



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2015/16 SESSION

12 August 2015

*First Sitting of the Second Meeting
(Pages 279-330)*

**Hon Juliana Y O'Connor-Connolly, JP, MLA,
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>Premier</i> , Minister of Home Affairs, Health and Culture
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, JP, MLA	Minister of Community Affairs, Youth and Sports
Hon Marco S Archer, JP, MLA	Minister of Finance and Economic Development
Hon G Wayne Panton, JP, MLA	Financial Services, Commerce and Environment
Hon Tara A Rivers, JP, MLA	Minister of Education, Employment and Gender Affairs

EX OFFICIO MEMBERS OF THE CABINET

Hon Stran Ashton Bodden	<i>Temporary Deputy Governor</i> , ex officio Member responsible for the Civil Service
Hon Samuel Bulgin, QC, JP	Attorney General, ex officio Member responsible for Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Mr Anthony S Eden, OBE, MLA	<i>Deputy Speaker</i> , 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 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	<i>Deputy Leader of the Opposition</i> , Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

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

APOLOGIES

Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
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**OFFICIAL HANSARD REPORT
SECOND MEETING OF THE
2015/16 SESSION
WEDNESDAY
12 AUGUST 2015
10:10AM
First Sitting**

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

The Speaker: Good morning. I will call on the Honourable Deputy Speaker to grace us with prayers.

PRAYERS

Hon. Anthony S. Eden, Deputy Speaker: 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 Premier, the Speaker of the Legislative Assembly, Ministers of the Cabinet, Ex-officio Members, and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.

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

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

The Speaker: Please be seated.

The House is now in session and is called to order.

Madam Clerk?

I recognise the Member for East End.

QUORUM IN THE HOUSE

[Standing Order 13(2)]

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

On a procedural matter, I do not think the House is quorate *[counting]* two, four, six, eight, nine. It is not quorate, Madam Speaker, and in such cases I believe the Standing Orders say that the Chair has to call for it, and if it is not available in 10 minutes or 20 minutes, then the House is adjourned for a date to be set by the Chair.

The Speaker: Member for East End, please familiarise yourself with Standing Order 13, and then you can rise again and we can continue the discussion.

Mr. V. Arden McLean: I, I, I—

The Speaker: In particular subsection (2).
Are you rising under that section?

Mr. V. Arden McLean: Absolutely, Madam Speaker.

The Speaker: In that event we can wait five minutes for the additional Member to arrive so that the House can be quorate, now that it has been brought to the attention of the Chair, as required under the Standing Orders. We will remain in our seats.

For those with a tendency for mischief or who do not understand, Standing Order 13(2) says: **"If objection is taken by any Member that a quorum is not present the Presiding Officer shall direct that Members be summoned, the Member taking objection having to remain within the Chamber and if, after five minutes, the Presiding Officer is satisfied that a quorum is not present he shall adjourn the House without question put."**

So it is not a matter of the Speaker not being cognisant to count from 1 to 10.

[Pause]

[A quorum was present in the Chamber at 10:16 am.]

The Speaker: Madam Clerk.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

OATH OF AFFIRMATION *[Administered by the Clerk]*

The Speaker: I call Mr. Stran Ashton Bodden to the Clerk's dais. Please stand.

Hon. Stran Ashton Bodden, Acting Deputy Governor: I, Stran Ashton Bodden, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law.

OATH OF DUE EXECUTION *[Administered by the Clerk]*

Hon. Stran Ashton Bodden, Acting Deputy Governor: I, Stran Ashton Bodden, do solemnly and sincerely affirm and declare 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 Ex-Officio Member of the Legislative Assembly.

The Speaker: Mr. Bodden, on behalf of this honourable House, I now invite you to take your seat as the Honourable [Acting] Deputy Governor.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

APOLOGIES

The Speaker: I have received apologies this morning from the Sixth Elected Member for George Town.

PRESENTATION OF PAPERS AND OF REPORTS

MENTAL HEALTH COMMISSION ANNUAL REPORT 2014

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I beg to lay on the Table of this honourable House, the Mental Health Commission Annual Report 2014.

The Speaker: So ordered.

Does the Honourable Premier wish to speak thereto?

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

The Speaker: Please proceed.

The Premier, Hon. Alden McLaughlin: Madam Speaker, in accordance with section 8(a) of the Mental Health Commission Law 2013, I have just laid on the Table of this honourable House, the Annual Report of the Mental Health Commission for the calendar year 2014.

The Mental Health Commission was established in January 2014 under the Mental Health Commission Law, 2013.

The Members of the Mental Health Commission are as follows:

Dr. Marc Lockhart, Chair
Dr. Taylor Burrowes Nixon, Deputy Chair
Mr. Olivaire Watler, Deputy Chair
Mrs. Julene Banks, Member
Mrs. Kimberly Voaden, Member
Mrs. Faylene Ebanks-Suckoo, Member
Pastor Dale Forbes, Member
Dr. Enoke Richens, Member
Ms. Vanessa Gilman, Member

Madam Speaker, the members are stakeholders from various sectors representing legal, health care practitioners with training in mental health and advocates, or lay persons. The functions of the Mental Health Commission are divided into three sections, first Quasi-judicial, to hear and determine appeals under various sections of the Law and conducts reviews where a patient has been detained and released under an emergency detention order three or more times in 30 days.

Secondly, Recommendations to the Health Practice Commission and Councils. This includes submitting an annual report to the Minister with responsibility for Health, reviewing and advising on scopes of practice and codes of ethics for practitioners, providing policy advice to the relevant registering Councils and advising the Health Practice Commission regarding mental health facilities, medical research, and clinical trials in mental health.

Thirdly, General Functions which include the following:

- Obtaining and compiling statistics on mental health.
- Overseeing and delivering mental health training for constables, prison officers and any other persons expected to deal with mental health patients in the performance of their functions.
- Approving a list of overseas mental health facilities.
- Researching and establishing protocols and guidelines for mental health advocacy and approving persons to act as advocates.
- Establishing and maintaining a programme which provides information to the general pub-

lic concerning mental illness and co-occurring disorders and related conditions.

- Reviewing the progress of patients transferred overseas.
- Reviewing every six months the progress of remand prisoners deemed unfit to plead and submitting it to the Chief Officer, Judicial Administration.
- Giving policy advice to the Minister responsible for health on any aspect of the local mental health system.

Madam Speaker, I will now speak to the content of the report. Mental health services are delivered through the Health Services Authority and local private facilities, and mental health care facilities located overseas. In 2013, almost 4,000 patients were treated in the government and some outpatient private facilities, of which 9 per cent were children and adults 17 years of age or younger.

While there is an adequate number of mental health practitioners (psychiatrists, psychologists, mental health nurses, occupational therapists, et cetera) employed in the public and private sectors, the distribution of human resources among the three Islands is disproportionate as there is no psychiatrist, psychologist or occupational therapist present on the Sister Islands.

Madam Speaker, it should be noted that the publication of the Cayman Islands 2014 data of registered healthcare practitioners identified 6 mental health professionals, 13 psychologists, 7 registered mental health nurses, and 4 psychiatrists. These numbers, though not ideal, put the Cayman Islands in a better position for human resources in mental health than many other countries in the region. Our resources should now focus on improving community mental health services as well as increasing the outpatient services in our hospitals.

Madam Speaker, as you may be aware, a steering committee has been established, of which the Chair is a MHC key stakeholder. Since the finalisation of this annual report the strategic outline case has been approved by Cabinet and the request for proposals [RFP] has been issued to select a consultant to develop the outline business case as required under the Framework for Fiscal Responsibility. The RFP has gone out to tender with intention to award the successful bidder in late September or early October. Madam Speaker, this takes us one step closer to identifying a solution to accommodate our mentally ill patients requiring long-term mental health care.

World Health Organization Assessment Instrument for Mental Health Systems [WHO-AIMS]: Madam Speaker, this study was conducted in July 2014 with technical assistance provided by the Pan American Health Organization (PAHO). I must emphasise the thanks for the support of PAHO. The Government of the Cayman Islands was not required

to expend any funds for the study, collection of information or the writing of the report. The WHO-AIMS Tool has been used in over 100 countries for collecting essential information on the mental health system of a country and provides a baseline for monitoring any changes.

While many strengths have been identified, there are a number of weaknesses that need to be addressed. Some of the weaknesses highlighted are the absence of a National Mental Health Policy and a long term residential mental health facility, and the need for an increased number of mental health professionals to provide outpatient treatment for children and adolescents.

Madam Speaker, I am pleased to advise the Members of this honourable House that later this year, with the assistance of PAHO the Ministry will convene a stakeholder meeting to embark on the development of a National Mental Health Policy.

Madam Speaker, the training under the revised mental health legislation provided by the Mental Health Committee has been receiving very positive reviews. The training could not have come at a better time. For 2014 two training sessions were conducted with participants from a wide cross-section of stakeholders drawn from the Family Support Unit, Behavioral Health Associates Cayman, Department of Counselling Services, Department of Community Rehabilitation, HM Northward Prison Services, Health Services Authority, Judicial Administration, Department of Children and Family Services and the Royal Cayman Islands Police Service.

Training sessions will continue on a regular basis in 2015.

It is a requirement under the Mental Health Law 2013 for all detention forms to be sent to the Secretary of the Mental Health Commission for storage and filing. The forms are reviewed by the secretary to determine whether the members of the MHC need to be notified of any outstanding issues or observations. For the period April to December 2014, there were 31 individual patients admitted for various types and degrees of mental illness. During this period, no request for an appeal was received by the Commission.

Madam Speaker, as you can see from the report, the Mental Health Commission has a beautifully designed logo. In October 2014 a competition was launched in the schools and the winning logo was submitted by a student from Hope Academy. This was encouraged to get the students involved, create awareness among the public and to help reduce the stigma associated with mental illness.

The members of the Mental Health Commission have also prepared a brochure entitled, "**Know the facts**" on the mental health [legislation] which the Commission hopes members of the public and healthcare practitioners will find useful. The brochure is available on the Ministry's website as well as at private and public healthcare facilities.

Madam Speaker, in November 2014, the Chair of the Mental Health Commission spoke at the annual health care conference. His presentation provided an overview of mental health in the Cayman Islands, outlined some of the preliminary findings of the WHO-AIMS report and explained the role of the Mental Health Commission. Over 500 participants were in attendance and the presentation helped to raise awareness among participants as well as positioning the topic of mental illness at the same level of importance as other non-communicable diseases.

Madam Speaker, the Mental Health Commission's 2014 annual report also makes reference to the request for mental health advocates to serve as volunteers. Once these persons have received the necessary training, they will act as advocates for the mentally ill, assisting and working alongside mental health professionals to provide public education sessions that will help to reduce the stigma and increase the awareness of mental health and wellness.

Madam Speaker, as you know, social media is a great tool to create, share and exchange ideas and information. The Mental Health Commission's Facebook page has been busy, thanks to one of the members of the MHC.

Madam Speaker, through a partnership with the Business and Professional Women's (BPW) Club mental health matters are discussed on Radio Cayman's *Talk Today* show for the benefit of the community on a monthly basis. The MHC also participated in activities on World Mental Health Day observed annually on 10 October.

The establishment of the Mental Health Commission represents a first for the Cayman Islands and I am very pleased to have the benefit of the expertise and knowledge of the individuals who serve as members of the Commission. In order to mitigate many of the problems in our society that we currently face, I believe we must facilitate early recognition and treatment of common mental illnesses by enhancing access to mental health care through an integrated approach. The MHC will continue to educate, inform and empower, those individuals who require our assistance.

Madam Speaker, while there are some areas that we need to improve, there is much that we should be proud of. We have updated the mental health legislation and we are one of the few countries in the region that has legislation that is compatible with regional international human rights and practice standards. We have a Mental Health Commission that is committed and has been working assiduously since its formation and the MHC continues to advocate and promote mental wellness for all in the community. We are moving forward with identifying the best way to address the need for long term care for our chronically ill mental health patients.

Madam Speaker, in closing, I would like to thank my Chief Officer and Ministry staff, and the

members of the Mental Health Commission for their hard work, dedication and commitment to a subject that affects all of us. In the words of Bill Clinton: "**Mental illness is nothing to be ashamed of, but stigma and bias shame us all.**"

Thank you, Madam Speaker.

REPORT OF THE STANDING BUSINESS COMMITTEE – THRONE SPEECH AND BUDGET ADDRESS FIRST MEETING OF THE 2015/2016 SESSION OF THE LEGISLATIVE ASSEMBLY

The Speaker: I once again recognise the Honourable Premier.

The Premier, Hon. Alden McLaughlin: I beg to lay on the Table of this honourable House the Report of the Standing Business Committee – Throne Speech and Budget Address First Meeting of the 2015/2016 Session of the Legislative Assembly.

The Speaker: So ordered.

Does the Honourable Premier wish to speak to the Business Report?

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

CAYMAN TURTLE FARM ANNUAL REPORT FOR FINANCIAL YEAR 2013-2014

The Speaker: Honourable Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier, Minister of District Administration, Tourism and Transport: I beg to lay on the Table of this honourable House, the Cayman Turtle Farm Annual Report for the Financial Year 2013-2014.

The Speaker: So ordered.

Does the Honourable Deputy Premier wish to speak to the report?

Hon. Moses I. Kirkconnell: Yes, thank you, Madam Speaker, a few comments.

In regard to the financial statements that accompany the annual report, this is a qualified audit opinion by the Auditor General. Aside from those three qualifications, the Auditor General and KPMG found that the financial statements present fairly in all material respects the financial position of the company as of June 30, 2014, and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards (IFRS).

Madam Speaker, at this time I would like to thank the Ministry staff, the board management, staff of Cayman Turtle Farm for their hard work in producing these results and this very comprehensive report. I

invite Members of this honourable House and the public to review the annual report and accompanying audited financial statements. Thank you.

OWNERSHIP AGREEMENT ANNUAL REPORT FOR THE PORT AUTHORITY OF THE CAYMAN ISLANDS FOR THE 2014 FINANCIAL YEAR

The Speaker: Honourable Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier: Madam Speaker, I beg to lay on the Table of this honourable House the Ownership Agreement Annual Report for the Port Authority of the Cayman Islands for the 2014 Financial Year.

The Speaker: So ordered.

Does the Honourable Deputy Premier wish to speak to it?

Hon. Moses I. Kirkconnell: Yes, briefly, Madam Speaker.

The audited financial statements of the Authority include the Auditor General's opinion. The financial statements have been audited by the Auditor General and a qualified audit opinion has been issued on the June 2014 financials. The Auditor General states that except for the possible effects of the matter disclosed in the basis of the qualified opinion, the financial statements represent fairly in all material respects the financial position of the Port Authority of the Cayman Islands as of June 30, 2014, and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards (IFRS).

Madam Speaker, again, I would like to thank the board and the management of the Port Authority for their hard work in producing these audited financial statements and I invite Members of this honourable House and the public to review this report in detail. Thank you.

NATIONAL HOUSING DEVELOPMENT TRUST ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE 2014

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

Hon. D. Kurt Tibbetts, Minister of Planning, Lands, Agriculture, Housing and Infrastructure: Madam Speaker, I beg to lay on the Table of this honourable House, the National Housing Development Trust Annual Financial Statements for the Year ended 30th June 2014.

The Speaker: So ordered.

Does the Honourable Minister wish to speak to the report?

Hon. D. Kurt Tibbetts: No, Madam Speaker. Members can take advantage of reading the report and it is self-explanatory.

2014/2015 ANNUAL REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE

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

Mr. Roy M. McTaggart, Second Elected Member for George Town: I beg to lay on the Table of this honourable House, the 2014/2015 Annual Report of the Standing Public Accounts Committee

The Speaker: So ordered.

Does the honourable Chairman wish to speak to it?

Mr. Roy M. McTaggart: Just very briefly to apprise Members that this past year we have had a very active committee. We met some 13 times, 4 of those meetings were held in open forum in these Chambers. We considered a number of reports from the Auditor General and issued our reports and recommendations on those papers that he delivered.

I would like to acknowledge as well that we do have quite a bit of work outstanding moving forward. But once the summer holidays are over we will commence some public hearings with regard to outstanding reports of the Auditor General, and would like as well, finally, to acknowledge and thank all the members of the Public Accounts Committee for their support and the work that we have been able to achieve during the past year. Thank you.

ANNUAL REPORT OF OFFICE OF THE COMPLAINTS COMMISSIONER FOR THE 2013/2014 FINANCIAL YEAR

The Speaker: I recognise the Chairman of the Standing Select Committee to oversee the Performance of the Office of the Complaints Commissioner, the Elected Member for North Side.

Mr. D. Ezzard Miller, Elected Member for North Side: Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House, the Annual Report of Office of the Complaints Commissioner for the 2013/2014 Financial Year

The Speaker: So ordered.

Does the Member wish to speak to his report?

Mr. D. Ezzard Miller: Yes, Madam Speaker, very briefly.

First of all, I would encourage all honourable Members to read the annual report and study the tre-

mendous amount of work that this small group of dedicated civil servants accomplished during that financial year. The most impressive part of the report is to do with training, both in-house staff and also the wider civil service, as well as some training in the public forum. The Oversight Committee continues to lament the absence of Whistleblower legislation, although, as Chairman, I was roundly chastised and the country was assured in April last year in Cayman Brac that the Whistleblower legislation was ready, imminent to be presented to Parliament. Over a year has elapsed and we have not heard anything about it. So I would encourage the Government to bring forward the Whistleblower legislation.

On behalf of the Committee, I also wish to place on record our disappointment in the way the whole contractual relationship with the immediate past Complaints Commissioner, Ms. Nicola Williams, was handled by the Government. I think the job that she has gone to in the UK Government, certainly, indicates her value and what a loss it has been for this country to lose her as Complaints Commissioner.

The Committee is equally divided—

The Speaker: Member for North Side. Did you say “Government” or “Governor”?

Mr. D. Ezzard Miller: Well I include all of them, Madam Speaker. The Governor is part of the Government, and the Government is part of the Government.

But I do acknowledge that the contractual relationship, I do believe, is under the prerogative of the Governor.

The Committee is equally divided on this idea of the fusion of the Office of the Complaints Commissioner with other constitutionally established oversight bodies. As Chairman, Madam Speaker, who has a casting vote, I want to record publicly that I oppose the fusion of the Office of the Complaints Commissioner because I believe personally that that is going to be a backwards step and it is going to reduce the role and effectiveness of the role of the Office of the Complaints Commissioner.

Madam Speaker, let me once again encourage Members to read the report and let me publicly congratulate and acknowledge the hard work of the small staff and the amount of work they have achieved under unnecessarily difficult circumstances with staffing during the last year, and also to place on record my thanks to the members of the Committee for turning up for the Committee work. Thank you.

The Speaker: Thank you, Member.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: There are no Statements from Members of Government this morning.

PERSONAL EXPLANATIONS

The Speaker: I recognise the Honourable Leader of the Opposition.

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

I rise to get your permission to make a personal explanation under Standing Order 31.

The Speaker: Permission granted.

AUDITOR GENERAL'S JULY 2015 REPORT ENTITLED “NATIONAL LAND DEVELOPMENT AND GOVERNMENT REAL PROPERTY”

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

I rise to give this personal explanation under Standing Order 31 on the matter of Auditor General's July 2015 Report, entitled “National Land Development and Government Real Property.”

Lest this honourable House be led astray by some of the Auditor General's statements, I want to take this opportunity to outline some very important points, namely, the following:

1. that both the Health City and NRA agreement were and remain good for this country;
2. that the Auditor General's role is narrow and without authority to determine whether the agreement is lawful; and
3. that the Auditor General's statements have no relation to the facts of the case presented by the four ladies from West Bay.

First, Madam Speaker, both the Health City and NRA Agreement have conferred and continue to confer great benefits to the Cayman Islands and were negotiated during a period of depressed economic activity in this country. Both agreements have created jobs during construction and the benefits of these agreements will be seen for years to come in terms of construction, economic investment, local economic spin-offs, as well as attracting further investments to these shores. Both Shetty and Dart continue to make investments in this community and its economy. The Auditor General's reckless misuse of his position has seriously damaged the reputation of the Cayman Islands by calling into question any agreement that a foreign investor who wishes to invest in the Cayman Islands may make with Government.

Second, and most important, Madam Speaker, I would like to address the Auditor General's statements about these agreements being unlawful. I would argue that the Auditor General has done what he accused the Cayman Islands Government of doing

by exercising a role that he has no legal authority to exercise. The Auditor General's powers and duties as set forth in section 114, especially subsection (3) of the Constitution and in section 60 of the Public Management and Finance Law (2013 Revision), relevantly section 60(1) provides:

"The Auditor General shall- (c) on his own initiative or at the request of the Legislative Assembly or of any of its committees or subcommittees, conduct investigations and value for money audits, into- (i) the management of executive financial transactions; (ii) the financial management of any ministry, portfolio, statutory authority or government company or the Office of the Complaints Commissioner; or the Office of the Information Commissioner; and (iii) the economy, efficiency and effectiveness with which any ministry, portfolio, the Office of the Complaints Commissioner, the Office of the Information Commissioner, or any statutory authority or government company has used its resources in discharging its functions and in its financial dealings."

[Section 60](4) reads: **"(4) For the purposes of subsection (2), the objective of a compliance audit shall be to enable the Auditor General to report on the audited entity's compliance with a particular set of criteria when incurring expenditure and such criteria may be derived from relevant financial reporting frameworks, laws, regulations, terms of contracts or funding agreements, or may be other criteria deemed by the Auditor General to be suitable."**

Madam Speaker, these provisions of the Public Management and Finance Law make it clear that the Auditor General has responsibility to carry financial audits, not legal audits.

Under the Cayman Islands Constitution, like any constitution of a modern, democratic state, the job of determining whether an agreement is lawful or not, belongs with the courts, not with the Auditor General. That is right, Madam Speaker. Declaring an agreement to be unlawful is a judicial function to be carried out by a court. And I dare say that such a ruling could only be made following a hearing in public at which the affected parties are represented and able to be heard. We all know that the Auditor General doesn't call anybody in, unless he can tell them what to say.

