



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2015/16 SESSION

2 May 2016

Fourth Sitting of the Fifth Meeting

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

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town

OPPOSITION MEMBERS

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

INDEPENDENT MEMBERS

Hon Anthony S Eden, OBE, MLA	<i>Deputy Speaker</i> , First Elected Member for Bodden Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town
Mr Winston C Connolly, Jr., MLA	Fifth Elected Member for George Town
Mr D Ezzard Miller, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

**OFFICIAL HANSARD REPORT
FIFTH MEETING OF THE
2015/16 SESSION
MONDAY
2 MAY 2016
10:00 AM
Fourth Sitting**

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

The Speaker: Good morning.

I will call on the Fifth Elected Member for the district of George Town to say prayers today.

PRAYERS

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Good morning. 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, the Leader of the Opposition, 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.

The Speaker: Thank you. We certainly couldn't be seated without that blessing.

[Pause]

The Speaker: The House is now resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: None.

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

The Speaker: I would just like to put on record, I am sure the House wouldn't mind on behalf of all Members, our sincere congratulations to the Honourable Deputy Speaker in receiving his award last night from the Adventist Church for all of his invaluable work to that community and specifically to the Savannah Adventist Church.

[Applause]

PRESENTATION OF PETITIONS

The Speaker: None.

**PRESENTATION OF PAPERS
AND OF REPORTS**

The Speaker: None.

**QUESTIONS TO HONOURABLE
MINISTERS AND MEMBERS
OF THE CABINET**

**QUESTION NO. 43—
FOREIGN AND COMMONWEALTH
OFFICE, SHARING OF BENEFICIAL
INFORMATION**

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

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, it is possible that events have overtaken this matter, since the House has been out for so long. Nevertheless, I beg to ask Question No. 43,

standing in my name which reads as follows: Can the Honourable Minister say if he received a letter from the Foreign and Commonwealth Office (FCO) officials or the Minister in charge, indicating they wish to proceed with the gathering of personal and private information on all Caymanian citizens, companies, residents and other residents doing business in the country with such information to be shared in a database with access at will by the United Kingdom (UK) law enforcement?

The Speaker: Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment: Good morning, colleagues and Madam Speaker.

The answer: The Member appears to be referencing the ongoing discussion between Government and the FCO on the sharing of beneficial information between law enforcement and tax authorities in Cayman and the United Kingdom. There have been several letters over the last few years on this topic, but none have referenced the gathering of personal and private information on individual Caymanians and residents. The issue has always been about the transparency of the natural persons who own and/or control the corporate and legal entities incorporated locally that conduct international business and the sharing of identity information in cases where there are legitimate law enforcement or tax authority investigations underway.

As was announced on April 11th, the Government reached an agreement with the UK that we will not have to create a central database that would be directly accessed by law enforcement in the UK. Instead, there was an acceptance by the UK that the Cayman Islands would continue its current regime of having verified beneficial ownership information collected and maintained by our local corporate service providers. Government has proposed a technology solution that would allow specific searches of this data by our local law enforcement agencies. Through a local designated point of contact, requests from UK law enforcement would then be handled. There would be no external direct access.

Thank you.

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

SUPPLEMENTARIES

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

Madam Speaker, as matters stand under the Tax Information Exchange Agreements [TIEAs], any requests for individual information must be notified by the individual who then has the opportunity to chal-

lenge the application in court. That is under the Tax Information Exchange Agreements. This prevents phishing expeditions and ensures that there is due process. What safeguards with regard to due process are included in the proposals that the Minister is talking about?

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, I would be grateful for a moment to consult.

The Speaker: Most certainly.

[Pause]

Hon. G. Wayne Panton: Madam Speaker, the question initially referred to the Tax Information Exchange Agreements process or regime, and there was a statement made that the owner of the information was required to be told; that, Madam Speaker, is only potentially correct in the context of a noncriminal-related investigation. Clearly, in the criminal context you would not be advising the owner of the information that a request had been made. Certainly, that is the whole basis of the tipping-off concern.

But in the context of what has been agreed with the UK through the Exchange of Notes and the Technical Protocol, in respect of beneficial ownership, all of the normal protocols are in place to protect and give efficacy to the requests that are being made in respect of beneficial ownership. So, the same types of protocols that exist in relation to a request for information through the Tax Information Exchange Agreements, those same types of protocols would exist in relation to, and are reflected in the Technical Protocols that have been exchanged with the UK in relation to beneficial ownership.

