you, Madam Speaker.

The Speaker: Honourable Minister for Financial Services, do you wish to reply in accordance with Standing Order 11(6)?

[Inaudible interjection]

The Speaker: [Standing Order] 11(6) says: "On a motion moved under paragraph (5), a Member who is not a Member of the Government and who has obtained the right to do so, may raise any public matter for which the Government has responsibility, in order to elicit a reply from a Member of the Government responsible for the matter. After not more than twenty minutes, the Member of the Government shall be called on to reply."

Member for North Side, you are making a statement or are you . . . it's . . . ?

Mr. D. Ezzard Miller: The motion is in accordance with Standing Order, Madam Speaker.

The Speaker: Okay.
Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I was confused from the beginning. I have never known of a statement issued or made on the adjournment. The proper course is a motion which is supposed to be properly moved and seconded and then the Minister would be able to respond. I don't know how you respond to a statement.

Mr. D. Ezzard Miller: [INAUDIBLE]. No seconder requirement.

Mr. V. Arden McLean: Madam Speaker, I did a statement the other day on the police and [INAUDIBLE].

Mr. D. Ezzard Miller: That's what it is, a motion. Anyhow, let's not get into it.

The Speaker: Okay.
Honourable Minister, do you wish to confine your response in that you need to get back at a later time?

Hon. G. Wayne Panton: Madam Speaker, thank you. I will have to take that approach. I have not had an opportunity to consider this in any detail at this point so I will have to give an undertaking to respond further on it.

The Speaker: Thank you.

The question is that this honourable House be adjourned until 10:00 am tomorrow. All those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

**AT 6.03 PM THE HOUSE STOOD ADJOURNED
UNTIL 10:00 AM, THURSDAY, 12 DECEMBER,
2013.**