I doubt, Madam Speaker, that, the Cayman Islands Constitution expected to confer that authority on the Auditor General. The Auditor General calls into questions the roles of elected Cabinet Ministers. Madam Speaker, under our Constitution, the Cabinet of the Cayman Islands has executive authority. Under section 43 of the Cayman Islands Constitution, executive authority is vested in Her Majesty and is exercised on her behalf by the Government consisting of the Governor as Her Majesty's representative and the Cabinet either directly or through public officers.

The Auditor General's interpretation of Cayman's governance structure is fundamentally flawed. He says that the agreements are unlawful because Ministers (and I quote), **"Acted outside their legal roles by becoming involved in the selection of means."** And, I quote further, **". . . no approval from the Legislative Assembly was sought . . ."**

How can the Auditor General rely solely on his interpretation of the Public Management and Finance Law and completely ignore the Constitution? According to the Auditor General, based on the Public Management and Finance Law, with only passing reference to the Constitution, Cayman's governance framework is this—this is what he says: "Ministers set policy with only limited means of influencing programme delivery. Chief Officers craft plans to deliver the outcomes and to oversee implementation and the Legislative Assembly approves all expenditure." That is what he says.

In particular, the Auditor General states throughout the report that Ministers have a policy only role, and that they are not to become involved in the selection of means or operational implementation.

Madam Speaker, the conception of Cayman's governance framework is at the heart of the Auditor General's assertion that the National Roads Authority and Health City agreements were unlawful for two reasons. One, he says, the Ministers acted outside their legal roles by becoming involved in the selection of means; and two, no approval of the agreements from the Legislative Assembly was sought. Madam Speaker, no doubt all Members of this honourable House are aware of the provisions of the Constitution and our respective roles. However, for the benefit of the listening and viewing public and, indeed, the Auditor General, it is very important to note the following provisions of our Cayman Islands Constitution.

Section 44(3) states: **"The Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government except those matters for which the Governor has special responsibility . . ."**

Section 108 states specifically: **". . . all public officers must— (b) implement Government policy to the best of their ability and in accordance with the directions given to them by the Cabinet or other responsible person or authority."**

Let me repeat that: **". . . all public officers must— (b) implement Government policy to the best of their ability and in accordance with the directions given to them by the Cabinet or other responsible person or authority."**

So, you see, Madam Speaker, in accordance with the Constitution, the executive, as represented by the Cabinet, is responsible not only for formulating policy, but *implementing* it . . . responsible for implementing it, and civil servants are required to act under the direction of the Government in Cabinet. And this

only makes perfect sense, as Ministers are responsible to the Legislative Assembly, whose Members—us—in turn are accountable to the electorate. Under the Auditor General's scheme—and that is what it is, a scheme—no elected civil servants are responsible for operational decision making. That is what he says.

As I said, Madam Speaker, this conception of Cayman's governance structure is fundamentally flawed by the Auditor General. The Auditor General's perception of governance structure is fundamentally at odds, too, with the Westminster doctrine of separation of powers as related to the Constitution. It introduces a fourth arm of Government; chief officers, who actually deliver policy outcomes. That is what he says. Nowhere does the Constitution refer to chief officers. Nowhere!

Section 38(1) of the Public Management and Finance Law (2013 Revision) sets forth the duties of chief officers in these terms: **“The chief officer of a ministry or portfolio shall ensure that his ministry or portfolio- (a) complies with its duties under section 37; (b) delivers the outputs specified in his annual budget statement prepared in accordance with section 42; (c) achieves the ownership performance specified in his annual budget statement prepared in accordance with section 42; and (d) complies with this Law.”** (Meaning the Public Management and Finance Law)

Nothing in that provision that I just read alters the position under the Constitution that chief officers, like other civil servants, are under the direction of Cabinet in general and relevant Ministers in particular.

Madam Speaker, as I said earlier, the Auditor General rests his case in the Public Management and Finance Law. But is this enough to make the Auditor General's statements correct? The answer is no. Even though the Public Management and Finance Law, was enacted in this honourable House, a law of the Legislative Assembly could not, cannot, amend our Constitution. In other words, nothing in the Public Management and Finance Law alters the position under the Constitution that chief officers, like other civil servants, are under the direction of Cabinet in general and relevant ministers in particular. And I want the *Cayman Compass* and all the news media to understand what is in the Constitution. No matter what they like and what they don't believe or what they want to believe, our Constitution is a document.

Madam Speaker, the Auditor General who states that Government in Cabinet needs to seek and receive Legislative Assembly approval prior to undertaking new initiatives, this cannot be correct. If that were so, the business of Government would grind to a halt. In accordance with the Constitution, the correct position is that Government requires an appropriation of the Legislative Assembly before it incurs any expenses or liabilities. The broad scheme of the Public Management and Finance Law is that there is an annual budget process culminating in an annual plan

that the Legislative Assembly reviews and authorises appropriation. In other words, our Finance Committee.

Madam Speaker, it is worth noting that under the Health City agreement the Cayman Islands Government did not incur any financial expenditure or liabilities. For example, the tax on work permit concessions is not expenditures within the meaning of the Public Management and Finance Law. The commitment to upgrade the airport is very contingent. It only applies if the Cayman Islands Government is satisfied, acting reasonably, that there is a significant increase in the number of visitors to Grand Cayman for medical treatment. Further, any subsequent decision to upgrade the airport would require an appropriation from the Legislative Assembly. In this regard, one should note that the commitment, like all of Cayman Islands Government's other commitments, applies only to the extent those undertakings are permissible by the laws of the Cayman Islands.

In relation to water usage, Cayman Islands Government merely committed itself to request the assistance of the relevant utility service provider in providing all necessary or desirable infrastructure support for water and to request its board to consider providing water supply at a preferential rate for a fixed period of time.

In relation to air travel, again, Cayman Islands Government merely committed itself to work with Cayman Airways. It never said Cayman Airways had to do this or do that. No, it didn't. Madam Speaker, the Auditor General seems to think there was little-to-no value for money assessments undertaken with these agreements. While the Auditor General does have a role to undertake value for money audits, his commentary related to the arguments on their value for money were unfair and unsubstantiated. In both cases a value for money analyses was undertaken.

Madam Speaker, I trust my remarks so far have illustrated the fact that the Auditor General had no legal basis to make an assessment regarding the legality of the Health City and NRA agreements. His reliance on the narrow focus of the Public Management and Finance Law, instead of the Cayman Islands Constitution, where the Ministers have the power, casts serious doubt on the reliability of his report.

So, what motivated the Auditor General to make these assertions? What seems to motivate the Auditor General is a profound distrust of politicians. His answer is to keep politicians as far away as possible from developers, by having senior civil servants undertake operational decision making, albeit in accordance with policy objectives set by Ministers. Not only is this contrary to what the Constitution provides, but it would not work. Why is it assumed that civil servants would be above any question, any corruption? Why is it assumed in that manner?

Under the Westminster system, one of the safeguards against corruption by ministers or maladministration generally is transparency. They are

accountable to the legislature and, in turn, to the voters. Whilst this might be an imperfect system, it is to be preferred to the Auditor General's governance framework under which unelected, unaccountable senior civil servants make operational decisions.

Why should not ministers select means (to use the Auditor General's description) to carry out the policy agenda upon which they were elected? There are other reasons why the Auditor General's governance framework could not work. Under that framework, civil servants would not make deals that expanded Cayman's economy. They would be afraid to do so. I saw that in the agreement when we were talking about them in Cabinet. The result would be a diminished gross domestic product and rising unemployment. Even if they did enter into deals (that is, the civil servants), who would sign agreements or give consent for development on behalf of the Cayman Islands Government? Civil servants? Where in the Constitution do they have that power? Politicians are elected by the populace to govern. No one else is. But beyond this, Madam Speaker, and this is my final point, the Auditor General's faulty arguments have given rise to some unfortunate consequences.

We now hear statements from the four ladies from West Bay who now claim on the basis of the Auditor General's statements that they should have won their case in the court. The two cases certainly cannot be compared equally. The Auditor General's arguments are based on the Public Management and Finance Law, whereas the four ladies tried to base their case on the Constitution. In both cases their arguments are faulty.

Nevertheless, Madam Speaker, since the execution of the NRA agreement on December 15, 2011, Dart has invested more than US\$141 million on projects included in that economic stimulus partnership including the following. Dart invested US\$33 million on the Esterely Tibbetts Highway extension to West Bay including the road to Batabano, connection to Willie Farrington Drive, and landscaping. This represents cost of the road only. The bridge, the embankment, utilities relocation and required land acquisition were additional costs borne by Dart. Dart provided Government with US\$5 million in funding for community projects. Dart has invested more than US\$3 million in construction on improvements to the public beach with work ongoing. Dart has spent more than US\$100 million to date on development and construction costs for the Kimpton Resort with an estimated investment total of \$309 million by its November 2016 opening.

Anyone trying to say that the Shetty deal is bad, or that one is bad, ought to consider the facts. Firstly, we agreed with the project to provide high quality medical care at an affordable cost for the largest number of patients with special attention to those who are poor and vulnerable; to create a centre of excellence in the Cayman Islands providing large

leading edge tertiary care for patients in the United States, the Caribbean and surrounding regions. The medical facility would include hospitals, a medical university, assisted living quarters, and a biotech research centre. World class clinicians from India, Canada, US and Europe are being recruited. The facility is to be managed by [Medical] Lien Management Systems with a focus on high outcome and very high efficiency.

Phase 1 of that project has 104 beds and is one of only two Joint Commissions International USA (JCI) accredited multi-specialty hospitals in the Caribbean. The hospital has five multi-specialty and super-specialty operating theatres and is fully equipped with CT, MRI, hybrid OR, and a gamma camera.

HCCI (that is the project) is built to undertake up to a 2,000 bed hospital facility completed in multiple phases over 10 to 15 years, providing cutting edge tertiary care across specialties, including cardiac, neurosurgery, orthopaedic, cancer care and transplants. And the project uses state of the art technology to ensure accurate diagnoses and improved ICU patient monitoring.

It showed too, Madam Speaker, that now the tourism figures are rising and it shows that medical tourism figures are rising because of that project. But we should consider the number of Caymanians that are getting treated there without the costly cost in the United States.

The facts also show that Health City Cayman Islands would be the preferred hospital for the residents of the Cayman Islands, thus saving residents time and money. Rates are approximately 60 per cent lower than US rates. Increased tourism, as Health City Cayman Islands will cater to medical tourists from the region, Latin America, and North America. And the success of the project would appeal to investors. Jobs for Caymanians would be created within the project, the hospital, within the various developments made up of healthcare, retail, residential, hospitality and commercial businesses. And outside of the development, additional businesses necessary to support that development.

To date, that project has spent over \$80 million including the following:

- \$60 million in construction
- \$20 million in operational cost
- \$7 million paid in government fees and duty
- Over 63 per cent Caymanians used from the over 400 construction jobs
- Over US\$13 million paid to Caymanians and local operators during construction
- Over 5,000 patient consults
- Over 450 procedures performed, an estimated savings to Government in healthcare costs to locals to date, over US\$5 million
- 167 employees, of which 57 are Caymanian, including senior staff and one medical doctor

- The hospital has a comprehensive training programme for Caymanian staff members. Caymanians now have local access to a super specialty tertiary care facility, previously not available to us.
- 199 student interns have been through the HCCI student intern programme so far.
- 2,500 students have personally toured the hospital including 360 of which expressed a desire to choose healthcare as their career choice.
- 60 students have confirmed that they will pursue medical studies; both post high school, to eventually become Cayman doctors and surgeons.
- 2015/16 school year will have approximately 300 students participate in the intern programme.

Phase 2 will consist of another 300 beds that will add neurology, oncology, ophthalmology, nephrology, urology, and gastroenterology services. This phase will include a 300 room hotel that will cater to post-care visitors, as well as their attending relatives. The hotel is in close proximity to the main hospital facilities to allow close care and quick attendance by hospital staff as well as easy access for mobile diagnostic equipment, should the need occur.

So, Madam Speaker, when the multiplier effect is taken into consideration, the Dart and the Shetty projects are worth millions to these Islands. Millions of dollars! Over a billion dollars! Importantly, however, the Auditor General's report has cast doubt among foreign and local investors at a time when Cayman needs more investment.

Madam Speaker, I wonder if it would be prudent to ask the Honourable Attorney General's office to weigh in on the merits of the Auditor General's statement regarding the legality of the agreements. I must ask: Is the Auditor General a judge? Is he a planning adjudicator or an adjuster? No! He needs to stick to what he has responsibility for—value for money audits. That report or any such report cannot take his responsibilities to the extent that he has gone. If so, you can believe this administration would not get anything done, nor any other one.

Madam Speaker, I thank you for your indulgence and I thank the House for theirs.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

MONETARY AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The Monetary Authority (Amendment) Bill, 2015.

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

MUTUAL FUNDS (AMENDMENT) BILL, 2015

The Clerk: The Mutual Funds (Amendment) Bill, 2015.

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

SECURITIES INVESTMENT BUSINESS (AMENDMENT) BILL, 2015

The Clerk: The Securities Investment Business (Amendment) Bill, 2015.

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

COMPANIES (AMENDMENT) BILL, 2015

The Clerk: The Companies (Amendment) Bill, 2015.

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

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The National Roads Authority (Amendment) Bill, 2015.

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

BUILDERS (AMENDMENT) BILL, 2015

The Clerk: The Builders (Amendment) Bill, 2015.

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

SECOND READING

MONETARY AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The Monetary Authority (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment: I beg to move

the Second Reading of a Bill shortly entitled The Monetary Authority (Amendment) Bill, 2015.

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

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

I rise on behalf of the Government to present this short Bill which seeks to transfer responsibility for certain functions from the Financial Secretary to the Minister charged with responsibility for Financial Services, and to the Minister charged with responsibility for Government finances as appropriate.

Section 54(1) of the Cayman Islands Constitution Order 2009, provides that the Governor shall charge any Minister with responsibility for the conduct of any business of the Government including responsibility for the administration of any department of government. Further to the May 2013 General Election, the Ministry of Financial Services, Commerce and Environment was specifically established with financial services for the first time, given the prominence it deserves as a ministerial subject, given its importance to our economy.

This responsibility includes responsibility for several agencies involved with financial services matters, and this is included in the gazette notice and included the Cayman Islands Monetary Authority, Madam Speaker.

So, the Bill is seeking to do two things, one is to clarify the responsibility in respect to the Monetary Authority which previously was articulated in the existing law as being largely that of the Financial Secretary, but also to clarify certain changes which were made pursuant to the Cayman Islands Constitution which was adopted in 2009 through the Cayman Islands Constitution Order. Specifically, this is the change in reference from "Governor in Cabinet" or "the Governor" to "Cabinet."

While section 5(1) of the Cayman Islands Constitution Order 2009 provides that the laws of the Cayman Islands shall be read and construed as if they included the references as set out in the Constitution Order, we also have section 5(2) which provides that the Legislative Assembly may make amendments to the laws of the Cayman Islands to ensure that these changes are properly reflected. So, Madam Speaker, in accordance with section 5(2) we are seeking to make this amendment to clarify the references to "Cabinet". And in accordance with the changes to responsibility for financial services and the Monetary Authority, to clarify who has responsibility and make the change from the Financial Secretary to the Minister responsible.

Specifically, Madam Speaker, the amendments are seeking to change or replace the words "Governor in Cabinet" throughout the Law with the word "Cabinet" and specifically to make provisions for

the board of the Monetary Authority of the Cayman Islands to deal directly with appointments for the Managing Director's position and the Acting Managing Director's position without having these requests having to go through Cabinet each time the Managing Director is out of office.

Madam Speaker, I think that sufficiently clarifies the Bill. The Bill is 12 clauses. Each of them deals with essentially those two general areas that I have outlined. So, I won't take any more time with that, Madam Speaker. I would commend the Monetary Authority (Amendment) Bill, 2015, to this honourable House for passage. Thank you.

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

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

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

I would just thank my colleagues for their tacit support of this Bill.

The Speaker: The question is that a Bill shortly entitled The Monetary Authority (Amendment) Bill, 2015, given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Monetary Authority (Amendment) Bill, 2015, given a second reading.

SECOND READING

MUTUAL FUNDS (AMENDMENT) BILL, 2015

The Clerk: The Mutual Funds (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton: I beg to move the Second Reading of a Bill shortly entitled The Mutual Funds (Amendment) Bill, 2015.

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

Hon. G. Wayne Panton: Yes, thank you, Madam Speaker.

I rise to present the Bill on behalf of the Government. It is a Bill to amend the Mutual Funds Law to

make provision for the regulation of alternative investment funds pursuant to the Alternative Investment Fund Managers Directive (which I will refer to sometimes as AIFMD) of the European Union; and for incidental and connected purposes.

Madam Speaker, the AIFMD came into effect in July 2013. It aims to provide a harmonised and stringent regulator and supervisory framework for activities within the European Union of fund managers that manage or are marketing investment funds in the European Union.

In respect of that directive, it is proposed that what is referred to as a “passporting mechanism” or passporting regime, be implemented which would allow non-European fund managers to manage or market investment funds within the European Union.

Now, Madam Speaker, the process to receive this alternative investment or AIFMD passport, is two-fold. First, the European Securities and Markets Authority (which I may refer to as ESMA) that regulates and supervises financial institutions within the European Union will assess the preparedness, the technical preparedness of non-European Union countries in respect of the requirements of the directive. Based on that assessment, ESMA will give its advice or opinion to the European Union Council and the Parliament, as well as the European Union Commission, in relation to which non-European Union countries may be extended the passport.

Following that, Madam Speaker, the Commission and the Parliament will, through adoption of a delegated act in relation to non-European Union countries extend the passporting mechanism to them.

Madam Speaker, the current position at the moment is that Cayman Islands domiciled funds that have a connection or nexus to the European Union, are currently able to operate under what is referred to as a national private placement regime, which consists of arrangements under each of the particular member states of the European Union which have cooperation agreements in place, or memorandums of understanding, in respect of the AIFMD with the Cayman Islands Monetary Authority.

So, the current position is they are marketing or managing through these national private placement regimes. That is potentially going to end in 2018. That is the deadline for the passporting mechanism to be in place. It is not clear at this point whether the private placement mechanism will go away altogether, but certainly there is a deadline to have the passporting mechanism adopted for countries that wish to manage or market funds within or to European Union member states.

The position for us, therefore, is that we need to have in place a framework implemented through legislation which supports the requirements of the Alternative Investment Fund Managers Directive in order to have an opportunity to be assessed by ESMA to be compliant technically and to receive their bless-

ing, their recommendation, and to be a part of an advice and opinion which they pass on to the European Commission and Parliament in respect of the passporting mechanism.

So, this Bill is prepared with that background in mind, to create this framework which will support the additional requirements for the Alternative Investment Fund Managers Directive and to give us the opportunity to have a positive review from ESMA and a recommendation that the Cayman Islands, or funds which are domiciled in the Cayman Islands, be included in the passport mechanism under the Alternative Investment Fund Managers Directive.

Madam Speaker, the Bill seeks to introduce in this regard, the concept of an opt-in designation as what is referred to as a regulated EU connected fund. This is any type of investment fund, whether it is open-ended or close-ended, which is either managed from the European Union or marketed to the European Union or any member state of the European Union.

Secondly, it is a fund which elects to fall within CIMA's regulated EU connected fund regime. So this is a specific regime which will be created by this framework and supported by regulations which will have to be adopted shortly that support this framework and the additional requirements of this Alternative Investment Fund Managers Directive and allows our funds to opt in and say, *Yes, we are going to comply with these additional requirements* and that will then facilitate or put our funds in a position to receive the blessing of ESMA in respect of these requirements.

The Bill also provides that existing supervisory duties and powers of CIMA under the Mutual Funds Law will extend to regulated EU connected funds. So all of the existing powers that CIMA has to supervise, control and manage funds that are currently regulated under our law, will apply to any fund which perhaps is not currently regulated, but wishes to opt in to a greater regulatory regime.

Alternatively, the Bill allows an EU connected fund that does not wish to elect to be regulated to follow the existing national private placement regime for as long as that is available. So you have these two tracks that are possible. You have a private placement regime that we don't know how long is going to continue. It may end in 2018 when the passporting mechanism is required to be in place, it may continue. But we also have to make provisions that in the event that it ends, we have a mechanism in place through which we can get the passporting mechanism with the blessing of ESMA and the actions of the European Parliament and Council to extend that to the Cayman Islands.

So, we are trying to cover both possibilities and allow flexibility for our industry to decide when they would like to formally elect to the higher level of regulation to comply with the specific requirements of the passporting mechanism.

Madam Speaker, the ESMA, on 30 July 2015, issued an initial opinion, which amongst other things, confirmed that it has already assessed six non-European Union countries. So, in total, there are probably 40-odd countries, non-European Union countries, that they will be looking to assess. And they do not have the capacity to assess all at the same time, so they are doing them in groups. They have done one group of six, initially. Three of the six of the first group, which were the States of Guernsey, the States of Jersey and Switzerland, were recommended for extension of the passport. The other three, which are the US, Singapore and Hong Kong, have been deferred for a variety of reasons and their assessment will be ongoing until issues are resolved to allow ESMA to issue an opinion or decision on it.

This advice or opinion of 30 July 2015 was very instructive for a couple of reasons, Madam Speaker. In particular, it highlighted the need to ensure that our Alternative Investment Fund Managers Directive legislative framework is put in place as quickly as possible, given that the opinion of ESMA indicated they will be conducting these ongoing assessments in short order. I believe there is an indication that sometime after this month the Cayman Islands will be assessed as part of perhaps a second group of countries. Therefore, we have to be in a position to be positively assessed and not be in a position where we are deferred for any reason.

In addition, Madam Speaker, the opinion of ESMA has really shown additional light on their process and the criteria. This gave the Ministry, in collaboration with the Cayman Islands Monetary Authority and a private sector working group, who I must thank very much for their collaboration and their assistance in working on this matter, very worthwhile insight and an opportunity to review the Bill, the contents of the Bill and the proposed regulatory framework that we are seeking to put in place to meet the requirements of the AIFMD.

That working group and the collaboration has been an ongoing process even up until this morning, Madam Speaker. As a result of that good work, CIMA has advised the Ministry that in addition to the existing clauses of the Bill, CIMA would also like to have a provision which gives CIMA notice of all Cayman Islands investment funds that are marketing in the European Union in order to ensure they have a clear picture of what may be relevant, which funds may be relevant in this context and allow them to satisfy certain regulatory obligations.