[Inaudible interjection]

Hon. G. Wayne Panton: All of the normal constitutional safeguards, Madam Speaker.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, if I understand the Minister correctly, he is saying that due process is able to be had in non-criminal matters. I think that is the gist of what he has said. Is it correct that foreign . . . and Madam Speaker, we have to probably read the Exchange of Notes between the Government of the United Kingdom and the Government of the Cayman Islands in respect to the sharing of beneficial ownership information to understand some of this. But, nevertheless, from what I can gather, I need to ask these questions.

Is it correct that foreign investigative authorities can inspect the register without notification to those whose information is being obtained?

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: If notification is required, how much a) time?; b) is there the due process, that you have mentioned where there are no warrants, no background reasons (if you take away the due process that is) and no notification even after the event? But as I said, Madam Speaker, perhaps the public doesn't know because we don't have the Exchange of Notes so much in the public domain, while it is online, the general public perhaps will not know.

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Thank you, Madam, the Exchange of Notes and the protocol, as the Member has indicated, has been published online, both by ourselves as well as the United Kingdom.

In terms of his question, Madam Speaker, they cannot. . . the foreign tax authorities or law enforcement officials . . . Well, let me confine it specifically to the UK, as it is the UK that we have the agreement with.

They have to come and make a request through a local agency which satisfies itself that there is a proper rationale or reason for the request. It cannot simply be a phishing exercise. They must be satisfied that this is a legitimate and proper request. That local agency then would follow-up and make the necessary enquiries to obtain the information that is requested and then provide that information to the requesting party, in this case it would either be the UK's National Crime Agency or its Serious Fraud Office, generally, or the Tax Authorities in the UK.

So, there is a clear understanding and a clear set of protocols which set out the fact that this cannot simply be a phishing exercise. There must be some legitimacy to their request which satisfies the Technical Protocols and the Exchange of Notes.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, the Exchange of Notes speaks to a designated point of contact. It says that the designated point of contact will provide the information sought of it within 24 hours of the submission of a request for information unless it is notified that the request for information is urgent. Madam Speaker, that's part (a) of the question.

Also, Madam Speaker, part (b) of the question is: Was any consideration or has any consideration been given to the effect of hacking into this infor-

mation and who is to protect these families as we don't seem to have the resources to do that?

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, in respect of the first part of the question . . . sorry, Madam Speaker, give me 30 seconds.

[Pause]

Hon. G. Wayne Panton: Sorry, Madam Speaker.

Madam Speaker, in respect to the first part of the question, the agency—

[Pause]

Hon. G. Wayne Panton: Sorry, Madam Speaker.

In respect to the first part of the question, the Notes do call for a specific agency to respond on this issue, on any request. That agency has not been definitively identified. There are one or two possibilities, but what is contemplated is that this will be resolved fairly shortly and there have been ongoing discussions in respect of that.

In relation to the second part of the question, what is contemplated is that there would be a 24-hour, typical, sort of, response time. There is also a contemplation that it may be that in emergency situations there could be a one-hour, sort of, turnaround time. We did not want to specifically oblige ourselves to a one-hour turnaround time, so what is contemplated in the Exchange is that there is some flexibility, the requesting party and the responding party here would be able to discuss and agree any circumstances which may mitigate the ability to respond in that sort of period of time.

On the question of protection from cyberattacks, certainly, that is a concern, but we have different groups who have been looking at this. We have been working with Cayman Finance, for example, that have a specific technology committee, which is represented by, or comprised of a number of representatives from industry who have expertise in these areas, and we are certainly very concerned about this to ensure that there are sufficient controls in place and sufficient protections to avoid that sort of scenario arising.

Madam Speaker, one of the reasons that there has been a concern about having a central register, per se, is that very reason. Once you aggregate the data, then the potential increases significantly, that if someone does get access to that centralised database, then they have the full picture. What we are proposing is technology-based platform which will be able to go out and access relevant information from the various corporate service providers. So the data itself is actually completely disaggregated; it is all

separate and remains held by the corporate service providers and we will just be able to access that information, or bits of that information, as are relevant to the specific request.

So, clearly, it is an issue that we are concerned with, but I think we are fairly confident that the way we have approached it already sort of minimises risk in that respect. We certainly want to make sure that any access platform has the necessary controls around it and protections built into it which will minimise the risk of hacking.