They have also indicated (that is the Cayman Islands Monetary Authority), that they need a general power to request information from a Cayman Islands investment fund that markets in the European Union. So, the context of all of that is to simply put them in a better position to understand who may be involved in this market and, therefore, going forward, who may be impacted and who may potentially need to adopt or

opt in, in respect of the AIFMD requirement and the passporting mechanism.

Madam Speaker, in that context, in terms of the additional advice from the Cayman Islands Monetary Authority, we have filed a further Committee stage amendment seeking to amend certain provisions of the Bill as currently set out, to add clauses to incorporate these additional regulatory powers which have been requested by CIMA.

Madam Speaker, the Bill, through the establishment of this framework, provided it is passed by this honourable House, and we then have the regulations put in place in short order, will maintain the dominant market position that the Cayman Islands has in the global investment funds market. It will allow our market to sell investment fund products to the European Union without interruption. As a global leader in this space, this is going to be very critical to us. I need not go into further detail in terms of the significance of our funds market to the overall financial services industry in the Cayman Islands. But needless to say it is extremely important to us, both in terms of the private sector, as well as the revenue that it contributes to the coffers of the Cayman Islands Government.

So, Madam Speaker, with that broad explanation and some of the background points, I would, at this point, commend this Bill to this honourable House for passage. I look forward to support from the Members. Thank you.

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

If not, before the Minister sits down, perhaps he wishes to exercise his right of reply.

Hon. G. Wayne Panton: Thank you, Madam Speaker. I was just exercising my legs.

I appreciate the tacit support provided by Members of this honourable House. Thank you.

The Speaker: The question is that a Bill shortly entitled The Mutual Fund (Amendment) Bill, 2015 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Mutual Funds (Amendment) Bill, 2015, given a second reading.

SECOND READING

SECURITIES INVESTMENT BUSINESS (AMENDMENT) BILL, 2015

The Clerk: The Securities Investment Business (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton: I beg to move the Second Reading of a Bill shortly entitled The Securities Investment Business (Amendment) Bill, 2015.

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

Hon. G. Wayne Panton: Yes, thank you, Madam Speaker.

I rise to present the Bill on behalf of the Government. It is a Bill which seeks to amend the Securities Investment Business Law (2011 Revision) to make provision for the regulation of alternative investment fund managers pursuant to the Alternative Investment Fund Managers Directive, which I spoke to in relation to the earlier Bill.

This Bill is slightly shorter in scope than the amendments to the Mutual Funds Law. Honourable Members will have had the benefit of the explanation and the background given in relation to the Mutual Funds (Amendment) Bill, which I have just presented.

Essentially, this is the same background; it is the same issue we are trying to address. These two Laws, the Securities Investment and Business Law and the Mutual Funds Law have to have this framework in place to allow the Alternative Investment Fund Managers Directive to be supported, the requirements for that to be implemented to allow the European Securities Markets Authority, or ESMA, to issue a positive assessment in respect of the Cayman Islands.

This specific law speaks more to the managers themselves in respect of the issue of possibility that you may have Cayman Islands domiciled managers who are managing funds that are marketed within the EU, or managing them perhaps from an office in the EU.

So, I will not go into greater detail in terms of the background. As I said, it is the same process, the same factors are relevant and this Bill, the amendments sought in respect of this Bill to be implemented to the Securities Investment Business Law are part of the overall framework needed to be put in place to facilitate the Cayman Islands being part of the passporting mechanism for non-European Union countries under the Alternative Investment Fund Managers Directive.

There is one point that I think I should add in addition to the background information provided in respect of the Mutual Fund (Amendment) Bill, Madam Speaker, and that is in connection with ESMA's opinion, which was issued on 30 July 2015, there was a recommendation that the European Commission and Parliament not act in a piecemeal manner in respect

of the recommendations that are being provided by ESMA, in respect of the readiness of a jurisdiction, or the technical requirements of the AIFMD being in place for jurisdictions. What that means for us, which hopefully the European Commission and Parliament will adopt, is that we will not have a competitive disadvantage in the market in that we will have some who are perceived as having the passporting mechanism extended to them and others who come down the line over a period of months. Hopefully that is the approach that is taken. It would be more logical to wait for ESMA to complete its review of all jurisdictions prior to the Commission and the Parliament acting to extend the passporting mechanism to any particular jurisdiction or group of jurisdictions, and if that is accepted by them then that will put us in a good position. It will avoid any sort of market disruption and perception in the marketplace that somehow a Cayman Islands fund has a disadvantage.

So I wanted to just mention that, Madam Speaker, because that was an important highlight of the advice given by ESMA.

Madam Speaker, just in terms of the Bill, the net result is that this Bill allows Cayman Islands domiciled fund managers who do not presently require a licence under the principal Law to elect to be licensed. Again, as with the proposed amendments to the Mutual Funds Law, this is an opt-in mechanism. So it allows the managers who were not previously subject to regulation, not previously subject to a licensing requirement, to elect to be subject to a new licensing requirement and regulatory supervision. That will enable those managers who so elect, Madam Speaker, to carry out certain AIFMD related activities if they wish to do so, assuming, of course, that the passporting mechanism is extended to the Cayman Islands. The activities themselves are set out in the Bill. I will not go into detail.

Madam Speaker, the National Private Placement Regime is also relevant in this context as it is with the funds. So irrespective of whether we are talking about the application to the manager or the application to funds which are being marketed, the two regimes are the same. We have the potential for the passporting mechanism and we have the National Private Placement Regime which will be ongoing and parallel at least until 2018. So, for as long as that is available, that will be available to managers.

The Bill also seeks to grant certain additional powers to CIMA specifically relating to what is described as an EU connected manager. Of course, that is the gist of this. If you are an EU connected manager and you elect to move from a position where you are not regulated to a position where you are regulated and supervised to that level, there will be additional powers which CIMA will have and that is set out in the Bill as well.

So, in summary, as with the Mutual Funds (Amendment) Bill, this Bill seeks to amend the Securi-

ties Investment Business Law to facilitate the Cayman Islands investment funds industry being in a position to comply with the Alternative Investment Fund Managers Directive and to receive the blessing of ESMA ultimately to have the passporting mechanism extended. This can only help support our current dominant position in relation to the global investment funds market and arena and it will put the Cayman Islands in a position to continue to develop and enhance that dominant market share.

Madam Speaker, that concludes my presentation on this Bill. I therefore commend the Securities Investment Business (Amendment) Bill, 2015, to this honourable House for passage. Thank you.

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

If not, I once again call on the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker. I thank honourable Members for their tacit support. Thank you.

The Speaker: The question is that a Bill shortly entitled The Securities Investment Business (Amendment) Bill, 2015 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Securities Investment Business (Amendment) Bill, 2015, given a second reading.

SECOND READING

COMPANIES (AMENDMENT) BILL, 2015

The Clerk: The Companies (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker. I rise to move the Second Reading of a Bill shortly entitled The Companies (Amendment) Bill, 2015.

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

Hon. G. Wayne Panton: Yes, thank you, Madam Speaker.

I rise on behalf of the Government to move this Bill which seeks to amend specifically sections 55 and 56 of the Companies Law (2013 Revision), in or-

der to extend the deadline for the filing of changes to the Register of the directors and officers of a company with the Registrar of Companies and to establish a maximum penalty for the breach of section 55.

In 2012, sections 55 and 56 of the law were last amended at the time seeking to bolster the perceived effectiveness in respect of requirements to file directors' and officers' information with the Registrar of Companies and to enhance the penalty regime for non-compliance by companies. These amendments made, were well intended. However, Madam Speaker, since that, members of the financial services industry have raised considerable concerns and the reasons given, in summary, or chiefly, were that the current versions of sections 55 and 56 have produced a disproportionately high level of penalty amounts, in some cases as much as \$20,000 or higher, and that is particularly so when you have, for example, a change to a director or perhaps a director has deceased in respect of a large group of companies which is not unusual in the Cayman Islands.

This one change or one failure to file a change, which might be something as—I don't want to say ordinary or even mundane, because there is nothing so light about somebody passing away. But from an administrative perspective, something which is relatively straightforward and understandable how the oversight could have occurred, could result in these very, very significant accumulated penalties because it is aggregated for all of the companies in respect of the position that person held, either as director or officer.

Madam Speaker, the view is as well, that the current regime, the filing and the penalties regime for sections 55 and 56 of the Companies Law are effectively losing their ability to be affective because companies are now fearful because of, what are regarded as administrative oversights, and of having these massive penalties imposed. And some of them may be choosing not to make the filings, not to keep their records up to date once they have discovered that there is an issue. And that does not serve the purpose of the requirements to have the filings done in the first place. We need to have current information and we need to have accurate information, in this jurisdiction.

I think we are all familiar with the need to be able to identify who the mind and management of any particular company is from time to time. And if this information is not being provided for fear of what is regarded as a disproportionately high penalty, then that does not serve our purposes either. This Bill seeks to make some changes to restore some balance to that so that it is proportionate and it facilitates the effectiveness of the rationale behind the provision in the legislation.

Of course, Madam Speaker, what this is also doing is making the Cayman Islands appear less competitive versus competitive jurisdictions around the world. So, as an example, the Ministry under-

stands that a comparable financial center, like Delaware or the British Virgin Islands, presently have no statutory obligations to update their respective registrars of any changes. Now, clearly, we do not want that, because that is the opposite extreme of what we are trying to achieve in terms of ensuring we understand who the mind and management are for companies within our jurisdiction. But nevertheless, that is an example of jurisdictions that are regarded as competitive jurisdictions that have no such requirements, whereas we have the requirement, but we have this disproportionate fee. So we are perceived as being non-competitive.

If we take another jurisdiction, such as Bermuda, our current understanding is that no fines are being imposed for failing to meet the requirement of recording changes in the register of directors and officers within 14 days of the occurrence of the change, although they do have that specific requirement. Where they do have a penalty in respect of that seeking to enforce, or to give some teeth to that requirement, it is a much smaller amount. I believe the aggregate or maximum penalty which could be implemented by the Bermuda Registrar of Companies is something like \$250, if they are satisfied that the failure to do the filing is not part of some wider agenda to deliberately flout the requirements of the law.

Similarly, the jurisdiction of Singapore also imposes . . . they have a filing requirement and they also impose a fine to give teeth to that for each late notification. However, their fine is currently in the region of US\$60.

Madam Speaker, while we still do not seek to go to any extreme of not having a penalty, we certainly are going to maintain the filing requirements. But it seeks to make some changes in respect of that. What we are trying to do is balance the need for obtaining this information and to have a proportionate penalty for failure to comply with it. So we are trying to encourage compliance and avoid the unintended consequences of a disproportionate fee which will frustrate that aim of obtaining compliance.

Madam Speaker, I would like to clarify as well at this stage that there is no intention here that the penalty is clearly not one that is designed to add to government revenue. This is merely an attempt to proportionately force or persuade companies to comply with the requirements.

So, Madam Speaker, with those reasons in mind, the Bill proposes to extend the deadline for the filing of notices of changes in relation to directors and officers from 30 days to a total of 60 days, and it would set a fixed penalty of \$500, and that is regardless of the number of changes being notified on a particular day, subject to certain conditions.

It also seeks to impose a maximum aggregate penalty of \$2,000 for all companies for which the same directors and officers changes relate. So, where you have a group or a family of companies that have

some directors that have been changed in respect to all of them, this seeks to put a cap on the aggregate penalty that can be charged in respect of that group of \$2,000.

As I said, Madam Speaker, this is seeking to address situations where there is an inadvertent breach, where there is a clerical error, where there is a simply oversight. What it does not seek to do is accept a situation where it becomes clear that the actions or the inactions, the omission, is a result of a concerted effort, a deliberate effort or attempt to evade filing requirements for whatever reason. So, there is a provision which allows the Registrar to impose, or to ignore the cap where it is clear there is a deliberate attempt.

Madam Speaker, with that brief summary, I will conclude my presentation in respect of this proposed Bill and commend the Companies (Amendment) Bill, 2015, to honourable Members of this honourable House for passage. Thank you.

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

If not, I once again call on the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker, just to say thank you to all honourable Members for their tacit support of this Bill and the others as well. Thank you.

The Speaker: The question is that a Bill shortly entitled The Companies (Amendment) Bill, 2015, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) Bill, 2015, given a second reading.

SECOND READING

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The National Roads Authority (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister for Infrastructure.

Hon. D. Kurt Tibbetts, Minister of Planning, Lands, Agriculture and Infrastructure: Thank you, Madam Speaker.

I beg to move the second reading of a Bill for a law to amend the National Roads Authority Law (2006 Revision) to make provision for the change in funding arrangements for the National Roads Authority.

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

Hon. D. Kurt Tibbetts: Yes, Madam Speaker, thank you.

Before speaking to the few amendments that are being proposed, let me just take a few minutes to look into the background of the Law itself which gives rise to the need for these changes.

First of all, the National Roads Authority (NRA) was established by the National Roads Authority Law on July 1, 2004. The purpose of that Law was to ensure the effective and efficient management of public roads, to ensure a stable and adequate source of funding for the management of public roads, to establish clear channels to secure the flow of funds to the NRA and for incidental and connected purposes.

Sections 18 through 20 of the Law outline the financial provisions of the Authority. Section 18(1) discontinued the previous Roads Development Fund which existed before the NRA became an authority via the Law. And section 18(2) established a Road Fund as a discretionary reserve in core government for the purpose of providing funding to the newly created NRA at the time.

Section 19(1) established the following for the benefit of the Road Fund: a) 20 per cent of the duty charged, collected and paid pursuant to the Customs Tariff Law (2002 Revision) upon motor gasoline imported into the Islands; and b) 16 and 2/3 per cent of the duty charged, collected and paid pursuant to the same Customs Tariff Law upon diesel imported into the Islands, excluding diesel oil under code 2703 in the first Schedule of that Law, that diesel being what is used by Caribbean Utilities to provide electricity; and c) the Law speaks to 100 per cent of the fees paid to the Infrastructure Fund pursuant to section 38(4) of the Development and Planning Law (2003 Revision); and d) 80 per cent of the fees paid in respect of the registration of motor vehicles under Part II of the Traffic Law (2003 Revision).

Madam Speaker, in accordance with the Law, the above may be amended by regulation. However, to date, no regulations have been developed or implemented under this Law. So, a key provision in the current Law is the requirement for disbursements from the Road Fund to be made pursuant to an appropriation in accordance with the provisions of the Public Management and Finance Law. What this means is that the Government can only use the Fund by seeking approval from the Legislative Assembly via a budget appropriation as part of an Appropriation Law.

So, with the best of intentions, I think, without doing too much disservice to the Law, the whole situation is a bit convoluted. So, the principal objective today in amending the Law by way of this Bill, I will quickly outline.

The intent is to repeal the Road Fund which section 19 of the present Law established, and to establish a new financial provision under the NRA Law which identifies 100 per cent of the import duties collected from gasoline and diesel importation, except that which is imported by CUC for the purpose of generating electricity, along with 100 per cent of the fees collected for motor vehicle drivers' licences. These two sources of revenue are to be used by the NRA as a type of (I think we would term it) a road-user fee for the upkeep and maintenance of the roads network in the Cayman Islands.

And lastly, Madam Speaker, we see the need to remove the need for a budget appropriation in order for the NRA to receive and use these funds for the intended purpose.

So, essentially, the Government would like to remove the funding of the NRA as an expense line item in its income statement and instead fund the NRA by hypothecating these two revenue streams and right now they yield approximately \$10 million per annum to the NRA to enable it to carry out its ongoing maintenance every year.

Madam Speaker, the practical framework for implementing this change would be—and I draw a parallel—similar to the arrangements that core government now has with the Monetary Authority. Under those arrangements, industry, that is the banks, insurance companies, mutual funds, et cetera, remit fees and licence charges to the Monetary Authority. The Authority (that is, CIMA) collects these revenues on behalf of core government and pays it over without recognising it as the Authority's own revenue. So essentially, Madam Speaker, it is a collection agency on behalf of the government.

Now, in a similar manner, once we are able to amend this Law, the core government would act as the collection agent for the NRA. The identified import duties and licence fees would be collected in the same manner as they are now. However, central government would then receive these funds on its books as a liability in the first instance, and when those funds are paid over to the NRA, the liability would be cleared from the books of core government and be recognised by the NRA as revenue. This sum will be paid in arrears by core government the month following the actual collection.

Just to break it down a bit, Madam Speaker, what we could not do is allow core government to collect these funds and it show up as part of general revenue and then hand it over to the NRA but not have anything on the other side of the accounting treatment. The NRA was consulted on this change and welcomed the change to a more stable source of

funding. And it is not as convoluted and complicated as the original NRA Law calls for, which speaks to four or five different sources. We also consulted the Ministry of Finance about the mechanism to be put in place to facilitate these payments. The Ministry of Finance understands the structure and they are quite happy to administer the fund in this regard.

So, now that we have outlined how it will work, I just want to expand a little bit on the changes.

Clause 1 provides the short title and commencement of the proposed legislation.

Clause 2 inserts into the principal Law, a definition of the words "driver's licence" and provides an updated reference to the Constitution in the definition of "Minister".

Clause 3 amends section 18 of the principal Law by removing the Road Fund from the discretionary reserve in the financial statements of core government to reflect the change with respect to the funding of the Authority's operating costs.

Clause 4 repeals and replaces section 19 of the principal Law and this is what is important, Madam Speaker, so that we understand that there is no runaway train or anything here: It provides for revenue not exceeding the amount approved by Cabinet to be transferred to the Authority from the two direct revenue streams via the Road Fund. And, Madam Speaker, these amounts will be used to fund the operating costs of the Authority.

The amendment makes provision for the Cabinet to vary the amount of revenue transferred to the Authority via the Road Fund, or to vary the sources of revenue which are used to fund the Authority's operating costs. This is necessary because, as our infrastructure increases in the future, there may be need to allocate additional funds to cover the operational cost of the NRA.

In addition, it may also be necessary from time to time to revise the source of funding of the NRA.

Clause 4 provides that whenever revenue is generated from the two direct sources of funding identified in the amendment for the Authority's operating costs and these two amounts exceed the revenue approved by the Cabinet to fund the Authority's operating costs, the excess revenue in the Road Fund will be transferred from that Road Fund to the general revenue of core government. This is simply a mechanism to allow for core government to utilise excess funds that may be generated from the revenue sources.

So, in practical terms, as it stands now, there is a \$10 million budget for the NRA for their operational costs on an annual basis, and every month of the 12 months of the year, that specific amount (\$10 million) divided by 12 can be allocated. Perhaps depending on the time of the year and depending on what they are doing, those amounts may also vary because there may be a month they need more and

there may be a month they need less. So, it is all a matter of communication and Ministry will know exactly how to deal with it. But cumulatively there is a cap of \$10 million. Anything collected via these two sources over the course of the year would be into general revenue.

Clause 5 of the Bill repeals and replaces section 20 of the principal Law to facilitate direct funding arrangements between the Government and the Authority, using the revenue streams set out in the proposed section 19, to fund the Authority's operating costs. The clause further provides for the retroactive application of the transfer of those funds.

Clause 6 amends the wording in section 23 of the principal Law as it exists now to accord with the wording in section 19, as [amended by clause 4].

Clause 7 of the Bill provides for the validation of the transfer of funds to the Authority.

Madam Speaker, we firmly believe that this funding arrangement will give the NRA more flexibility and self-sufficiency from core government, but it will also lead to greater efficiencies in the management of its funding, such as, to also give core government more autonomy and transparency of funds that are utilised by the NRA. For example, we believe that we can already see this arrangement paying off with more proactive and preventive maintenance and management of roads and infrastructure as the Authority can now appropriate and allocate funding where it feels necessary, having better knowledge on what their budget and the funds that they have access to will be on an annual basis.

So, Madam Speaker, there is, should I say, a more sensible approach to road maintenance. The board of the NRA, working in tandem with the managing director and his team, do regular assessments of the roads here and they make recommendations by way of which roads are in need of more maintenance. Of course, that is not to say that every road is in the condition it should be in at present. But what we are saying is that this will give us the best chance to be able, in an organised fashion, to catch up within a few years and be able to keep and maintain our road network in much better condition, and working with a lot more efficiencies.

Madam Speaker, I do not claim the best expertise. But as I understand it, on many occasions if you do not wait until the roads get in a certain condition and you do the needed upkeep and maintenance on those roads, you end up spending a lot less than waiting until the deterioration stage is at a certain point and you literally have to start from scratch, as has been the case with many of the roads in recent times and there are still more that have to be done.

So, Madam Speaker, the Government will continue to purchase, as it has in the past, services from the NRA for executive assets or capital works (as we refer to them) but in a continuing transparent fashion.

I hope that the explanations for the amending Bill are clear enough and that Members can support it. I have every confidence that this will continue to bring about a much more efficient and open operation by the NRA and the relationship between that Authority and the Government will not only continue to improve but I think the citizens of the country will see good improvement with regard to the quality of roads on which we drive. With that, I commend this amending Bill to this House. Thank you

The Speaker: Does any other Member wish to speak?

I recognise the Member for East End.

Mr. V. Arden McLean, Elected Member for East End: Thank you, Madam Speaker.

I really did not have any intention of speaking on this, but the fact that this Government is now taking the intent of the NRA Law and changing it to the extent that they are changing it, I feel compelled to speak.

Madam Speaker, when I was the Minister responsible for the NRA, I tried on more than one occasion to make the NRA self-sufficient through the Law that had only been put in, in 2004, just prior to me becoming the Minister. Of course, I was not very successful in doing that. But I believed that it was necessary to make NRA, which is an Authority, self-sufficient to operate on their own, and Government would not have to be interfering, or the NRA would not be dependent upon Government to provide revenue just like the Water Authority.

I think it is rather unfortunate that we create these authorities and then we control them. I think that when we appoint people to these authorities and we have, as Ministers, the authority to give general direction, we should not also direct the minds of these people and restrict the minds of these people on what this country needs because we put them there for that intended purpose. We put them there so that they can make some decisions, but, certainly, with the Cabinet having the authority to give general directions, such as, we need a road into West Bay to alleviate the traffic and open up lands, or something. And then we commit that money through Government for capital works.

Now, there are a number of things related directly, or activities in our country that are related directly to the use of our roads.

When the then honourable Gilbert McLean made this Law, there were a number of things that he envisaged that are related directly to roads, infrastructure of roads. Madam Speaker, with your permission, I will read from section 19 of the existing National Roads Authority (2006 Revision).

The Speaker: Please proceed.

Mr. V. Arden McLean: Section 19(1) states: “**The following executive revenue shall, upon being earned by the Government, be placed in the Road Fund-**”

“Shall”.

“(a) **twenty per cent of the duty charged, collected and paid under the Customs Tariff Law (2002 Revision), upon motor gasoline imported into the Islands;**

“(b) **sixteen and two-thirds per cent of the duty charged, collected and paid under the Customs Tariff Law (2002 Revision), upon diesel oil imported into the Islands, excluding diesel oil under code number 27.03 in the First Schedule to that law;**” (which used to be CUC at the time).

“(c) **one hundred per cent of the fees paid to the infrastructure fund under section 38(4) of the Development and Planning Law (2005 Revision); and**

“(d) **eighty per cent of the fees paid in respect of the registration of motor vehicles under Part II of the Traffic Law (2003 Revision).**” This was whatever you paid to have your car on the road.

That was the intent of this Law because those things are interconnected. My intent was to also increase the cost of registration of vehicles over a certain weight limit because that is what is causing the destruction of our roads. Fortunately, or unfortunately, we built the roads to accommodate private motor vehicles and small commercial vehicles up to a certain weight limit. But when we get where we started bringing in trailer trucks, low boys, or large vehicles with multi axles, we started destroying those roads. Thus the reason why we see our roads continue to deteriorate.

Now, many of us never see these roads and how they are deteriorating because we drive on them. We do not get out and inspect them. One of the things I did when I was there was to get NRA to start inspecting it and we bought the programme to categorise the damages on these roads. My intent was to charge by the number of axles on your vehicle.

The other problem we have is many of those vehicles, say, for instance, one that has a 44,000 pound gross rating, they are putting 50,000 to 60,000 pounds on it, and it cuts into our roads and it destroys the roads. We only drive for five minutes . . . Madam Speaker, you and I only drive for five minutes and we are driving on a nice piece of road. But when the engineers inspect it, it is destroyed and it causes us to do maintenance so much earlier. That is the other means of revenue that we needed to collect. If you are going to do a business, then you are going to pay for it, because right now, whatever a three ton truck pays, a 44 ton truck pays very little difference in cost to register the vehicle. But they create 20 times more damage on our road. Until we get to that point, our roads will always be destroyed and we will forever be putting money there to maintain our roads.

So, the Government is proposing to use 100 per cent of the fuel import duty charge collected and paid under the Customs Tariff Law (2014 Revision) on gasoline and diesel used by motor vehicles. This would exclude fuel import duties for diesel consumed by Caribbean utilities and 100 per cent of the fees collected and paid under the Traffic Regulations (2012) on motor vehicle drivers' licences.

Now, Madam Speaker, nothing from the infrastructure fee, nothing from the registration of vehicles, which is where (pardon the pun) the rubber meets the road. That is where it meets the road and destroys the road. What we are doing here . . . and the Minister can say whatever. The \$10 million that we are proposing to give the NRA does not cut it. I want us to compare what the Minister announced that he is doing in George Town of revitalisation—\$5 million. The little roads he is doing in George Town are going to cost him \$5 million. He is doing Smith Road. He did from the airport down to Public Works. He did Godfrey Nixon Way. He plans to do Linford Pierson Highway to extend it by four lanes. Madam Speaker, I am here to tell the Minister that that does not cut it.

Let us think for a minute about our traffic woes in George Town. During my time almost eight years ago, our problem was West Bay Road and the eastern districts. I recognised that. We recognised that. He along with me, the current Minister, sent me out there to take the licks to get that corrected. I did. But part of that correction was to deal with George Town. Along comes the tree huggers and they would not allow me to complete that project, which was to widen Linford Pierson Highway, and go through the forest, the supposedly Ironwood Forest. That is the only place it is in Cayman too.

Madam Speaker, I brought a piece in here. That came from East End, and we have plenty of it up there. So, it is not endangered. Trust me.

Anyway, be that as it may, Madam Speaker, part of that plan was to turn Walkers Road into three lanes, a turning lane in the middle and then one lane either way, because the reserve is there. We can get it done on Walkers Road now. I do not know how long it is going to take before it builds out to the road again.

Madam Speaker, when I met with the objectors, I explained to them that we had hired one of the best traffic management consultants in America. And they told us that if we didn't get that road through, we were going to be sitting in traffic. So I said to them, *The same way I am going to sit in traffic, so will you.* Madam Speaker, so said, so done. We have now backed up with traffic past Spotts again.

West Bay Road, we have now backed it up to Camana Bay too. Don't think that this so-called tunnel that Dart is going to build is going to change it! I trust that the Minister has looked at that . . . may I digress here a little bit? I trust the Minister has looked at that and ensured someone is going to manage that tunnel, because the day that we have rain and we have traffic

backed up along West Bay Road, someone is going to die in that tunnel from carbon monoxide.

I am sure he has considered that, and all others have considered that. But, Madam Speaker, I said all of that to say that because we did not do that work in George Town, or I did not get it done, and you know, Madam Speaker, I will hold up the white flag and surrender when I don't get something done.

We are now giving NRA \$10 million for maintenance. Let's summarise it. The eastern end of this Island is where the majority of the trucks are. We all know that. That is where we get all our materials from to come to George Town to do our construction. Now I want you to and look and prove me . . . here is how I prove myself right, Madam Speaker. Go and look at the roads from Bodden Town to East End; totally destroyed. It has been in need of resurfacing for the last 15 to 20 years. I didn't do it because I had a crisis on my hand in George Town.

Now, \$10 million is not going to do that. It will not do it, absolutely not, to correct it. So, Madam Speaker, my argument is that we start charging those vehicles that run on it and destroy it. We get the money to pay for it. Over time, government finances it. They say it is \$40 million to go to Frank Sound. It cannot be \$40 [million]. Put it on record today that I say \$40 million will not build that. If you were building a bicycle lane it couldn't build it. If you were using a bicycle on it, you couldn't build it.

Madam Speaker, when I did the estimates . . . and, Madam Speaker, you know I keep piece of paper, right? I will hold on to paper. When I did the estimates—the NRA did the estimates, for the next phase of the east/west arterial, which was from Newlands to Roy Bodden Place there, Lookout [Gardens], it was \$23 million. We have not reached the swamp yet. The deepest swamp is between there and North Side Road—Frank Sound Road. Somebody needs to tell me where \$40 million comes into this. They must go to turn the cars up on two tyres with the width of that road they have to build there. No way. Impossible!

But, be that as it may, Madam Speaker, what we need now is the correction and circulation of circulation of traffic in George Town. The Minister is trying. I must give him credit for that. The little Smith Road and Humber Lane that we have planned as well from then, nobody did anything about it.

The UDP came along and did nothing. They did not even put a cat eye in the road, which is what successive Governments did prior to the PPM, the best PPM that I was a part of, 2005 to 2009. Twenty years before that we had one little road built in this country. Then they criticised us that we spent too much money. Good thing we did! You know that too, my good friend.

Now, Madam Speaker, that little road we just built up there by the airport down to Public Works, has done nothing but cost us money. It has not alleviated

any traffic. We just took it off one corner and put it on the next. That's all it does. Instead of coming out there by the furniture store, it now comes out by Public Works and stops right at that same little roundabout. What we need now is to put that highway through the airport connector that I had planned years ago that goes down to . . . and I know, Madam Speaker, that we will likely hear that Dart is going to do that for us, which is fine, as long as we don't give him the rest of the country for it! Madam Speaker, that is what is needed right now.

What is also needed—and the Minister knows that I am not trying to criticise, I am merely putting an opinion and my position, based on my knowledge. And I am sure he has thought of this (or, if he hasn't it is a good time to start)—is that through the ironwood forest. And there were alternative routes to it. I just was not prepared at that time to spend that kind of money to go up against the face of that bluff where those homes are. But that is an alternative, because what we were doing was building 19 foot walls so that the smog would just lift and drop right back down within it. We see it all over the world. That's what we were going to do.

Now, I think the Minister needs to consider doing the alternative up against that bluff, coming out by Burger King on Walkers Road and do the three lanes for Walkers Road so you do not have all these parents dropping their kids to school and have to wait until traffic in the opposite direction stops before they can turn across the road and blocking the lane at the same time.

It is of paramount importance that South Sound circulation, the western end of George Town circulation, be addressed immediately, and \$10 million is not going to do it. Ten million dollars cannot do the circulation for George Town, whether it is now or whenever. It would have to be phased in over four or five years to get it done. We are in a crisis again, Madam Speaker. We waited too long to do a continuation of these things.

Now, here we have my good friend caught up with it again, but I believe that we need to give NRA the money from these other areas in order that they can plan these things, because to do all of those works that are talked about, it goes right back to what the Minister said a while ago. They are going to buy those assets from NRA. When is the government going to be able to afford it? That is what has caused this all along, Madam Speaker, for 30 years. If the Minister goes in there and decides, *Well, we're going to build something else*, then, here we go with the traffic woes again. That is what has caused the problems that we have.

Madam Speaker, any country that does not move its people, has become stagnated. It will suffer. The country will suffer. Our commerce comes from the movement of people. That is where it comes from. How do you think we get the bread in East End and

the patties along West Bay Road? It is roads that we are moving on; we don't use helicopter. Roads are the essential part of an infrastructure. And if we do not put emphasis on it, my good friend, the Minister of Works now, knows we are going to be in the same problem I had when I walked in there on the 18th day of May 2005.

Madam Speaker, he was one of them who told me I needed to get this job done, you know. He was one of them who encouraged me to go to West Bay to ensure that an hour and a half travel time out of West Bay mid-day and in the morning would be changed. On the 26th day of September 2006 . . . why the 26th day of September, Madam Speaker? Well, my first birthday present out of the Government. They never gave me a thing else. The Premier would not even buy me a card, Madam Speaker, during those times. But, Madam Speaker, on that day we did a soft opening and it went from an hour and a half travel time to 15 minutes. That is the kind of stuff we need now.

Then, the Minister of Works now started arguing me about relieving the traffic when he comes down in the morning. So we went on the eastern end. And that went from two hours down to the regular half hour. But it is stepping back up again, Madam Speaker. And why is it stepping up? Because the district of George Town is gridlocked. Every person, every beating heart that comes to this country is allowed to buy a vehicle. I ain't talking about bicycles. Let's turn it into China and give them bicycles.

That is the problem, Madam Speaker. If we are not going to bite the bullet and make the brave decisions, the bold decisions that Bermuda made 40 years ago, we are going to be in problems. And if we don't spend the money now, we are up the creek and there is no amount of gasoline you are going to get out of it. Nothing! You cannot then change it by virtue of public transportation. That time has gone. Long gone!

We have spoiled our people. Nobody is inconvenienced in this country. Everybody has five, six vehicles on their driveway, because they have five or six people in their home. You can have 10 cars because you can only drive one at a time. But everybody must be in that one. Madam Speaker, that is our problem. And, Madam Speaker, I don't care if it's me, your good-self, my good friend now; we cannot resolve this problem with money. We cannot resolve it with money.

Madam Speaker, the other thing I wanted to do was to fill in there by the AVR and make a public park there, vehicular park. And then commute people into George Town and get them out of George Town. But of course, that was killed because Aviation said it is too close under the flight path. Everywhere I go in America, or any other country . . . what is the likelihood of everybody getting in their car at the same time if a plane crashes there? That is how we think.

Free government land, we could have made a park there, get six, eight buses and commute people into town. Then we could make George Town a pedestrian only.

I tried the other side of the road. I was getting ready to talk lease from that private person. Madam Speaker, people come into George Town, they park there all day. They don't move their vehicles. We get more traffic congestion in the middle of George Town than we have anywhere else. That is our problem, because everybody buys a car. We just need to make it a little more efficient . . . I believe the Minister used words like "be more proactive".

The Speaker: Member for East End, could you give an indication how much more time you are going to be using?

Mr. V. Arden McLean: Madam Speaker, this is for lunch, you mean?

The Speaker: They may result some technical difficulties. I am trying to balance how close we are to finishing this. I would prefer if you finish this before we take the break. But if it is going to be an extended period, then I may have to make the call for the luncheon break to allow the technician to do the necessary savings.

Mr. V. Arden McLean: Madam Speaker, let me wind up, because . . . and this is no disrespect to the Chair, Madam Speaker. I have been here almost 15 years. Madam Speaker, we need to do something. And this is . . . I am going to digress again. This is off the subject. We need to do something with this parliament. Let's forget about us. Let's think about those coming behind us. The service in this parliament appears like we are here to serve everybody else. Nobody is here to serve us. I hope the Premier hurries up and get this thing called a separation—an autonomy of this parliament. Madam Speaker, make the Minister respond. But that needs to be done. And if the Premier does not bring it by September in the next sitting, I am bringing a motion that we can all debate it.

Madam Speaker, I have asked a million times for proper recording equipment in this parliament. We settle too much for mediocrity, Madam Speaker. That is our problem. Everybody's else knows how to do it, except us.

Madam Speaker, thank you.

The Speaker: Member for East End, I will now take the luncheon break and should you wish to continue after lunch, you will have that opportunity. We will now break for lunch and reconvene at 2:30 pm.

Proceedings suspended at 1:03 pm

Proceedings resumed at 2:57 pm

The Speaker: Please be seated.

Proceedings are resumed.

Member for East End, was your debate terminated or do you wish to continue?

SECOND READING

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

[Continuation of debate thereon]

Mr. V. Arden McLean: Madam Speaker, just briefly to point out some stuff that I believe is rather confusing in this Bill because . . . and if I may, Madam Speaker, I know the Minister said in his introduction that the Government would collect these monies and pass it on to the NRA in arrears.

I did not hear him say how the first month was going to be started because that means the NRA would be short one month, they would be operating without revenue for the first month if it is in arrears. Unless, like he said, he divided that \$10 million by 12, which is just over \$800,000, and that is already being given to them on a monthly basis and they have started doing that already. But if it is to start it, then they would be in a quandary up there, I can tell him that.

Madam Speaker, where the difficulty comes in, in this, I believe it appears like the wording in [section] 19(1) was taken directly out of the Law, which is, "**The Authority shall have a board of directors which shall be responsible**"—this is [section] 7(1) of the law—"responsible for the policy and general administration of the affairs and business of the Authority."

Section 7(2) says: "**Without prejudice to subsection (1), the Board shall be responsible for-**

(a) securing the effective implementation of the responsibilities, functions and duties of the Authority;

(b) overseeing the effective performance of the Authority;

(c) setting operational priorities with regard to construction, upgrading, rehabilitation and maintenance of public roads."

That language is almost the same thing as in this amendment [section] 19(1) where it says: "**The Cabinet shall authorise the transfer of revenue, not exceeding ten million dollars, to the Authority, via the Road Fund, for the purpose of funding the Authority's annual operating costs, in particular, the construction, upgrading, rehabilitation and maintenance of public roads.**"

Construction is not an operational cost. Construction is a development capital cost. Now, Madam Speaker, I see the Minister shaking his head. But I thought construction was completely different from operational costs.

Now, within the construction you have an operational cost and you, too, have an administrative cost. But when the Minister was introducing this, the Minister was saying that for the construction of roads Government is going to do that different from this \$10 million—which is correct, that is the way it should be. Under this operational cost there should not be construction in there.

Section 19(1) . . . clause (4) . . . I am sorry, Madam Speaker, clause (4) of the Amendment Bill. I do not know if the word “construction” can go in there unless it is small little construction, little roads, something of that nature. Certainly with projects it is a little difficult.

Madam Speaker, why I say that \$10 million is insufficient is because of the many responsibilities the Authority has other than development of roads. If you look at [section] 5 of the [National Roads] Authority Law we have from (a) to (s) of all the responsibilities that is placed upon them. It is not only about painting the lines on the road. It is also about trimming trees, it is also . . . and the Minister knows that during my tenure I had to pay out a lot of money because a tree dropped on top of a car. All of those different things are the responsibility of the NRA. I do not see \$10 million cutting it. I really do not.

I know the Government is constrained by the provisions in the Framework for Fiscal Responsibility but, Madam Speaker, I believe that this section 19(1) that is being repealed should have produced more monies than the \$10 million, because when you are talking about registration of motor vehicles, we have over 30,000 vehicles in this country. And if you figure, Madam Speaker, the average on those is \$250, you are talking 7 to 8 million dollars right there that needs to go to the Fund.

I understand the Government, but the Government needs to tell us why they are not doing what the law originally said. Is it too much to give NRA? Then, let us say that. Are we going to keep the NRA busy? Madam Speaker, the Minister said that currently they are around the \$10 million in maintenance and operation. But, of course, we see every time it rains they cannot keep up with the drains, just that one alone. They cannot keep up with cutting the edges of the verges of the road with the bush cutters. Why? I do not know how many miles of road we have in this country. It has to be somewhere between 500 and 600 miles of road. It is over 500. It has to be over 500 miles of road. Yes, someone will say, *Not on a small Island like this*. Trust me. It has to be close to 500, if not over. They cannot keep up with it. Why? The resources are not available.

Certainly, I do not know if the Government took advice from the NRA personnel, but certainly, Madam Speaker, the provisions are under section 5 wherein it says that, **“The Authority shall be responsible for the administration, management,**

control, development and maintenance of public roads and related facilities.

“(2) For the purposes of subsection (1), the Authority shall—” and (r) says: **“provide to the Minister advice on- (i) the adequacy of the funding provided to the Authority from the Road Fund for financing the maintenance and construction of public roads; (ii) the need to develop new, or abolish or amend existing, financing instruments for the Road Fund; and (iii) the optimal level of Authority revenue from the Road Fund in the context of other revenue sources of the Authority; and (s) perform such other responsibilities, functions and duties as may be assigned to it by this or any other law.”**

Now, Madam Speaker, this thing about revenue. I know we are afraid to allow them to go out to do revenue, because then they say we dip into the free enterprise. But, Madam Speaker, it is only them who are supposed to maintain, *exclusively*, the public roads. The law says that, too. They have the exclusive authority—the absolute authority over that. Nevertheless, when people cut up the roads and they go patch it . . . and that could very well mean, Madam Speaker, that, they manage how it is patched. When people cut these roads and they go to maintain them, patch them, each and every one of us complains of the rough ride we get, or how badly the road is patched. But the responsibility is for the Authority to do it.

Of course, I started making the Water Authority pay them. That was abandoned as soon as I left. But, Madam Speaker, I believe that we need to get to a point where the Authority is responsible for the maintenance of our roads.

Madam Speaker, I see the drains. Right now, for us to properly drain the roads in this country we need to drill bigger and deeper wells. That is going to cost money and that is maintenance.

Madam Speaker, when we look at the roads, the West Bay Extension that I did and the east/west arterial, you do not see much water settling on it because we dug bigger wells and deeper wells. We dug them down 150 to 200 feet deep. That is where the water can drain. But when we are digging them 75 feet and only using four-inch sized wells, it chokes up. That is the kind of maintenance our roads need at this stage. I believe the way this was set up with the licensing fees, the infrastructure fee and some of the gasoline and the likes; I believe the NRA would have been receiving around \$15 million or more. And I think we would have seen much better maintenance, much more proactive maintenance on our roads.

Madam Speaker, if we are talking about efficiencies and effectiveness, we took all the paving equipment to Cayman Brac. And Cayman Brac has 150 miles of road? One hundred? And it is still there. Where this country has the greatest need is right here in Grand Cayman. Now it gets worse. We only have one supplier and one paver of asphalt. It gets worse!

That is worse than we were. We are paying through our nostrils to get the roads paved in this country. In the meantime, we have a full complement of equipment in Cayman Brac. It is cheaper for us to buy another complement of equipment and put it here on Grand Cayman—even if we have to go in to doing our own mix. There is plenty of work for the private sector out there. We may call on the private sector—the one supplier—once every three months. He cannot be sitting there waiting on us to survive. But when we call on the one person, the one supplier, and that supplier has other work to do, other contractual agreements, we have to sit down and wait. Our whole plans then get thrown out of whack.

I am challenging the Minister to consider it. I believe it was the last time I priced (granted this is seven years ago—more than that—over eight years ago, maybe nine years ago) . . . the last time I priced a mixer (a batching plant) it was just under \$1 million. We probably can get all the equipment for \$2.5 million at this stage and do our own paving. We did it before, Madam Speaker, many in this country will not remember it but we did it before. Mind you, Madam Speaker, the plant was behind Public Works and it caught fire. This is years ago, but something happened with the bitumen. But that is a possibility.

We do not have the competition out there any longer to sell us asphalt. We are making it in Cayman Brac and we are making it quite efficiently. Why can we do it up there and we cannot do it in Grand Cayman? We are afraid to make those decisions because we are afraid we are stepping on someone's toes? I do not know. But if we are talking about saving money and this is the way to save money and keep it off the books, collect it as a liability so it does not show on the books, then we can save . . . and I think the Minister of Finance is listening, too. I know he is listening. Anytime he knows there is a possibility to save, he listens. I believe that that is a great possibility to save.

Madam Speaker, I am supporting their Bill, but there are things that I believe the Minister needs to consider. We really need to consider it. We need to get George Town to where the traffic is moving. George Town is too small for us to have gridlock all day long. It is too small for the want of a few roads here and there to create that circulation.

Madam Speaker, I must tell you we have some very, very good young Caymanian engineers at the NRA. I used to tell them they had to tie a light around their heads and work all night. But they did it. You have Paul, you have Jackson . . . you have all those kids there. You have Howard. These kids are very capable. I mean, they are not kids anymore, they are grown men, now, but kids to me. But, Madam Speaker, they are capable of giving the proper advice. And then, we have Donnie Ebanks as Chairman of the Board. Donnie is capable in his engineering capacity as well. They know what is needed. They have some of the tools they need to look at these different things

like road management. And if they do not have it, they know how to get professionals in to do it—and traffic circulation and the like—studies.

Madam Speaker, I say to the Minister, let it not be on your watch that this gridlock gets worse in George Town than it was when you entered those offices. It is getting bad—really bad. You need to make those bold decisions as to whether or not . . . or at least consider restricting vehicles in this country. We need to start thinking of it.