It is important to reemphasise, Madam Speaker, that, the access is not going to be external. It is going to be purely a local access and nothing at all external, nothing direct. So, no external authority is going to be able to access this information and obtain this information without making requests through the agreed mechanism to our local agency which is actually carrying out the search.

Thank you.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, that is our concern; the external factors of hacking.

Madam Speaker, I have at least three questions left. If all the “know your client”, due diligence information in relation to beneficial ownership is maintained on this register, and that information is obtained by illegal hacking, what kind of guarantees are in place from the British Government with regard to identify theft, extortion, blackmail, or terrorist threat. And is this being applied to Caymanians or do we understand that this might apply to our information also?

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, the controls around the access of information are controls which exist locally and there are . . . once the information is provided to the requesting authority in the UK, there are controls around what they can do and how they can handle that information. The parties will certainly receive the protection of the usual data protection provisions that are relevant in the UK. So, I don't see that as being a particular concern. They certainly have greater data protection at the moment in the UK than we have specifically in place in the Cayman Islands.

[Inaudible interjections]

Hon. G. Wayne Panton: One moment, Madam Speaker.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, I was seeking to find—

The Speaker: The Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition:—I was seeking to find out—

The Speaker: Can you just—

Hon. W. McKeever Bush, Leader of the Opposition:—in the same answer that the UK—

The Speaker: Leader of the Opposition, can you just wait one moment, because while he is consulting, he is probably not getting your full gist.

Hon. W. McKeever Bush, Leader of the Opposition: I think he was asking the Attorney General the question because of what I asked him without being on the microphone. And that is, The UK has the protection, how is this going to extend to us? How are they going to protect us?

The Speaker: Honourable Minister.

Hon. G. Wayne Panton: Madam Speaker, the same regime which has been in place in terms of the sharing of information through the established Tax Information Exchange Agreements regime will apply in this context as well, in the same way—the same confidentiality, the same data protection, the same issues, the same protections which are relevant to the Tax Information Exchange Agreements regime is the same thing that will apply in this context. So, those agreements that may have been signed in the past by the Leader of the Opposition, the factors around that in terms of protections are exactly the same types of factors that are relevant and available to parties in this context as well, Madam Speaker.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: So, Madam Speaker, the Minister is agreeing that maintaining the records with the service provider in the Islands in paper form will avoid the risk of criminal hacking?

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, the reality is that corporate service providers in the Cayman Islands all maintain these records in electronic form. So, while they may have paper files, they nevertheless maintain this information in electronic form, and in fact, when there is a normal request under the existing regime of the “on request” Tax Information Exchange Agreements, for example, that information is typically

provided in electronic form. So, the issues are very similar; nothing has particularly changed.

Madam Speaker, there is no central register, as I have outlined. I have outlined the rationale, or the concerns underlying the rationale in respect of that.

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

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Part (a) of this question is—

[Pause]

Hon. W. McKeeva Bush, Leader of the Opposition: Just a minute, Madam Speaker.

Madam Speaker, then, what possible disadvantage exists in maintaining that system that he is talking about and arranging for the Tax Information Authority to inspect on request? Does he see a disadvantage in maintaining the system he talked about and arranging for the Tax Information Authority to inspect on request?

The Speaker: Minister responsible for Financial Services. Do you need some time?

Hon. G. Wayne Panton: Well, no, I think I need the Member to clarify the question a bit further, with respect, Madam Speaker, because . . . is he saying that we should not have an electronic system and should be purely paper or whether it should be . . . I am not quite sure what he is saying.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, if we are talking about full beneficial ownership information is retained by service providers in the Islands, and in respect of all beneficial ownerships or owners, what I am asking is what possible disadvantage exists in maintaining that system and arranging for the Tax Information Authority on request?

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, I am still not 100 per cent sure what the Member is asking for, but I can't think . . . if I am understanding him correctly, I can't think of a specific . . . of a disadvantage, in this context.

The mechanisms for the sharing of information and the requesting of information in the context of the Exchange of Notes and the Technical Protocol for beneficial ownership information is similar in

substance to the protocols around the sharing of information for tax purposes under the Tax Information Exchange Agreements.

So, I am not quite clear . . . I suspect that I am not understanding fully his question. Or perhaps he does not understand what he is asking me.