We have a finite land mass. The last time I checked North West Point did not go any further nor did the point of East End go any further east. We have to turn around. We cannot drive cars on top of cars. People are talking about putting an overpass through the whole country—straight up. They do not know how much it costs. People go someplace else and get these ideas. We cannot afford that. What we can afford is restricting the cars—the number and types of cars—that come into our country. Stop being afraid what someone else is going to think. We need to think for the future generations.

We know, Madam Speaker, every year we have 400 to 500 kids coming out of school. Let us extend that now. That is 400 or 500. When you extrapolate that and you have new people coming in on work permits and what have you, in four years' time we have 3,000 more cars on the road. When I left there it was 31,000 or something like that—that was 2009. So you can figure there are at least 3,000 more now, Madam Speaker. We are somewhere around 35,000 or 36,000 cars now. I will bet my life on it. Well, vehicles let me say, Madam Speaker.

What are we going to do 10 years from now when we have another 6,000 to 8,000 cars on the road? Oh? Are we thinking about it? We better start. I thought about it when I built the road going east. I built the outside lanes and then we can build four lanes on the inside. That is what I thought of. I hope everybody else is thinking about it, because we are going to be in trouble.

I do not know how many of us will be in here. I certainly will not be up inside here, but someone in here, in this real estate, Madam Speaker, is going to have to make decisions. If we do not start thinking about it and looking at the possibility of it, then it will not happen until we reach a crisis situation. Is that how we are going to manage our country? We better not do it that way. I would not advise us to go that way. It would be nice to start thinking 10 or 15 years down the road.

Just as sure as our natural population grows, the imported population is going to grow, too. They are going to bring theirs. You know what they say about . . . you call it paradise, you should kiss it good-bye because they come to hide, or they come to work, or they come to do something, but they stay and then they bring four or five more and everybody has a vehicle, whatever that is.

Remember, we banned the mini-mokes. It looks like we need to do something with these motor-bikes, now. Well, Madam Speaker, this is a serious matter that needs to be thought of. We need to start planning for the future development of this country. If we do not do it, mark my words today the 12th day of August 2015, you are going to have gridlock straight into Bodden Town. George Town will forever, after that, be no place you can drive. You will be walking on the tops of cars if we do not start making some decisions now.

I challenge the Minister to be the first to be bold enough to start the conversation, at least. Yes, we are measured based. In society, we are measured based on how flashy or how expensive our cars are. You know, it gets me from A to B and sometimes it will get to C. But somewhere between A and B I can stop. Now, in 10 years' time it will be an ornament in our yards. We will probably have to be riding bicycles. I warn us all.

Madam Speaker, every one of these Members, including your good-self, grew up in this country. You know when you used to come to East End, Madam Speaker, when you were a Phys-Ed teacher and you had to come to East End. You could not pass a car on the road. If you get a flat you had to wait there for hours to try and get someone to stop and help you. And now? They are pushing you into East End. They are right on your bumper.

Madam Speaker, we could walk through the streets of George Town. All we need to do is look at those pictures of old. You will see one or two cars here and there. This country never sleeps. I was called to an emergency Saturday morning at 4:00, and I had to comment on the number of cars that were on the road. I go fishing at 4:00 or 5:00 in the morning, dragging my boat to East End, Madam Speaker, and the traffic is lined up behind me because I am doing 30 miles per hour. Madam Speaker, soon in our country that is what is going to happen and we need to get it right—or try. At least let us start talking about it. I challenge my good friend, the Minister, to be brave enough to start this conversation.

Thank you, Madam Speaker.

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

If not, I once again call on the Honourable Minister if he wishes to respond thereto.

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

Madam Speaker, I listened very carefully to the Member for East End and I had to smile to myself as I sat here because I was being reminded almost with every sentence he spoke, how easy it is to be on the other side.

Let me just say, Madam Speaker, the Member for East End . . . just to let him know, there really is no

need for him to challenge me. Everything that he mentioned in his contribution has either been thought about or is being acted on.

Let us put everything into perspective. Madam Speaker, when we took office the mandate which the Government had through the Minister of Finance in creating the operational budget, was that that budget (meaning, the 2013/14 budget) had to be some \$13 million (am I correct?) less?

An Hon. Member: Yes.

Hon. D. Kurt Tibbetts: Thirteen million dollars less. This is what we were told through the Framework for Fiscal Responsibility by London. Our operational budget had to be \$13 million less than the one before that.

The next budget (which was the 2014/15 budget), the operational budget had to be \$12 million less than that one. In the first two years, the operational budget for this Government was reduced by \$25 million. This year, because London was satisfied that the four-year plan we had given them was a real plan—because we were sticking to our word and living to the conditions that we set out—they allowed us not to reduce it but to hold it to what it was the year before. Madam Speaker, that in itself tells us that this budget that we are operating under now this year, the 2015/16 budget, is \$25 million less on the operational side than it was three years ago.

So, Madam Speaker, when my good friend, the Member for East End gets up and speaks about all the good things that should be happening, he mentions absolutely nothing about how we are going to pay for it. Of course, he mentions all of these various instruments that should be used which are closely related to when the rubber hits the road (to use his own term). Unfortunately, segregated funds are only now becoming a reality in this country and we would never be able to have that widespread because we have too many different areas that simply were underfunded and would get nothing done in those areas. So that is impossible.

Madam Speaker, we would love to do all the things that we want done in as short a period of time as possible, but we can only do what we can do and prioritise to the best of our ability as a Government and be able to spend accordingly.

Let me say, Madam Speaker, that \$10 million, which the Member for East End says will not cut it, is the most that the NRA has ever had to operate with for one year. So, even though it does not meet the expectations that he has laid out, it is the best that they have ever been, operationally. I have to say it like that, Madam Speaker, because I certainly would not wish for the public to get the impression that all of those things that the Member spoke about are not important to this Government, or that the Government does not realise that these things are looming over us

and we need to be acting as swiftly as we can. Of course, we realise that. And we will be acting as swiftly as we can but we simply cannot do it as fast as he has outlined. As I said, it is easier when you are on that other side to speak to matters like that—how you are going to fund all of the various goodies that you want coming out of the bag.

Madam Speaker, having said that, we are not just talking about supporting the Bill or not supporting the Bill now, but there are just a few items that we want to make sure are very clear. The Member mentioned that there is only one supplier of asphalt in the country today. The other one has gone out of business. I am very well aware of that. I want the Member and the entire country to know that I took it on my own to speak to that supplier. So, I am not afraid about . . . again, I want to make sure that nobody gets any wrong impression here that I am afraid to step on anybody's toes. I spoke to that supplier myself and I said to him, as I said to the Managing Director of the National Roads Authority, anytime prices . . . and the managing director, I would think that the Member for East End would believe that he knows what reasonable prices are. I told him (as I told the managing director), anytime the prices get to where we believe they are unreasonable because of a monopoly existing, if the Government has to make a decision to do its own paving, we will do so. That is still not ruled out.

You see, Madam Speaker, it goes deeper than that yet. There has been a continuous cry from every corner about the size of the public service. Members in here—and that same Member—in another debate will speak to the size of the civil service and the efficiencies that we need to create. We had the EY report suggesting all kinds of things to be done—which are not quite as easy as even them, the professionals, suggest. So, we have the NRA now that has, by way of concerted effort, been reduced in numbers by several dozen. I do not have the exact numbers and I do not want to quote figures that are not the truth—but I would daresay the numbers are less now by at least 50 to what they were three or four years ago.

Madam Speaker, it would be another side of the coin eating us alive if we started talking about carrying those numbers back up again. So, you are damned if you do and damned if you do not. But let me say this: I take on board (not brand new to me) the Member's point about the monopoly. I have spoken to colleagues about this more than a year ago and colleagues will remember me speaking about this saying, *Gentleman and Lady, if there is any spike in the price of asphalt and paving because of a monopoly, then, the Government will have no choice but to equip itself to be able to do so.*

So we are not afraid to do that and it is not off the table yet. We have not made a decision to do that, Madam Speaker, because we are . . . the other thing that we need to fully appreciate is the NRA, as they

are, regardless of how many dollars they have at their disposal, they only have the ability to get so much work done within any finite period of time. And I would not be telling the truth (I do not think) standing here this afternoon if I were to say that if they had some more money in their operational budget for the year that they actually could not get stuff done. I would not say that. But what I can say is that the \$10 million a year—which they have never had that before to operate with from an operational standpoint—keeps them busy enough during the course of the year and allows their plans to have continuity to what they are doing. Not a perfect world, Madam Speaker, but certainly better than they have been operating in the past.

Then, so that we do not get things crowded, when the Member for East End (the former Minister) . . . and I know he knows this, but I want to make sure that there is no misunderstanding with the public when they hear. When he speaks to all of these new things that need to be done in George Town—new roads that need to be done in George Town—those roads would not be part of this \$10 million. Let us not get the idea that by underfunding, as to where he leaned in that direction (I will not say that says it is underfunded, he just says \$10 million cannot cut it), that adding more to that would get these roads because that is part of the capital, not the operational. So let us not mix the two of those up.

Madam Speaker, if I were on that side, given the experiences that the Member has, I would probably be doing the same thing. That is fine. I do not have a problem with that. But I have a duty, also, to explain to make sure that it is not just got off and running in the direction that is not quite so. Depending on how much paint you use, you can paint any picture the way you want it to look.

Madam Speaker, there is another issue the Member brought up which was patching roads and maintaining NRA standards. The problem is (as he mentions right now), is that the NRA is not equipped for us to force whoever does any maintenance work or cutting up of the road to mandate that the NRA has to do the repairs because the NRA is not paving at present. That is another consideration that we have been looking at very seriously, Madam Speaker, because in many instances after good road work is done, once there is any damage done to the road by way of any one of the utility companies—whether it is Water Authority, whether it is CUC, whether it is LIME or whoever else—you almost never get it back right. History has told us that. We drive on the roads every day and we see that. So that is something that is a personal pet peeve of mine to find a way . . . and the only answer that I see is for the NRA to physically do it themselves, but to do that we have to get to the point of having paving equipment to do so.

I have no beef with that, and that is something that we are looking at very seriously to get to the point to because in the long run it costs the country more at

the end of the day. We all know that. There is no argument there.

He mentioned the little connector road at the airport. I know the purpose it serves, Madam Speaker. I know it does not serve any more purpose than it really does. But it certainly is better than it was.

Mr. V. Arden McLean: It is like a Band-Aid on an elephant.

Hon. D. Kurt Tibbetts: It is not a Band-Aid on an elephant. It is a continuation of a road that had stopped, and at least now we get it to the airport.

The connector road that needs to be built, I agree with him, it needs to be built. But it takes several million dollars, more like (if I remember correctly) it is somewhere between \$11 million and \$13 million to do that entire road. We know what that cost is and we just do not as a country have the funds to be able to prioritise that and get it done.

I understand all that the Member is saying, and in taking the opportunity as I brought this Bill to speak to all of those, I also appreciate that. I do not have a problem with all of that but there are certain things that we need to get in perspective.

Madam Speaker, the business of deep wells and he mentioned quite correctly a 50-foot deep well with a four-inch pipe does not do the trick. There is (as we speak) a programme of continuing the older wells that were smaller and more shallow being redone as funds allow. All of the new wells that are done are done to the right specs.

Madam Speaker, we also have to realise while we mention all of that—and the Member knows this, too—that the good earth that the good Lord left for us here in Cayman, beyond a certain point where there is so many inches of rain, 400 feet and a 24-inch hole is not going to make the water go anywhere because the earth can only absorb so much with any given period of time and after that it refuses to accept it. Increasing the size and depth of the wells is something that needs to be done, but we must understand that that solution is only to a certain point in time.

I will tell you something else, Madam Speaker, we have looked at (and some of this stuff was done before) the floods we had recently in all of the specific flood prone areas, and worked out initial estimates because it is something the Government really would wish to address. Initial estimates to fix the five or six worst troubled areas are more than \$20 million. I wish tomorrow morning we could know where to find that to get that done, out of the way and dusted, but it just does not work like that.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Madam Speaker, I only use those examples to put things in perspective, to say that this Government is very conscious of the needs,

and it is simple if people just look at it in an objective fashion. The Government wishes to please the people because that is the only way the Government can remain the Government. If it were easier for the Government to cure all of these ills, the Government would simply make sure it is done to stay the Government. But it is a juggling act all the time with limited funds and with prioritising all of the areas that need to be addressed. That includes roads but it is not exclusive to roads.

Madam Speaker, just having addressed those few points, the other one issue the Member brought, which I am certain we will look at during Committee stage to ensure that whatever the wording is, is correct, is the business of 100 per cent of each of the two areas being collected for the NRA and then the other section creating a cap of \$10 million. The intention of that whole thing is to say that these funds from the two areas that are mentioned—which are the licencing and the gasoline tax—up to \$10 million out of that total amount must go to the NRA. Whatever is in excess of \$10 million goes into general revenue. That is what it means. Now, there may be a question as to how it is worded now with the legal drafting. But just to make it clear as to what the intention is, that is the intention, and if there needs to be a change to make that more clear at Committee stage, Madam Speaker, we will do so.

Madam Speaker, I want to thank the Member for East End for his contribution and the points that he raised. I hope that my response is partially satisfactory because that is the best I can hope for. I certainly—

Mr. V. Arden McLean: You're saying that with clean hands and pure heart now?

Hon. D. Kurt Tibbetts: Absolutely; never otherwise.

Madam Speaker, in speaking I am reminded (and I want to say this) about traffic congestion. We are very well aware of that. He mentioned about the Linford Pierson Highway, and as soon as we can get the clearance, because there is some difficulty with landowners there and an injunction that was placed several years ago—we need to get that cleared away. There is legal wrangling. Once we can get that sorted out, and the chairman of the NRA and the legal department are trying to get that matter sorted out. As soon as that can be sorted we will move ahead as swiftly as we can with getting two lanes on each side of the Linford Pierson Highway going up from the roundabout at the head of Bobby Thompson Road up to Silver Oaks. That is not a cure for the problem, Madam Speaker, and we recognise that. But that is going to alleviate the problem by having two lanes of traffic all the way through to Spotts.

Madam Speaker, we are working as best we can with the limited funds that we have, and certainly, we hope that as time goes on we will be able to make a meaningful difference with regard to our traffic situa-

tion. I want to commend the Bill. Those who have not spoken I am assuming are in support of the Bill.

This Bill, may I say finally, Madam Speaker, will allow us to openly, legally, and every “-ly” that is good otherwise, be able to operate with the NRA in a fashion that they will be certain on an annual basis of what their operational expenditure will be, or will be able to be, and they can plan in the future with regards to having continuity to the work that they do.

I commend the Bill, Madam Speaker, and I look forward to its safe passage.

Thank you.

The Speaker: The question is that a Bill shortly entitled The National Roads Authority (Amendment) Bill, 2015 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Accordingly, the National Roads Authority (Amendment) Bill, 2015 has been given a second reading.

Agreed: The National Roads Authority (Amendment) Bill, 2015, given a second reading.

SECOND READING

BUILDERS (AMENDMENT) BILL, 2015

The Clerk: The Builders (Amendment) Bill, 2015.

The Speaker: I recognise the Honourable Minister responsible for Infrastructure.

Hon. D. Kurt Tibbetts: We already had the first reading? Okay.

Mr. V. Arden McLean: Are you sure you want to go on with that?

Hon. D. Kurt Tibbetts: With what?

Mr. V. Arden McLean: Our Bill.

Hon. D. Kurt Tibbetts: Why?

Mr. V. Arden McLean: Go ahead, then. I asked you a good question. Take your licks. Tighten up.

Hon. D. Kurt Tibbetts: I will do that.

Mr. V. Arden McLean: Oh, you'll do it. I know. [INAUDIBLE].

Hon. D. Kurt Tibbetts: Madam Chair, I beg to move the Second Reading of a Bill entitled The Builders (Amendment) Bill, 2015.

The Speaker: The Bill has been duly moved. Does the Honourable Minister wish to speak to this Bill?

Hon. D. Kurt Tibbetts: Yes, Madam Speaker.

Madam Speaker, I am told and almost certainly expect that this Bill will perhaps attract a fair amount of debate. I will do my best to listen carefully to all contributions after I introduce the Bill to ensure all understanding is very clear. Even if there are matters which some Members may not support, I will listen to all of the points and we will see where we go from there.

Let me say, Madam Speaker, that the amending Bill has been considered for going on two years now, meeting with industry and looking at what obtains in industry now (that is the construction industry), in trying to bring about a fair and equitable situation by way of the legislation.

Madam Speaker, as you and Members are aware, the Builders Law was first passed in 2007 but it was never brought into effect. I could tell many long stories about it, but I do not need to spend a lot of time about that because what is, is, and what was, was.

Madam Speaker, at that time, when the Government paused, and it was I who piloted that law through this Legislative Assembly at that time, but when we paused for the implementation there was a lot of infighting within industry. There were a lot of questions and misgivings that some people had. I think a lot of people misunderstood the whole intention of the law. We also were in the middle of recovering from Hurricane Ivan, and then before you knew it, we were facing the beginning of the worst recession that most of us in here (if not all of us in here) have ever experienced. Of course, there was also a general election by 2009. So, there was that postponement.

Having had the benefit of that, Madam Speaker, when we looked to not leave it hanging as a law that was passed but not put into effect, we decided (along with industry) to have a looksee of what obtains today and what relevant changes needed to be made. After a multitude of meetings, Madam Speaker, what is before the House today are the changes that myself, Ministry staff, Department staff and representatives from the construction industry, including the Association, have come up with.

Let me say this before I go any further, Madam Speaker. It is very possible that even as we decide on a date for this, once the Bill is approved and we have these amendments plus the Law itself, once we decide on a date when that is going to be coming into effect, there is every possibility that when we start to live this piece of legislation we will find the need to fine-tune and perhaps make some changes, as is not

unusual with any legislation of this nature. So we will have to see how that goes.

Madam Speaker, if we were to say we wanted to get it perfect and when we figured we got it perfect, then we would bring the changes and seek to get the Law to come into effect, and then you and I would be long past our tenure here and it would still be a law that has not come into effect.

Madam Speaker, also let me say this, and I say this as this is personal to me. Because of what I know today—I *know today* (this is not the Government speaking)—I am totally satisfied in my mind and in my heart that we need such a law to come into effect because there are many things within the construction industry which are not happening right, especially for Caymanians, but for others also. There needs to be legislation in place to, as far as the Government can possibly do so, make some of those, if not all of those, things that are not right, right.

Madam Speaker, as I said the changes that are proposed in this Amending Bill came after much consultation and debate with industry. And we also had representation from potential and existing homeowners telling us horror stories of their bad experiences with some contractors.

Madam Speaker, the amendments that are being sought in this Bill will stop individuals and entities from trading as contractors if they do not have the necessary expertise to undertake the work. It will increase competition while levelling the playing field between contractors, and it will enhance the protection of consumers (consumers being people who hire contractors and subcontractors), and it will limit the building industry to Caymanian contractors with special exceptions.

Madam Speaker, let me explain these four points. We have seen that what obtains today is that a number of contractors are not qualified to operate as full-fledged contractors, but should rather operate within the trade or trades that over the years they have developed expertise in. But if we go back in history for a period of time, after Hurricane Ivan, Madam Speaker, there was a tremendous demand placed on the construction industry. We saw many tradesmen breaking off and forming their own construction companies. Once that had settled down and the industry had sort of rebalanced itself, we saw many of these little entities having difficulty and individuals having difficulty managing their companies. In many instances this was much to the detriment of the people who were hiring them to either build homes or add to homes or renovate homes or whatever type of construction that was being required.

Madam Speaker, let me tell you something. This is not anything that is nice to talk about, but anyone who would wish to look me in the eye and tell me that what I just said is not the truth, they are either deranged, do not know what they are saying or in de-

nial. I will not try to find any other reason. I think any one of those three is enough.

Madam Speaker, many people were also being short-changed by some of these people. Much of it was not blatant dishonesty. A lot of it was simply lack of know-how in running the entire operation, and financially managing the entire operation. In many instances, many of them simply did not know what they were doing.

Madam Speaker, we have evolved. Now we have many entities not operating with the necessary framework such as pension and health insurance. They do this purposely because . . . and I am not afraid to . . . if we are not truthful about the situation we will never get the results that we desire.

Madam Speaker, some of these people who are operating like that are . . . and I am going to go on with this a little bit further, but some of them are able to use the fact that they are not being policed properly with a trade and business licence and they are operating without pension and health insurance and, as a result, it is easy for them to underbid when they are bidding for jobs. The other people who are doing the bids have to take those costs into consideration.

Madam Speaker, it is our hope that this legislation will ensure that contractors with the requisite competencies who adhere to the required business practises are allowed to operate as contractors in the Cayman Islands on a fair and competitive basis.

Madam Speaker, let me just pause for a second here to say . . . someone listening might say, *Well, why are you bringing this legislation because that is going to increase the cost of construction because these people who are underbidding and getting it for less should be allowed to do so.*

Madam Speaker, we cannot do that. What is supposed to be a level playing field must be a level playing field. There is a reason for the Pension Law and there is a reason for the Health Insurance Law. Any lack of those, either in the short- or medium- or long-term means it costs Government more. If it costs the Government more, it costs the people more. So let us not be short-sighted in the way we look at it.

Madam Speaker, presently what I would term the unregulated nature of the industry, places those contractors who operate within the bounds of the law and who have good business practise, at a huge disadvantage as they are incurring the costs of doing business right while being asked to compete with the entities who are not.

Furthermore, Madam Speaker, we have businesses here that (frankly speaking) have no business operating as contractors at all; sad to say, but a fact. In reiterating this important point I just want to give you an example of what is happening out there in industry and what obtains presently.

We have persons, Madam Speaker, trained in other professions, and I am not singling any profession out, but let us just use what is commonly on the

lips of people—lawyers, doctors, accountants. Many of them who have the financial wherewithal to form a company—a construction company, mind you—do not know a thing about construction. They might be some of the smartest people in the world, but they are not contractors. What they do is they form a company and they have the capital to get the company and set the company up and buy whatever equipment that is needed. Then they team up with some non-Caymanian with some expertise in the industry and right now, today, they are taking away work from Caymanian tradesmen that have been practising for years—either by just being better at networking or by being able to undercut the prices.

Let me pause there, Madam Speaker, to say it is not all the time, because on the one side of the coin you have the people who do bad work and charge the customers, do not finish the job, all kinds of things. They get in trouble with the bank. We hear those stories. We still hear them regularly.

On the other hand, you have the people who actually have the expertise, the know-how and the skillsets but they have financial clout and the networking ability and they are able to ensure that they get certain jobs which will keep them busy, and they bring someone in who is a foreigner, and this is no disrespect to them or dislike of them or anything, but because they have the advantage, our own people are suffering for it and they cannot find work. In many instances, it is not that they are not . . . in fact in most instances, I dare say, they are capable of doing the work. They will do the work at a fair price, but, Madam Speaker, in my view it is almost like a fad. That is the order of the day today.

Madam Speaker, that cannot be right. I do not care how you explain it to me. All is fair in love and war—yes. I know all of that. But that cannot be fair. How can it be?

Madam Speaker, these companies then proceed to employ foreign labour to the detriment of our Caymanian workers, not only the Caymanian contractors, but those in the subcontracting areas—common labourers and other tradespersons.

Madam Speaker, when the local contractors complain to me, they make a very good point. They cannot go out there and open a doctor's office or a lawyer's office without possessing the requisite skills and knowledge themselves. So why should the construction be any different, Madam Speaker? Well, one might say, to be a good contractor is nowhere near the expertise required to be a lawyer or a doctor or accountant. Yes, it may be if you look at it on paper, Madam Speaker, you may say that that is correct. But when you put it into the practise everybody is in the same shoe because that lawyer, that doctor or that accountant cannot go out and build a place by themselves. One can be a good divorce lawyer, one could be a good accountant and they could be very good at the job they do, but they could not go and build a

place themselves. They would not know where to start. All they would know is to have the financial wherewithal to get it done.

Madam Speaker, the Government cannot ignore situations like that and say, *Well, it will all balance itself out*. Madam Speaker, the fact is it has not all balanced itself out and it has gotten worse. Madam Speaker, I am almost in two minds how far to go with this because there are other things in industry that happened that is worse than what I just said. But I will see.

Madam Speaker, to move on, the amendments to the Builders Law seek to register building contractors into five distinct categories. These five categories are general contractor; building contractor; residential contractor; trade contractor and civil engineering contractor.

As I said earlier, Madam Speaker, the current entities will be placed in the respective categories based on the criteria settled in the regulations which will ensure competency while requiring that they adhere to good business practises and to put it simply, undergoing a renewal check every year. That is, the licence will have to be renewed every year and everybody will just make sure of the relevant qualifications.

Madam Speaker, while most of these categories exist in the present legislation, additional categories such as civil engineering contractor have been inserted to further define such entities and to carve out a category for them.

At this point, Madam Speaker, let me run through the clauses and the intention of the Amendments.

Clause 1 simply provides the short title and commencement of the legislation.

Clause 2, Madam Speaker, amends section 1 of the existing legislation to remove the reference to the "Governor" and to substitute a reference for "Cabinet", thereby giving effect to the now Constitutional requirements. Similar amendments to the principal Law are effected by clauses 5, 7, 8, 16, 17 and 18; simply, Madam Speaker, because we will now refer to the Cabinet as the Constitution requires us to, rather than the Governor.

Clause 3 amends section 2 of the Law and that is in the interpretation section. The amendments which are being proposed to be inserted into the Law are definitions for the terms "construction manager", "project manager" and "trades contractor." The clause also re-defines the term "business entity", the term "contractor" and the term "general contractor" and it updates the references to the various Laws.

Madam Speaker, these are important terms in the industry that needed redefining and categorisation. As a result, it limits the scope of these professionals and their involvement to specific areas of any given project. For instance, Madam Speaker (and this one I believe people will understand), a project manager means a person who is the professional repre-

sentative of the owner of the project and who directs the design, cost or schedules of the project and selects or is a member of the team selecting the construction entity to build a project. That is the definition of a project manager.

Madam Speaker, this new definition is done, not blindly, but for a reason. It was done to ensure that other entities hired by the homeowner or the person wanting to have a home or something else built as project managers and the like, and who had access to pricing information submitted by bidding contractors, could not gain a competitive advantage when bidding for the project themselves.

Let me tell you how that works. This is what obtains presently, Madam Speaker. You have project management firms, and I will not call names because I do not suggest for a minute that everybody does it, but you have project management firms that somebody who wants to build a house in Cayman Kai will go to that firm and they say, *I want to build a house. I want to use you to project manage the project.* These people in turn will say, *Okay, what we will do is we will get bids for the various aspects of the project. We are going to hire you your architect, we are going to get you the people to do the job and we are going to make sure the job gets done.*

As it stands right now, what they do is get bids from contractors. When they get the bids in from the contractors they can look at those bids and know what kind of pricing the contract itself is worth. So they go looking to the various subcontractors and they carve the whole project up and get a price from each of the subcontractors and when they add it all up . . . of course, their project management fee is a separate fee. Now that does not change. So—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Exactly!

—when they get that fee (which is a separate fee) and when they add up all the subcontractors now, they see how much it is the main contractor would make and they are able (because of their fee) to manage all of the subcontractors, add on to what the subcontractors cost, just enough to be a little bit lower than what a contractor's price would have been and they go home safe.

Of course, the contractor does not get the job. The contractor has nothing to do with the job at the end of the day. Everybody is happy.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Well, regardless. The fact is, Madam Speaker, that the project manager should not be allowed to do that because the—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Exactly so, because the project manager is not a contractor, is not an architect, and in most instances is not an engineer, or if they are, the job that they are hired to do as project manager is neither one of those. I will put it to you that way.

So, Madam Speaker, the whole point about that is not to belittle, not to suggest that people are blatantly dishonest. This (in my view) is an evolution that has taken place and there are those that have enough between their ears who have figured it out and figured this is a way I can make some more money.

In doing that, Madam Speaker, what they have done is create a total imbalance in the industry. And because most of our Caymanians are small contractors, they either do not have the connections or the huge financial wherewithal to operate in such a manner. Unless they have great friends in industry who are faithful and loyal to them because they know the quality work they provide, they hardly stand a chance in today's world.

Madam Speaker, may the good Lord forgive me. May my friends forgive me; may my colleagues forgive me and may you forgive me, but I am going to say this—and I am not going to say anything wrong, don't worry. But I am going to say it as it is.

Madam Speaker, this country was built by many. It was built by our forefathers and many of the people who have come here and made Cayman their home and who have become Caymanian have helped to build this country. But, Madam Speaker, while all of that is true, what we cannot allow to happen is for the country to get to the state where one of the most stable occupations that the people of this country had since sea life (if I can put it like that)—

[Inaudible interjection]

Hon. D. Kurt Tibbetts:—and during, too, but after sea life more so, besides those who got a better education and found their own mark in the banking and some have become lawyers, educators and all of that. That is fine but, Madam Speaker, we cannot allow this to happen and then that whole generation and the few younger ones who want to continue that as an occupation, simply die out because everything has changed and in so doing they are not allowed to survive.

I am not asking, and this Bill is not seeking to create any situation which does not allow for fair competition. But what it does seek is fair competition in the industry, Madam Speaker.

Madam Speaker, in this Bill project managers will be relegated to their original role as the client's representative separate and apart from the contractor and will be licenced in a future Bill that we intend to bring to this honourable House which defines and li-

cences the professionals in the industry such as architects, engineers, estimators and project managers.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Construction managers, Madam Speaker, will be defined and will now mean a business entity which performs the management or supervision of onsite construction and the directing of trades, contractors, whether or not they are paid directly by the business entity.

Madam Speaker, clause 4 of the Bill amends section 4 of the principal Law to increase the membership of the Builders Board from ten members to twelve members. This, Madam Speaker, will simply give a better representation or cross-section of the industry on the Board.

So, Madam Speaker, just to speak to the Board for a minute or two: The Board with its membership will very much need to be a proper representation of the various subsectors of the industry and also individuals who are not involved in industry but perhaps in other related fields. You see, Madam Speaker, this Board is who is going to be charged with the responsibility of licencing individuals and entities.

Madam Speaker, just to let you know it is not going to be a situation where once we decide on the day the Law comes into effect that any chance of businesses not being able to get it right. The requirements are going to have quite a sufficient timeline for people if they are not in the correct stead to get it correct. For instance, if a company does not have a Caymanian as the qualified person for the entity, they have the opportunity to get the Caymanian. But there will also be a finite period where, if you do not, then you lose the licence; one or the other. But it will not be something that it happens today and by tomorrow you have to get it done. So we are not being unreasonable about it. But I just want people to have a clear understanding of the direction in which we are going.

Clause 6, Madam Speaker, amends section 6 of the Law as a consequence of the re-naming of sub-trade contractors and civil contractors as “trades contractors” and “civil engineering contractors”. The references to the various Laws have also been updated.

Clauses 9, 12 and 20 amend sections 14 and 19, and also, repeals Schedule 2 of the principal Law for the purpose of removing from that Schedule the application and licence fees for business entities and qualified individuals. Those fees, Madam Speaker, will be specified in regulations.

Madam Speaker, so that everyone has a clear understanding, I would note that we also have reduced these fees and we are quite willing to have more talks with either Members or members of industry before we actually set those fees, if anybody wants to talk to us more about it. These fees and the reduction will make it representative of the administrative

costs from managing the industry while not being over burdensome to the contractors.

I have to tell you this now, Madam Speaker, in order to do this there is going to have to be a secretary set up, not only to assist the Board with its functions, but also to ensure that the licencing regime is done properly.

Clause 10, Madam Speaker, amends section 15 of the principal Law to update the references to other laws.

Madam Speaker, those in general terms are the proposed amendments to the Builders Law. As I said, I will say once more, with your permission, Madam Speaker . . . [neither] I nor my colleagues profess that this is perfection. But what we do say is we cannot leave what obtains to continue. The Law that should have been put in force prior to now and has not been will be put in force. We have looked at what obtains and what is more relevant to today's world, hence the amendments that we are proposing in this Bill. And once we get safe passage, then, the new amendments along with the Law (which was not put into force) will be put into force and while we are doing all of that together, once we have safe passage of this amending Bill then we will also be doing behind the scenes what is necessary to create the secretariat, to appoint the Board and to get all of its functions up and running so that we can move on to the next phase.

Madam Speaker, I wish to commend this Bill and I am in full support of the Bill. My colleagues are also in full support of the Bill and I trust other Members who are on the other side of the aisle will see it fit to do likewise.

Thank you.

Moment of interruption—4:30 pm

The Speaker: I recognise the Honourable Premier as we have reached our interruption.

SUSPENSION OF STANDING ORDER 10(2)

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

Madam Speaker, we have, in particular, one Government motion that is time sensitive. So the Government is proposing to continue the business of the House until we conclude the debate on this Bill and move through the Government motions which I hope we will be able to get through fairly expeditiously as I do not think any of them are particularly controversial.

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

The Speaker: The question is that Standing Order 10(2) be hereby suspended. All those in favour, please say Yes. Those against, No.

AYES and one audible NO.

The Speaker: I believe the Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call—

I recognise the Honourable Leader of the Opposition.

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

Madam Speaker, I have listened carefully to the Government's position and I hope with them that those aims can become reality.

The Bill has been in the works, passed this House, many years—several years, I should say—and over that time we have had various input from different sources. Recently, the public has not made any noise as such in regard to the Bill, the aims and objectives.

Madam Speaker, I am glad that the Government has reached the position they have and the discussions with those who have to work in that industry. All of us are conscious of the fact that the public needs the kind of protection that the Minister has related to this House because we know of various problems that he has only reminded us of, which all of us get that kind of feedback. No doubt, after [Hurricane] Ivan a number of companies, particularly then, did rise up at that time and perhaps at no other time were our people taken advantage of, as it was then. But some of that has passed; some people are still feeling the effects. But the facts are that we need the kind of protection the Minister has related.

You cannot do anything in regard to law unless it is done by lawyers. Therefore, the contractors, in particular, those who have been in the industry all their life—that is what they know, that is their business, that is how they feed their family—certainly, when people who are not in the business and you find out that they are out there in it, head and ears, and actually have ways and means as was so rightly put by the Minister, their networking capacity and abilities outsmart those persons. We cannot sit back any longer and say that we can just allow it to go because we do know that there are complaints that are on the other side as well that, Madam Speaker, people are complaining because they want things only their way. But that cannot happen all the time. It just cannot be their way all the time. As I said we all live and move and have our being in this country and we know what obtains. So, I am glad that they have been having these meetings, I understand, with input from the industry again, and I would only hope that the aims and objectives of the Bill, the Government intentions, will be a reality. It needs to be done.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call—does any other Member wish to speak? If not, I will call on the Honourable Minister responsible for Infrastructure, if you wish to reply.

Hon. D. Kurt Tibbetts: Thank you very much, Madam Speaker. I wish to thank the Honourable Leader of the Opposition for his contribution. I am not really trying to take liberty but I presume that the fact that others have not spoken that there is tacit support. Again, I commend the Bill and trust for its safe passage, Madam Speaker.

The Speaker: The question is that the Bill shortly entitled The Builders (Amendment) Bill, 2015, be given its second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Builders (Amendment) Bill, 2015, given a second reading.

The Speaker: The House will now go into Committee to consider these various Bills.

House in Committee at 4:38 pm

COMMITTEE ON BILLS

The Chairman: Please be seated.

The House is now in Committee. With the leave of the House, may I assume that, as usual, we would authorise the Honourable Attorney General to correct minor printing errors and such the like in these Bills?

Would the Clerk please state the Bill and read its respective clauses?

MONETARY AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The Monetary Authority (Amendment) Bill, 2015.

Clause 1	Short title
Clause 2	Amendment of the Monetary Authority Law (2013 Revision) - sections 2, 4, 7, 11, 12, 13, 14, 20, 21, 22, 25, 27, 29, 32, 33, 41, 42, 46, 49 and 50
Clause 3	Amendment of section 4 - private sector consultation
Clause 4	Amendment of section 13 - appointment of managing director

Clause 5 Amendment of section 27 - denominations and forms of currency

The Chairman: The question is that clauses 1 through 5 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 5 passed.

The Clerk:

Clause 6 Amendment of section 29 - calling-in of currency

Clause 7 Amendment of section 33 - relations with Government

Clause 8 Amendment of section 34 - relations with banks and other financial institutions

Clause 9 Amendment of section 41 - independent review of Authority's performance

Clause 10 Amendment of section 47 - rules

Clause 11 Amendment of section 48 - regulatory handbook

Clause 12 Amendment of section 51 - memoranda of understanding

The Chairman: The question is that clauses 6 through 12 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 6 through 12 passed.

The Clerk: A Bill for a Law to amend the Monetary Authority Law (2013 Revision) to replace the word "Governor" with the word "Cabinet" wherever it appears in the law; to transfer responsibility for certain functions from the Financial Secretary to the Minister charged with the responsibility for Financial Services and to the Minister charged with responsibility for Finance as the case may be; and for incidental and connected purposes

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

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

AYES.

The Chairman: The Ayes have it. The Title now stands part of the Bill.

Agreed: Title passed.

MUTUAL FUNDS (AMENDMENT) BILL, 2015

The Clerk: The Mutual Funds (Amendment) Bill, 2015.

Clause 1 Short title and commencement

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

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

AYES.

The Chairman: The Ayes have it. Clause 1 now stands part of the Bill.

Agreed: Clause 1 passed.

The Clerk: Clause 2 Amendment of section 2 of the Mutual Funds Law (2013 Revision) definitions.

The Chairman: Honourable Minister, I believe you have some amendments to clause 2.

AMENDMENT TO CLAUSE 2

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

Madam Chairman, in accordance with provision of Standing Order 52(1) and (2), I, the Minister responsible for Financial Services, Commerce and Environment give notice to move the following amendments to The Mutual Funds (Amendment) Bill, 2015, as follows: That the Bill be amended in respect of clause 2 by inserting in the appropriate alphabetical order the following definitions -

"AIFM" has the meaning assigned to it in the AIFMD; and"

"marketing" means a direct or indirect offering or placement at the initiative of the AIFM or on behalf of the AIFM of shares, trust units or partnership interests of an EU Connected Fund it manages to or with investors domiciled or with a registered office in the EU."

The Chairman: The amendment has been duly moved. Does any Member wish to speak to the amendment?

If not, I will put the question that the amendment is then part of the clause.

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

AYES.

The Chairman: The Ayes have it. The amendments now stand part of the clause.

Agreed: Amendments to clause 2 passed.

The Chairman: I put the question that clause 2, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 2, as amended, passed.

The Clerk: Clause 3 Insertion of section 2(a) application of law.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 3 passed.

The Clerk: Clause 4 Insertion of part 3(a) EU Connected Funds.

The Chairman: Honourable Minister, there is an amendment to clause 4.

AMENDMENT TO CLAUSE 4

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

Madam Chairman, continuing with the amendments to this Bill moved, in respect to clause 4 by inserting after the new section 22B proposed for insertion in the principal Law the following section with the notice to the Authority:

“Notice to 22BB.

“(1) Within three months of a date to be specified by Order made by Cabinet, an EU Connected Fund that is marketing in a country or territory within the EEA shall, in the manner designated by the Authority, notify the Authority that the EU Connected Fund is marketing in a country or territory within the EEA.

“(2) An EU Connected Fund that commences marketing in a country or territory within the EEA after the date specified in subsection (1) shall, within twenty-one days of the commencement of marketing in a

country or territory within the EEA, in the manner designated by the Authority, notify the Authority that the EU Connected Fund is marketing in a country or territory within the EEA.

“(3) An EU Connected Fund which fails to comply with this section, commits an offence and is liable on conviction to a fine of five thousand dollars.”

The clause is amended by inserting after the new section 22F proposed for insertion in the principal Law the following section:

“Compliance with this Law”

“22G. The Authority, with respect to an EU Connected Fund shall have the power to request information from or about the EU Connected Fund in order for the Authority to effectively comply with any obligation that the Authority may have in relation to a memorandum of understanding with respect to the AIFMD.”

The Chairman: The amendment has been duly moved. Does any Member wish to speak to the amendment?

If not, I will put the question that the amendment is then part of the clause.

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

AYES.

The Chairman: The Ayes have it. The amendments now stand part of the clause.

Agreed: Amendments to clause 4 passed.

The Chairman: I put the question that clause 4, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 4, as amended, passed.

The Clerk:

Clause 5	Amendment of section 23 - special audits of regulated mutual funds
Clause 6	Amendment of section 29 - Authority to administer Law
Clause 7	Amendment of section 30 - powers; of Authority in respect of regulated mutual funds
Clause 8	Amendment of section 32 - Authority may attend winding-up proceedings
Clause 9	Amendment of section 35 - obligation of auditors
Clause 10	Amendment of section 36 - appeals

Clause 11 Amendment of section 40 - exemption from compliance with Trade and Business Licensing Law (2007 Revision)

The Chairman: The question is that clauses 5 through 11 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 5 through 11 passed.

The Clerk: A Bill for a law to amend the Mutual Funds Law (2013 Revision) to make provision for the regulation of funds under the alternative investment fund manager directive in European Union member states; and for incidental and connected purposes.

The Chairman: The question is that the Title stands part of the Bill

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

SECURITIES INVESTMENT BUSINESS (AMENDMENT) BILL, 2015

The Clerk: The Securities Investment Business (Amendment) Bill, 2015.

Clause 1 Short title and commencement
 Clause 2 Amendment of section 2 of the Securities Investment Business Law (2011 Revision) - definitions

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Chairman: Clause 3 Amendment of section 5 – requirement for a licence.

The Chairman: Honourable Minister, there is an amendment to clause 3.

AMENDMENT TO CLAUSE 3

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

In accordance with the provisions of Standing Order 52(1) and (2), I, the Minister responsible for Financial Services, give notice to move the following amendments to the Securities Investment Business (Amendment) Bill, 2015. The proposal in respect of clause 3 is that it be amended as follows:

- in paragraph (a) by inserting after the words “but may” the words “apply to be licensed under this Law and in particular may”;
- in paragraph (b), by deleting the words “(2E) An EU Connected Manager who elects” and substituting the words “(2F) An EU Connected Manager who elects”; in the new subsection (2B) proposed for insertion in section 5 of the principal Law, by deleting “or 5(2A)”; and
- by inserting after the new subsection (2F) proposed for insertion in section 5 of the principal Law the following subsections:
 - “(2G) The Authority may provide attestation or confirmation of the status of an EU Connected Manager but before the attestation or confirmation of status is provided by the Authority, the EU Connected Manager shall submit to the Authority the prescribed information.
 - “(2H) The Authority, with respect to an EU Connected Manager shall have the power to

- (a) conduct an onsite inspection or to permit a regulator in the EU to conduct an onsite inspection;
- (b) request information from or about the EU Connected Manager; and
- (c) apply to the Grand Court for such orders as it thinks fit to preserve the assets of the investors in an EU Connected Fund, and the Grand Court has power to grant such orders.

“(2I) For the purposes of this section ‘attestation’ or ‘confirmation of status’ means the method, whether by letter or any other manner which the Authority considers appropriate, by which the Authority may be required to confirm the details of an EU Connected Manager to an overseas regulatory authority or a Member State.”

The Chairman: The amendment has been duly moved. Does any other Member wish to speak to it?

If not, I put the question that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 3 passed.

The Chairman: I now put the question that clause 3, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 3, as amended, passed.

The Clerk: Clause 4 Amendment of Schedule 2 - Securities investment business regulated activities.

The Chairman: I put the question that clause 4 stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 4 passed.

The Clerk: A Bill for a Law to amend the Securities Investment Business Law (2011 Revision) to make provision for the regulation of alternative investment fund managers; and for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

COMPANIES (AMENDMENT) BILL, 2015

The Clerk: The Companies (Amendment) Bill, 2015.

Clause 1 Short title and commencement.
 Clause 2 Amendment of section 55 of the Companies Law (2013 Revision) – list of directors, including alternate directors, and officers
 Clause 3 Repeal and substitution of section 56 of the Companies Law (2013 Revision) – penalty on company not keeping a register of directors

The Chairman: The question is that clauses 1 through 3 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk: A Bill for a law to amend the Companies Law (2013 Revision) to extend the deadline for filing changes to the register of directors and officers of a company with the Registrar; to establish a maximum penalty for a breach of section 55; and for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The National Roads Authority (Amendment) Bill, 2015.

Clause 1 Short title and commencement
 Clause 2 Amendment of section 2 of the National Roads Authority Law (2006 Revision) - definitions
 Clause 3 Amendment of section 18 - discontinuance of Roads Development Fund and establishment of Road Fund

The Chairman: The question is that clauses 1 through 3 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Clauses 1 through 3 passed.

The Clerk: Clause 4 Repeal and substitution of section 19 - revenue to be placed into Road Fund.

Hon. D. Kurt Tibbetts: Madam Chairman, I just crave your indulgence, because we were not 100 per cent sure, and with your permission I would just like to explain the section in clause 4 where we had the difficulty.

If we read it carefully, Madam Chair, clause 4 says, "**The principal Law is amended by repealing section 19 and substituting the following section—**" And then it goes on:

"19. (1) The Cabinet shall authorise the transfer of revenue, not exceeding ten million dollars, to the Authority, via the Road Fund, for the purpose of funding the Authority's annual operating costs, in particular, the construction, upgrading, rehabilitation and maintenance of public roads.

(2) The revenue, referred to in subsection (1)," (and that is the revenue referred to in section 1 which will go to the Road Fund, the revenue which goes to the Road Fund is):

"(a) one hundred per cent of the fuel import duty charged, collected and paid under the Customs Tariff Law (2014 Revision), on gasoline and diesel . . . ; and

"(b) one hundred per cent of the fees collected and paid under the Traffic Regulations, 2012, on motor vehicle drivers' licences . . ."

So, 100 per cent of both of those sections of the Customs Law go to the Road Fund: ". . . and, upon being collected by the Government," (that is the 100 per cent) "**the revenue shall be transferred to the Authority via the Road Fund.**" That is, not exceeding \$10 million of that revenue.

Mr. D. Ezzard Miller: Madam Chairman, this is the problem I have with it—

Hon. D. Kurt Tibbetts: This is . . . go ahead.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: That is the difficulty I have with it, because it specifies 100 per cent of those two revenues—

Hon. D. Kurt Tibbetts: Going to the Road Fund. It does not specify 100 per cent of it going to the National Roads Authority; it specifies that going to the Road Fund. This is . . . just letting you know, this is

after going through it for the last 10 minutes with legal drafting.

Mr. D. Ezzard Miller: Okay.

What happens in the case when 100 per cent of those two funds do not add up to \$10 million?

Hon. D. Kurt Tibbetts: Then we are all in trouble. I don't mean to be funny. But both of those, tracking over the last three of four years . . . for instance, the drivers' licences are now at about \$13 million a year. Just saying to you . . . and I was not making light when I said "then we are all in trouble." What I mean is, it is not envisaged for 100 per cent of both of those to actually at any point in time to be below \$10 million unless there is a real—

Mr. D. Ezzard Miller: All right.

When 100 per cent of those two funds exceed \$10 million, what happens to the fund that remains in the Road Fund?

Hon. D. Kurt Tibbetts: It goes to general revenue. It says so.

Mr. D. Ezzard Miller: Where?

[Inaudible interjection]

Hon. D. Kurt Tibbetts: It says . . . I don't know the section, but it . . . I mean, it is not right in here, but regardless, it says it. I know it does. I'll have to . . .

[Inaudible interjection]

Hon. D. Kurt Tibbetts: It says that the rest of it goes . . . which one?

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Subsection (6) and (7). "The principal Law shall be . . ."

Where?

Mr. D. Ezzard Miller: Madam Chairman, I am not a lawyer, but I would think it would make it easier to understand if it said that a percentage of those two funds to make up the \$10 million, as opposed . . . because—

Hon. D. Kurt Tibbetts: But the problem is, the amount of those two funds, we don't know the exact amounts at any one point in time. So it is—

Mr. D. Ezzard Miller: Well, as long as you and your . . . as long as the lawyers think it is okay.

Hon. D. Kurt Tibbetts: Yes, but the point is point is, and if you will remember (forgive me, Madam Chair-

man, I am nearly through), the Member for East End pointed out when we said it will go retrospectively every month and he was wondering about the starting off, when that will start because they be one month behind all the time, that has actually started. So they will not be one month behind. But the point that I make about that is—

The Attorney General, Hon. W. Samuel, Bulgin: Look at sub-clause (7).

Hon. D. Kurt Tibbetts: Sub-clause 7 (which one is that now?).

[Inaudible interjections]

Hon. D. Kurt Tibbetts: Okay.

Mr. D. Ezzard Miller: This is a convoluted thing.

Hon. D. Kurt Tibbetts: Okay, okay.

[Clause 4, new section 19] subsection (7) says, “**Where the variation of revenue by the Cabinet, referred to in subsection (5), results in a decrease in the revenue referred to in subsection (1), any excess revenue shall be transferred from the Road Fund to the general revenue of the Islands.**”

So, that is what happens to it. But I have to tell you (through you, Madam Chairman), I understand what you are saying when you just read it. But when you read it carefully it really is what it says it is. And, again, that is after consultation with legal drafting. Just letting you know.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: If I were Chairman of the NRA Board, I would challenge it, if they did not give me 100 per cent of each of the two of them.

[Inaudible interjection]

The Chairman: Honourable Minister, do you wish to respond to him?

Hon. D. Kurt Tibbetts: That's okay.

The Chairman: If there is no further debate I will put the question that clause . . . oh, sorry.

Member for East End.

Mr. V. Arden McLean: Madam Chairman, can the Minister tell us . . . where we are repealing [section] 20, which lays out what that revenue must be used for by the Governor in Cabinet, we are now changing that, saying that it must be transferred, which is referred to in [section] 19(1), to the Authority to fund the Authority's annual operating cost, and to be applied, in

particular, into construction. Are we still saying that this is going to do construction?

Hon. D. Kurt Tibbetts: Madam Chairman, “construction” in this sense of the word is not capital works. But the Member will know also that any road maintenance can, on any given day, involve road construction. That is all this is saying.

Now, if the Member wants that word deleted and . . .

Mr. V. Arden McLean: But, Madam Chairman, I am not saying . . . I am just trying to ensure that we are okay with this thing, because—

Hon. D. Kurt Tibbetts: Yes, it is only—

Mr. V. Arden McLean: Yes, roads are “construction”, but it is specifically stated here “construction” and in this case it is new roads.

Hon. D. Kurt Tibbetts: In which case?

Mr. V. Arden McLean: How it is represented here—

Hon. D. Kurt Tibbetts: No. That is not what it means.

Mr. V. Arden McLean: So where . . .

Hon. D. Kurt Tibbetts: This has nothing to do with new roads. This is their operational expenses.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: So, I am asking you, if it pleases, do you want us to take out the word “construction”? That is the only thing I can ask. I can't ask anything else.

Mr. V. Arden McLean: I don't know, I may be wrong, but . . .

Hon. D. Kurt Tibbetts: Madam Chairman, all I can you is that it is clear to me, and I am not being funny. I understand the fear of the Member for East End, but I am telling him that this is all to do with their operational budget; nothing to do with the capital that Cabinet pays them for or purchases.

Mr. V. Arden McLean: Madam Chairman, if the Minister . . . you can do it now, but if the Minister would inquire as to the definition of “construction”—

Hon. D. Kurt Tibbetts: I have already done that.

Mr. V. Arden McLean: —in the road sense, from one of those engineers—

Hon. D. Kurt Tibbetts: But I am saying, I have already asked their legal advisor. As I said before, if you want to take it out, I will take it out. It is just that—

Mr. V. Arden McLean: But why, if you say you have contacted them, I mean, it don't make sense.

Hon. D. Kurt Tibbetts: So I am satisfied with it, but you are obviously are not.

Mr. V. Arden McLean: No, no, no, no; it is not for me to be satisfied; it's when the problem hits the fan. I ain't going to be there. You sit up in that Glass House.

The Chairman: The question is that clause 4 stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 4 passed.

The Clerk:

Clause 5 Repeal and substitution of section 20 - utilisation of Road Fund
 Clause 6 Amendment of section 23 - revenue and resources of Authority
 Clause 7 Validation of transfer of funds to the Authority

The Chairman: The question is that clauses 5 through 7 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 5 through 7 passed.

The Clerk: A Bill for a Law to amend the National Roads Authority Law (2006 Revision) to make provision for the change in funding arrangements for the National Roads Authority by providing for two direct revenue streams to serve as the primary sources of funding the Authority's operating costs; and for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Titled passed.

BUILDERS (AMENDMENT) BILL, 2015

The Clerk: The Builders (Amendment) Bill, 2015

Clause 1 Short title and commencement
 Clause 2 Amendment of section 1 of the Builders Law, 2007, Law 4 of 2007 - short title and commencement
 Clause 3 Amendment of section 2 - interpretation
 Clause 4 Amendment of section 4 - Builders Board
 Clause 5 Amendment of section 5 - registration of business entities
 Clause 6 Amendment of section 6 - criteria for registration of a business entity as a contractor
 Clause 7 Amendment of section 7 - penalty for improper exercise of voting rights, etc.
 Clause 8 Amendment of section 8 - return of shareholdings to be made before commencing business and annually
 Clause 9 Amendment of section 14 - fees for business entities

The Chairman: The question is that clauses 1 through 9 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 9 passed.

The Clerk:

Clause 10 Amendment of section 15 - removal, suspension, etc., of business entities from register
 Clause 11 Amendment of section 16 - registration of qualified individuals
 Clause 12 Amendment of section 19 - fees for qualified individuals
 Clause 13 Amendment of section 20 - removal, suspension, etc., of qualified individuals from register
 Clause 14 Amendment of section 24 - appointment and powers of enforcement of officers
 Clause 15 Amendment of section 29 - appeals
 Clause 16 Amendment of section 30 - right of public to complain
 Clause 17 Amendment of section 39 - directives
 Clause 18 Amendment of section 40 - regulations

- Clause 19 Amendment of Schedule 1 - the Builders Board
- Clause 20 Repeal of Schedule 2 - fees for business entities and qualified individuals.

The Chairman: The question is that clauses 10 through 20 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 10 through 20 passed.

The Clerk: A Bill for a Law to amend the Builders Law, 2007, Law 4 of 2007, to vary the composition of the Builders Board; to limit the building industry to Caymanian contractors; to make further provision for the protection of consumers; and to make provision for incidental and connected matters.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Titled passed.

The Chairman: The question is that the Bills be reported to the House.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Bills to be reported to the House.

House resumed at 5:19 pm

The Speaker: Please be seated.

REPORT ON BILLS

MONETARY AUTHORITY (AMENDMENT) BILL, 2015

The Speaker: Honourable Minister of Financial Services.

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

I have to report that a Bill shortly entitled, The Monetary Authority (Amendment) Bill, 2015, was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for a third reading.

MUTUAL FUNDS (AMENDMENT) BILL, 2015

The Speaker: Honourable Minister of Financial Services.

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

I am to report that a Bill shortly entitled, The Mutual Funds (Amendment) Bill, 2015, was considered by a Committee of the whole House and passed with amendment.

The Speaker: The Bill has been duly reported and is set down for a third reading.

SECURITIES INVESTMENT BUSINESS (AMENDMENT) BILL, 2015

The Speaker: Honourable Minister of Financial Services.

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

I am to report that a Bill shortly entitled, The Securities Investment Business (Amendment) Bill, 2015, was considered by a Committee of the whole House and passed with amendment.

The Speaker: The Bill has been duly reported and is set down for a third reading.

COMPANIES (AMENDMENT) BILL, 2015

The Speaker: Honourable Minister of Financial Services.

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

I am to report that a Bill shortly entitled, The Companies (Amendment) Bill, 2015, was considered by a Committee of the whole House and passed without amendment.

The Speaker: The Bill has been duly reported and is set down for a third reading.

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

The Speaker: I recognise the Honourable Minister of Infrastructure.

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

I am pleased to report that a Bill shortly entitled, The National Roads Authority (Amendment) Bill, 2015, was examined by a Committee of the entire House and was passed without amendment.

The Speaker: The Bill has been duly reported and is set down for third reading.

BUILDERS (AMENDMENT) BILL, 2015

The Speaker: I recognise the Honourable Minister of Planning.

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

I am to report to this honourable House that a Bill shortly entitled, The Builders (Amendment) Bill, 2015, was examined by a Committee of the entire House and was passed without amendment.

The Speaker: The Bill has been duly reported and is set down for third reading.

SUSPENSION OF STANDING ORDER 47

The Speaker: I recognise the Honourable Premier.

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

I beg to move the suspension of Standing Order 47 to enable the Bills to be given a third reading on the same day.

The Speaker: The question is that Standing Order 47 be suspended to enable the Bills to be given a third reading on the same day.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READINGS

MONETARY AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The Monetary Authority (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Financial Services.

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

I move that a Bill shortly entitled, The Monetary Authority (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Monetary Authority (Amendment) Bill, 2015, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Monetary Authority (Amendment) Bill, 2015, given a third reading and passed.

MUTUAL FUNDS (AMENDMENT) BILL, 2015

The Clerk: The Mutual Funds (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Financial Services.

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

I move that a Bill shortly entitled, The Mutual Funds (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that, The Mutual Funds (Amendment) Bill, 2015, be given a third reading and passed. All those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Mutual Funds (Amendment) Bill, 2015, given a third reading and passed.

THE SECURITIES INVESTMENT BUSINESS (AMENDMENT) BILL, 2015

The Clerk: The Securities Investment Business (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Financial Services.

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

I move that a Bill shortly entitled, The Securities Investment Business (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that, The Securities Investment Business (Amendment) Bill, 2015, be given a third reading and passed. All those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Securities Investment Business (Amendment) Bill, 2015, given a third reading and passed.

THE COMPANIES (AMENDMENT) BILL, 2015

The Clerk: The Companies (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Financial Services.

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

I move that a Bill shortly entitled, The Companies (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Companies (Amendment) Bill, 2015, be given a third reading and passed. All those in favour please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) Bill, 2015, given a third reading and passed.

NATIONAL ROADS AUTHORITY (AMENDMENT) BILL, 2015

The Clerk: The National Roads Authority (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Infrastructure.

Hon. D. Kurt Tibbetts: Madam Speaker, with your permission, I beg to move that The National Roads Authority (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that The National Roads Authority (Amendment) Bill, 2015, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The National Roads Authority (Amendment) Bill, 2015, given a third reading and passed.

BUILDERS (AMENDMENT) BILL, 2015

The Clerk: The Builders (Amendment) Bill, 2015.

The Speaker: Honourable Minister of Planning.

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

I beg to move that a Bill shortly entitled The Builders (Amendment) Bill, 2015, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Builders (Amendment) Bill, 2015, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Builders (Amendment) Bill, 2015, given a third reading and passed.

MOTIONS

GOVERNMENT MOTIONS

Government Motion No. 3/2015-2016—Amendment to the Development Plan 1997 – Proposed Rezoning: West Bay Beach North, Block 17A Parcel 195 and 196

The Speaker: Honourable Minister of Planning.

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

I beg to move Government Motion No. 3/2015-2016—Amendment to the Development Plan 1997 – Proposed Rezoning: West Bay Beach North, Block 17A Parcel 195 and 196.

The Speaker: The Motion has been duly moved and is now open for debate. Does the Honourable Minister wish to speak to the Motion?

Hon. D. Kurt Tibbetts: Thank you, Madam Speaker. First of all, I wish to read the Motion.

The Speaker: Please proceed.

Hon. D. Kurt Tibbetts: Thank you.

WHEREAS on 21st January 2015 the Central Planning Authority (CPA) considered an application for the rezoning of Registration Section West Bay Beach North, Block 17A Parcels 195 and

196 from Hotel/Tourism and Low Density Residential to Hotel/Tourism only (CPA/02/15);

AND WHEREAS the proposed amendments were duly advertised in the Cayman Compass on 5th, 6th, 9th and 11th February 2015 respectively, in accordance with Section 11(2) of the Development and Planning Law (2011 Revision), and persons were invited to view the application at the Planning Department for comment. During the comment period no letters of objection or representation were received on the proposed amendments;

AND WHEREAS on the 13th May 2015 the CPA again reviewed the application in light of the public consultation process (CPA/10/15) and it was resolved to forward the proposed amendment to the Ministry of Planning with the recommendation that it be forwarded to Cabinet and subsequently the Legislative Assembly for consideration;

AND WHEREAS on 30th June 2015 Cabinet considered the rezoning application, and approved that the matter be referred on to the Legislative Assembly for consideration;

BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 10(2)(b) of the Development and Planning Law (2011 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and maps of which are attached hereto;

AND BE IT FURTHER RESOLVED to alter the zoning area of Registration Section West Bay Beach North, Block 17A Parcels 195 and 196 from Hotel/Tourism and Low Density Residential to Hotel/Tourism.

Madam Speaker, Block 17A Parcels 195 and 196 are currently undeveloped. Those two parcels extend to 4.46 acres. The parcels are located between Crighton Drive and the North Sound, just north of the Holiday Inn Hotel, West Bay Beach north.

Under the 1977 Development Plan, this area of Crystal Harbour was zoned Low Density Residential and the subject area requesting rezone was a single parcel. In 1986, the large parcel surrounding the subject site that is being asked to be rezoned now, was rezoned to Hotel/Tourism, leaving the subject site as Low Density Residential. Over time the parcel boundaries changed while the zoning designations remained. In other words, the larger parcel was subdivided into individual lots creating what is termed in Planning language, a "spot-zoning anomaly." The proposed rezone will correct this anomaly as it is not conducive to a landowner to have a split zone on such small parcels.

Madam Speaker, I would also invite Members to look at the two maps, the one map showing the two

sections of the two parcels which were not rezoned Hotel/Tourism like the rest. The second map will show that what that will do once this proposed rezone is approved, is to make the entire section, all of those lots, Hotel/Tourism.

Madam Speaker, additional information supplied in support of this rezone application for Members is a written summary of the rezoning application and the maps that I just referred to. There is really no more relevant information that I know that would support the application. So, I trust Members will find the information sufficient and looking at the logic of the application, see it fit to approve the Motion.

Thank you, Madam Speaker

The Speaker: Does any Member wish to speak?

I recognise the Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I shall not be too long.

Madam Speaker, I don't know if it is an objection, I believe it is more concern that I have surrounding our country and how we are moving ahead with the zoning of our different neighbourhoods. Madam Speaker, since this Government has been here, this is about the fifth one, I believe, that we have had to address where we are doing these spot zonings.

I believe the Minister said something about a spot zone anomaly where I believe half of the property, and I believe that is what he was referring to as an anomaly in Planning terms. But certainly, Madam Speaker, in developmental terms there has to be some anomaly in the manner in which we are going about this too.

Madam Speaker, I am not in totally blaming this Government. Previous Governments have done the same thing. The Development Law calls for review every five years. We did one in the 1990s, but it never saw the light of day. We then went through a country-wide review of what the people saw their country being in 10 years. I think it was 1988 (1998?); 1998 I think it was or 2000. Vision 2008—that completed document is quite instructive on what the people of this country saw their country being by 2008.

The listed in each individual district where they would like to see that district in the future; neighbourhood/commercial, hotel/tourism, residential, agricultural and the like. I think it is instructive for the Development Plan, but no one—none of us—has seen it fit to do this review again. Now, it is either I speak on this one or the next one (six of one half-dozen of the other), because we are piece-mealing it on Linford Pierson Highway as well.

Madam Speaker, my concern is that we are like a pincushions, every person who sticks us leaves an impression. By now, we have gone through so many of these exercises, these motions, that we have determined already what most neighbourhoods need. In East End, my constituency, one of the things in Vi-

sion 2008 was that they wanted more commercial space along the East End proper because it was residential over the years. We only have, I don't know, maybe a couple hundred, 1,200 feet of neighbourhood commercial there; maybe that much. And I think they wanted it extended back and a little further along the road so that entrepreneurs could start doing commerce in that constituency. It is more so now, because we are all talking about development coming east. It is more so now for us to develop our community and for the people of East End to develop their community that they get neighbourhood commercial.

We recently did one for Morrill's Tortuga wherein it was residential agricultural and we changed it to tourism so they could get better density. And I questioned why we did not do the rest of that bluff because, definitely, that has the draw towards tourism as well. But I was told that they need to make an application. I spoke to some of them, but . . .

Madam Speaker, that is what I am talking about. We see the next one, Madam Speaker (and I am not going to speak on that so I might as well say it now), on Linford Pierson Highway. And, Madam Speaker, you have to understand, I support neighbourhood commercial. Oh, I am all for that. The Minister knows when we were on Planning in the 1980s that we fought quite viciously to have neighbourhood commercial located in our residential neighbourhoods so that people did not have to come to George Town to get a pound of rice or flour or to get whatever. Now, Linford Pierson Highway is going to be turned into neighbourhood commercial again. But it is piecemeal because right behind it there are all these big subdivisions. And it is not a big deal that they are going to turn it into that, Madam Speaker, but my concern is when do we stop this hodgepodge planning for our country? We need to have a holistic view and approach to how the future looks.

The next thing we'll know . . . the last government changed our zoning along West Bay Beach to 10 storeys and then we were contemplating doing it up North Side and all over the place, and South Sound. I think that was withdrawn to some extent. Madam Speaker, we have to do proper, better planning and when people . . . yes, I know people . . . the only intrinsic value a property has is if you can develop it. But we can't have a 10 storey building next to residential, unless it is right on the border of it. What we are doing is when somebody buys a piece of property right in the middle of it, we rezone that.

In this case, Madam Speaker, I am not against this, because I see what that young man is trying to do out there with his project, and I suspect that is the purpose of this. But, Madam Speaker, we did it at Tortuga Club. My people who owns the other pieces of property along there, have to sell them at the agricultural residential price when one piece (2 or 3 acres, whatever—four acres I think it was) gets rezoned and the value on it sky-rockets the day it gets

gazetted. And my people adjoining it sell for what it has been all along, maybe \$1,500 an acre. And then when that piece is rezoned it goes to \$100,000 an acre. Then, someone comes along, happy-go-lucky, pays them \$5,000 an acre. They apply to Government and get it rezoned. And we comply and his will go from \$5,000 to \$100,000 an acre. Something has to be in this for us.

Madam Speaker, I say all that to come to the point that we need a review. And the Government needs to indicate what we are doing about reviewing our land use in accordance with the Development Plan 1977 (I think it is). I am so confused now . . . yes, Development Plan 1977, Madam Speaker. I think we have had one review since 1977. One? Two? One. Two. Two, but one didn't reach anyplace. And I know since 1977, 1987, 1997, 2007, 2012, that's 35 years. There should have been seven reviews in that time, Madam Speaker, seven full-scale reviews since the implementation of our Development Plan.

I don't know if we are leaving it because it is too onerous, too difficult, or it is easier this way that we change whenever somebody wants something done. But we can't leave the future to our children like this. We cannot. Well, let me say future generations, Madam Speaker. We cannot leave the future to future generations like this. They are going to think we were nuts. They will think we were crazy. Madam Speaker, they will likely dig us up and send us to another country to be buried, and use where we were buried to do what they have to do. That's probably the only little piece we are going to have left! That is all we are going to pass on, six by three nah, it is?—seven feet by three feet or three and a half feet.

Madam Speaker, we have an awesome responsibility upon our shoulders to start this ball rolling in order that we can leave something, some semblance of order in our country for future generations. They are going to come, whether we believe it or not. And if we don't think about them . . . I guess we are thinking we will be gone and we won't have to worry about it. Well, how cruel can we get? We need to leave behind better than we found it, or as good as we found it. And we do not have a good record with that, past generations and this generation. So, Madam Speaker, I think we need to start looking at doing some planning for the future. And I am not saying plans are etched in stone, Madam Speaker. Certainly, there will be more of this in the future, but suffice it to say, it is my belief that it will be much less than we are experiencing now if we have a comprehensive plan.

We know the attraction at Beach Bay is tourism. And we did that one too. Let's do the whole road going up there tourism/hotel zoning. We know it. We already see people are interested, and whether it is Caymanians who own the property, let the price skyrocket for them too so they can at least get something out of their property if they want to sell it. It is more attractive to people. Let's not let our people be the

beneficiaries of nothing when investors become the beneficiaries of plenty as a result of us handcuffing ourselves and doing nothing. That is what is happening, Madam Speaker. I will get my licks too in generations to come, but all of you will get those too, you know. Oh yes. Oh yes, I am going to see to that, if I got to get back up and direct um to unna. Madam Speaker, levity.

So, Madam Speaker, that is my only concern. I am not overly criticising; I am merely asking when are we going to sit down and do something about planning the future for our generations coming behind us in this development? I think the Minister said it today in his introduction of the Builders Bill. Our stock market in this country is construction, either homes, or hotels, or business office buildings, or something. And that is our stock market, because if we don't have those we can't be the financial centre. That is our stock market—construction. What we are doing is enhancing the pockets of everybody else by rezoning properties for them and then, their equity skyrockets in that property and it is so easy for them to get money to do development based on the equity of that property after we rezone it. But we couldn't rezone it for our own Caymanian. That is what we are doing.

That is simple mathematics. That is what we are doing. The only persons benefitting out of land use in this country are those who can afford it. We do the same thing for Dart. We rezone everything too! There are just a few Caymanians who get something, but not too many; far less than should be getting. You will agree with that. Or you won't agree with that one? Well, I will tell you, far less than should be!

This is the Cayman Islands. This is not America! This is the Cayman Islands. This is ours. I hope you don't subscribe to this thing about jobs for Caymanians. All jobs are Caymanian, every one of them. That is what the Immigration Law says. You can't get a work permit unless you can't find a Caymanian. So I am not supporting anything about carving out jobs for Caymanians. Unna not getting that out of me!

So, Madam Speaker, my concern is that. I don't know what we can do about it. I don't expect the Minister to get up here and promise the country a chariot of gold or anything of that nature, but certainly, we need to do something about it. Buy Cayman before everyone else buys it. I see now where Dart has bought up there. That is zoned hotel as well. I don't know what he is going to do. Don't think now that we are just going to walk in and walk out.

Madam Speaker, I thank you.

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

If not, I will call on the mover if he wishes to respond.

Hon. D. Kurt Tibbetts: Madam Speaker, I am extremely grateful to the Member for East End to say he was not being overly critical.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: And I am also very grateful that he is not expecting any golden chariot to be promised.

Madam Speaker, he brought up the subject of a prior rezoning application for Morrith's Tortuga in East End and he said the same thing then. He said the same thing now. I give him the same answer.

Madam Speaker, first of all, for purposes of clarity, those other parcels in East End that he refers to, some are Caymanian owned and some are foreign owned. They all got the same treatment. Madam Speaker, with the absence of a very recent review of the Development Plan, I simply cannot presume that any landowner wishes to have his or her parcel of land rezoned to something else, even if it almost seems it would be obvious since it might well enhance the value of the land. And that is the reason I told the Member from then and he said so in his contribution this afternoon that he told the landowners about the need to make an application.

Madam Speaker, to make it very clear again, what benefit would it be to Government—this Government or any other Government—to try and deprive a Caymanian from getting maximum value for their property if their desire was to dispose of it? There is no reason for that. But there is a process. And the same hodgepodge process that he spoke about with this application, and the same ad hoc way because of the rezoning applications which come to this Legislative Assembly from time to time, the same way is why we cannot just do it in that fashion.

Now, I totally agree with him about the review. And, Madam Speaker, I am only being 100 per cent truthful. Since being returned to office in 2013, there has been and continues to be much on the plate. I learned a long time ago being part of any Government, to take on what I thought we could accomplish within the term to lay the groundwork for what may be able to be accomplished next term, but certainly, not to take on everything and accomplish nothing. And that is just being very truthful, Madam Speaker.

I am very conscious of the need for a comprehensive review of the Development Plan. I was well on the way once, and it did not happen. So, I know about that. But I am just telling the truth as I stand here today, Madam Speaker. I have sat and talked with my people from early as to what we could accomplish and what we cannot accomplish. And, Madam Speaker, I know that in reality, any Government to undertake such a review must have that as the beginning from the day they step into office if they expect to get it completed and be able to finish out a term and get it done within that term. That is simply

the truth, unless it is left to an independent source to do that review. So, Madam Speaker, that is the situation.

With regard to this particular application, as the Member said in his contribution, where these two portions of the parcel are that were not zoned, there absolutely makes no sense to leave it as it is. So, the application confined to itself is certainly as sensible as one could every look at with any other application. So there is no reason to debate that.

I appreciate him taking the opportunity to talk about a review of the Development Plan. It certainly is a desire of mine to get that done. I just know that it is not an easy task, unless a Government has that as one of its first priorities from the day it steps into office. Unfortunately for us, as much as the thought was there, there have just been so many other things and still left to deal with. Madam Speaker, I am only grateful to God that as each day passes the checklist gets a little less. So, we continue on.

Madam Speaker, I commend the Motion and trust it will see safe passage.

The Speaker: The question is: BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 10(2)(b) of the Development and Planning Law (2011 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and maps of which are attached hereto;

AND BE IT FURTHER RESOLVED to alter the zoning area of Registration Section West Bay Beach North, Block 17 A Parcels 195 and 196 from Hotel/Tourism and Low Density Residential to Hotel/Tourism.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Government Motion No. 3/2015-2016 Amendment to the Development Plan 1997 – Proposed Rezoning: West Bay Beach North, Block 17A Parcel 195 and 196 passed.

GOVERNMENT MOTION

Government Motion No 4 of 2015/2016 – Amendment to the Development Plan 1997 / Proposed Rezoning: George Town East, Block 20D Parcels 173, 174REM1, 175 and 452

The Speaker: I recognise the Honourable Minister responsible for Planning.

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

I beg to move Government Motion No 4 of 2015/2016 – Amendment to the Development Plan 1997 / Proposed Rezoning: George Town East, Block 20D Parcels 173, 174REM1, 175 and 452.

The Speaker: The Motion has been duly moved and is now open for debate. Does the Honourable Minister wish to speak thereto?

Hon. D. Kurt Tibbetts: Yes, Madam Speaker, and as customary, I would wish to read the actual Motion and then go through some explanation as swiftly as I can.

I will read the Motion:

WHEREAS on 17th February 2015 the Central Planning Authority (CPA) considered an application for the rezoning of Registration Section George Town East, Block 20D Parcels 173, 174REM1, 175, and 452 from Low Density Residential to Neighbourhood Commercial.

AND WHEREAS the proposed amendments were duly advertised in the *Cayman Compass* on the 25th and 27th February 2015 and 2nd and 3rd March 2015, in accordance with Section 11(2) of the Development and Planning Law (2011 Revision, as amended), and persons were invited to view the application at the Planning Department for comment. During the comment period no letters of objection or representation were received on the proposed amendments;

AND WHEREAS on 13th May 2015 the CPA again reviewed the application in light of the public consultation process (CPA/10/15; item 3.2) and it was resolved to forward the proposed amendment to the Ministry of Planning with the recommendation that it be forwarded to Cabinet and subsequently the Legislative Assembly for consideration;

AND WHEREAS on 14th July 2015 Cabinet considered the rezoning application, and approved that the matter be referred on to the Legislative Assembly for consideration.

BE IT NOW THEREFORE RESOLVED THAT in accordance in Section 10(2)(b) of the Development and Planning Law (2011 Revision, as amended), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and maps of which are attached hereto;

AND BE IT FURTHER RESOLVED to alter the zoning area of Registration Section George Town East, Block 20D Parcels 173, 174REM1, 175, and 452 from Low Density Residential to Neighbourhood Commercial.

Madam Speaker, these parcels together extend to approximately 40 acres. They are currently undeveloped and located adjacent to the Linford Pierson Highway, some 1200 feet from the roundabout adjacent to the Silver Oaks apartments.

In December 2014, the applicant applied to the CPA for the abovementioned parcels to be rezoned from LDR [low density residential] to general commercial. The CPA decided to include a few other parcels to the rezoned area and to pursue change in zoning to neighbourhood commercial, rather than general commercial.

The Speaker: We will just take a five minute break at this time.

Proceedings suspended at 6:09 pm

Proceedings resumed at 6:44 pm

The Speaker: Please be seated. Proceedings are resumed.

I recognise the Honourable Minister responsible for Planning to continue his contribution.

GOVERNMENT MOTION

Government Motion No 4 of 2015/2016 – Amendment to the Development Plan 1997 / Proposed Rezoning: George Town East, Block 20D Parcels 173, 174REM1, 175 and 452

[Continuation of debate thereon]

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

I believe when we took the break I was speaking to the fact that in December 2014, the applicant applied to the CPA for block 20D parcels 173, 174 REM1, 175 and 452 to be rezoned from low density residential to general commercial. And the CPA then resolved to include parcels 447, 448 and 451 to the rezoned area and to pursue a change in zoning to neighbourhood commercial rather than general commercial.

The CPA, in my view, Madam Speaker, and I have had discussions with the Chairman and also the Director of Planning, and I think we have come to an agreed course of action in these matters. And I say “in my view”, Madam Speaker, the CPA should not be including additional parcels to an applicant’s application, and I will explain why.

If the CPA determines that additional parcels should be rezoned, or included with the rezone, then I believe the CPA should require the Department of Planning to contact the affected landowners. This was where the missing link was prior to this. I do not believe that we should presume that any landowner desires their land to be rezoned, unless we know that they do. I do not think we can presume that. So, I think the CPA should require Planning to contact the landowners to ask them if they wish to have their parcels rezoned. So, we have agreed that if at any time in the future this is what they want to recommend, that before they begin the process they will contact the

landowners and make determination from that if they wish their properties to be rezoned to whatever the proposed rezoning is.

Madam Speaker, for the benefit of Members, the applicant submitted a theoretical development proposal to the CPA, not for its consideration, but simply to put in context the rezone application and the plan that they put forward depicts a supermarket and retail and mixed-use development and an open landscape area. This, as I said in my introduction, comprises some 40 acres with different parcels on the top of Linford Pierson Highway on the south side, about 1200 feet from Silver Oaks, going up, going east towards Tropical Gardens on the right hand side, several parcels. And it is about 40 acres.

Madam Speaker, on October 15, 2014, the CPA again considered the application in light of the public consultation process and resolved to forward the matter to the Ministry of Planning with the recommendation that the proposed amendment be forwarded to the Legislative Assembly, subject to Cabinet approval. On May 5th of this year, Cabinet approved the rezoning of 20D parcels 173, 174REM1, 175 and 452 only, directing that it be referred on to the Legislative Assembly for consideration. And they further resolved (that is, the Cabinet) to require the Department of Planning to write to the landowners of 20D 447, 448, 451 to invite them to apply to have their parcels rezoned to neighbourhood commercial.

The additional information supplied to support this rezone application includes a written summary of the application, two maps illustrating the location of the proposed zone. So, Madam Speaker, I trust that the House will see it fit to support and approve the rezoning of George Town East, Block 20D parcels 173, 174REM1, 175 and 45[2] from low density residential to neighbourhood commercial.

Thank you, Madam Speaker.

[Inaudible interjections]

The Speaker: Does any other Member wish to speak?

I recognise the Elected Member for East End.

Mr. V. Arden McLean: Madam Speaker, I am going to be much shorter than I was earlier, but I mentioned the one at Tortuga Club and I was asked why I didn’t go and inquire of them, or tell them to apply for rezoning. The circumstances were identical. CPA recommended that the others be rezoned, and Cabinet said no.

Now, Cabinet has instructed that the Department invited the others here now to apply. Now, I wonder, what is the difference between Crewe Road and East End?

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

I recognise the Minister responsible for Planning, if he wishes to reply.

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

While the Cabinet did not give instructions to the Department to notify the landowners that were concerned in the East End proposal, through the Ministry, I through the Ministry instructed the Department to contact the landowners to advise them of that to ensure. To be very truthful, I waited about two weeks because in talking to the Member for East End, I suggested to him to go and let the landowners know what was happening and to speak to them. And that is the truth. It is as simple as that; nothing more, nothing less.

So, Planning did or was instructed to do the same. And, Madam Speaker, for everyone's benefit, that is now . . . because the whole situation came up with the East End application. So now there is a course of action to be taken each time and that will ensure that all the landowners involved in any one of these applications is advised from early. And I can just simply tell the Member for East End that because that was the first one, then, obviously, neither the CPA nor the Planning Department had taken on that course of action until after the discussion with me.

So, Madam Speaker, I trust now that, having explained that, and knowing how we get these applications dealt with in the future, that Members will see it fit to support this one and we can move forward. Thank you.

The Speaker: The question is: BE IT NOW THEREFORE RESOLVED THAT in accordance in Section 10(2)(b) of the Development and Planning Law (2011 Revision, as amended), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and maps of which are attached hereto;

AND BE IT FURTHER RESOLVED to alter the zoning area of Registration Section George Town East, Block 20D Parcels 173, 174REM1, 175, and 452 from Low Density Residential to Neighbourhood Commercial.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Government Motion No 4 of 2015/2016 – Amendment to the Development Plan 1997/ Proposed Rezoning: George Town East, Block 20D Parcels 173, 174REM1, 175 & 452 passed.

GOVERNMENT MOTION

Government Motion No 5 of 2015/2016 – Government Guarantee in Respect of a Credit Facility for the Cayman Islands Development Bank (“CIDB”)

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

Hon. Marco S. Archer, Minister of Finance and Economic Development: I beg to move Government Motion No. 5 of 2015/2016—Government Guarantee in Respect of a Credit Facility for the Cayman Islands Development Bank (“CIDB”).

The Speaker: The Motion is open for debate. Does the Honourable Minister wish to speak thereto?

Hon. Marco S. Archer: Thank you, Madam Speaker.

The Motion reads:

WHEREAS in order to refinance existing debt, CIDB invited proposals from local banks and accepted an offer from FirstCaribbean International Bank (Cayman) Limited (“FCIB”) of a 10 year term credit facility for US\$36,800,000 with a 3 year moratorium on principal payments at a floating rate of 3-month USD LIBOR plus 1.125% (the “Facility”) subject to a guarantee by the Government.

AND WHEREAS on 25th June 2015, the Cabinet approved the seeking of authorisation from the Legislative Assembly for the issuance by the Government to FCIB of a guarantee in respect of repayment of the principal sum of US\$36,800,000, the payment of interest thereon and all other amounts payable to FCIB under the Facility (the “Guarantee”).

AND WHEREAS section 17 of the Development Bank Law (2004 Revision) (the “DBL”) provides that the Cabinet shall not guarantee the borrowings of CIDB unless a statement of the proposed guarantee has been laid before the Legislative Assembly and a resolution approving that statement has been passed by the Legislative Assembly, and similarly section 8 of the Public Management and Finance Law (2013 Revision) (the “PMFL”) provides that, as a general rule, no guarantee may be given by or on behalf of the Government unless it has been authorised by a resolution of the Legislative Assembly.

BE IT NOW THEREFORE RESOLVED that, in accordance with section 17 of the DBL and section 8 of the PMFL, the Legislative Assembly hereby approves the statement of the Guarantee laid before the Legislative Assembly and hereby authorises the Cabinet to issue the Guarantee to FCIB in accordance with the provisions of section 17 of the DBL, such Guarantee to be executed by the Financial Secretary on behalf of the Government of the Cayman Islands.

My sincere apologies, as I did not [table] the guarantee before. So, with your permission, I will now do so.

The Speaker: So ordered.

[Guarantee between the Government of the Cayman Islands and FirstCaribbean International Bank (Cayman) Limited laid on the Table]

The Speaker: Honourable Minister of Finance, you may continue your contribution, if you have anything more to add to it. Or did that complete your contribution?

Hon. Marco S. Archer: Thank you, Madam Speaker.

I wish to speak briefly to the Government Motion. CIDB had loan facilities with 11 multiple bond holders with amounts totalling US\$36,800,000. These loan facilities cost CIDB CI\$808,837 in interest cost per annum. CIDB sought proposals from all class A licensed clearing banks and received offers from three local banks. The management and board of directors of CIDB evaluated the bids received and approved acceptance of their offer from FirstCaribbean International Bank (Cayman) Limited.

The Motion before this honourable Legislative Assembly today is for the issuance of a guarantee in the principal amount of US\$36,800,000 to FirstCaribbean International Bank (Cayman) Limited in order to consolidate and refinance loan facilities with 11 multiple bond holders. The loan facility from FirstCaribbean International Bank (Cayman) Limited is a ten year term credit facility with a three year moratorium on principal payments at a floating rate of three-month US dollar LIBOR plus 1.125 per cent interest for an effective rate of 1.425 per cent.

The new loan facility from FirstCaribbean International Bank (Cayman) Limited will cost the CIDB CI\$439,157 in interest per annum. When compared to the CI\$808,837 that the CIDB paid on the loan facilities with the 11 multiple bond holders, this is a savings of CI\$369,680 per annum.

The current three-month US dollar LIBOR interest rate is approximately 0.30 per cent. It would require a five-fold increase to reach 1.525 per cent for the interest expense on the new FirstCaribbean International Bank (Cayman) Limited credit facility to reach the CI\$808,000 that we are currently paying in interest, or, that we paid up until June, Madam Speaker. Therefore, the new rate on the refinancing was significantly better than what we had with the bond issues.

Madam Speaker, just to note, the loan facility with the 11 multiple bond holders, matured on 30 June 2015. Since the Government was unable to seek the Legislative Assembly's approval for the guarantee prior to 30 June 2015 maturity date, FirstCaribbean International Bank (Cayman) Limited allowed CIDB to draw down on the loan funds on the commitment that

the Legislative Assembly would approve the guarantee at a subsequent date, Madam Speaker.

The Ministry of Finance and Economic Development has confirmed that the guarantee of US\$36,800,000 has already been included in the Government's debt service ratio and the net debt ratio calculations (that will be for the 2015/16 fiscal year). Therefore, there are no further financial implications for the Government in this fiscal year arising from this transaction based on the fact that this was already calculated and taken into account for the current fiscal year.

Section 17 of the Development Bank Law (2004 Revision) provides that the Cabinet shall not guarantee the borrowings of CIDB unless a statement of the proposed guarantee has been laid before the Legislative Assembly and a resolution approving that statement has been passed by the Legislative Assembly, and similarly section 8 of the Public Management and Finance Law (2013 Revision) provides that, as a general rule, no guarantee may be given by or on behalf of the Government unless it has been authorised by a resolution of the Legislative Assembly.

Madam Speaker, this Motion is of critical importance, and, accordingly, I recommend Government Motion No. 5 of 2015/16 to all honourable Members of the Legislative Assembly and ask that they support the Motion. Thank you, Madam Speaker.

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

I recognise the Honourable Minister responsible for Financial Services.

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

I rise in support of the Motion so ably brought by my colleague as the Minister with responsibility for the Cayman Islands Development Bank. I would like to just give my thanks to the board of directors who have done an excellent job in negotiating the terms of this credit facility with FCIB (FirstCaribbean International Bank). And certainly I would like to thank them as well, because this reflects excellent terms for refinancing some of the previously outstanding debt for the CIDB.

With that, I too would like to commend the Motion to this honourable House.

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

If not, I will recognise the Honourable Minister of Finance, if he wishes to reply.

Hon. Marco S. Archer: Thank you, Madam Speaker, just to say thanks to all honourable Members of this House for their tacit support and ask that we all vote for it. Thank you.

The Speaker: The question is: BE IT NOW THEREFORE RESOLVED that, in accordance with section 17 of the DBL and section 8 of the PMFL, the Legislative Assembly hereby approves the statement of the Guarantee laid before the Legislative Assembly and hereby authorises the Cabinet to issue the Guarantee to FCIB in accordance with the provisions of section 17 of the DBL, such Guarantee to be executed by the Financial Secretary on behalf of the Government of the Cayman Islands.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Government Motion No 5 of 2015/2016 – Government Guarantee in Respect of a Credit Facility for the Cayman Islands Development Bank (“CIDB”) passed.

ADJOURNMENT

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

We have two items left of the business of this Meeting, two Private Members’ Motions, both of which I hope we will be able to deal with tomorrow. I want to thank Members who have stayed until after 7:00 this evening to complete the business on today’s Order Paper. With that, I move the adjournment of this honourable House until 10:00 am tomorrow, 13th of August.

The Speaker: The question is that this honourable House be now adjourned until 10:00 am tomorrow.

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

AYES.

The Speaker: The Ayes have it.

At 7:11 pm the House stood adjourned until 10:00 am, Thursday, 13th August 2015.