Hon. W. McKeeva Bush, Leader of the Opposition: I could have asked it the other way around. I think I asked it just now—

The Speaker: Honourable Leader of the Opposition.

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

I will ask it again. If, as in the case (and I will ask the question fully)—if, as is the case, full beneficial ownership information is retained by service providers in the Islands, then, Madam Speaker, what possible disadvantage exists in maintaining that system and arranging for the Tax Information Authority to inspect on request? And, again, I will ask: Does the Minister not agree that maintaining such records with the service provider in the Cayman Islands in paper form will avoid the risk of criminal hacking? That is what people are concerned about, hacking, and how much we can protect them against it.

The Speaker: Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, if you would indulge me with a few moments to consult.

[Pause]

The Speaker: Honourable Minister.

Hon. G. Wayne Panton: Madam Speaker, thank you for your indulgence.

Madam Speaker, it seems to me that the Leader of the Opposition, the First Elected Member for West Bay, is saying that if the beneficial ownership information or due diligence information maintained on a particular client is held in paper form only, and searched in paper form then that is somehow hack-proof.

Madam Speaker, as I have said previously, businesses don't typically operate in this way today. The information is stored electronically. The volumes of information that are involved, it would be completely impractical to have the range of information available on particular clients that are required under our Anti-Money Laundering and Counter-Terrorism Financing [AML/CTF] and beneficial ownership information. That would all be very, very difficult—and next to impossible—to manage in a paper form where you were requesting information. So, I don't think that it is a prac-

tical perspective to suggest that that is the way to go about it.

Certainly, Madam Speaker, in the context of a system which is promulgated by the Financial Action Task Force [FATF], which has been supported by the G20, high-level principles that were issued (I think it was last year or the year before in their Brisbane meeting), they certainly contemplate that you would either have a central register which is maintained in electronic form through which searches could be carried out efficiently and quickly, or there is a similarly effective system.

Now, clearly, we could never stand up to scrutiny if we suggest that having a mountain of paper files to search through is a similarly effective system. That is a basis upon which we take the position that, as a jurisdiction, we comply with the G20 high-level principles, as well as the FATF requirements. To do otherwise would completely eliminate any credibility we have on the issue.

So, Madam Speaker, we have looked at the issues and the concerns around this. We have done our public consultation on this issue in the early part of 2014. We have had better than 80 per cent of our industry and other public respondents say that the system we have in place at the moment with our corporate service providers who obtain information, who verify the accuracy of that information, and periodically update that information, is the best system and that we should not have a central register. But clearly, the system, the alternate systems around that, that are similarly effective that we have proposed, meets with their support. And that is the approach that we will be pursuing at this point, unless there is some further development.

We have always said, Madam Speaker, the Cayman Islands are not afraid of complying with global standards, and that includes a central register, Madam Speaker. But unless it is truly a global standard that applies across the board to all of our competitors, we would be at a disadvantage in leading on this particular issue. As I said, we do not have the support of our industry in there.

There are lots of good, very credible, very strong, very compelling arguments why the proposal that we have both recognises the system that we have in place, the efficacy of that, the efficiency of that and also recognises that there are certain risks that are mitigated or minimised in the approach that we have taken.

Thank you.

The Speaker: We have reached the hour 11:00 am. I will recognise the Honourable Deputy Premier to move the suspension of Standing Order 23(7) and (8).

SUSPENSION OF STANDING ORDER 23(7) AND (8)

The Deputy Premier, Hon. Moses I. Kirkconnell: Thank you, Madam Speaker.

Madam Speaker, I move the suspension of Standing Order 23(7) and (8) to allow questions to be asked past the hour of 11:00 am.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow Question Time to extend beyond the hour of 11:00 am.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 23(7) and (8) suspended.

The Speaker: I recognise the Honourable Leader of the Opposition for his final supplementary.

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

The Minister says he has 80 per cent agreement that what we have is the best system. That is a good percentage. Hopefully, if anything goes wrong, and we start to lose business, that 80 per cent will stay here.

Anyway, Madam Speaker, I probably had two questions, but I will use this last one. Does the Minister not agree that having a centralised beneficial ownership register in electronic form available to the United Kingdom authorities only in the Overseas Territories will act as a serious disincentive to the use of the Overseas Territories when compared to the complete confidentiality available in competitive jurisdictions, notably the United States jurisdictions?

The Speaker: Honourable Minister for Financial Services.

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

Madam Speaker, let me just be very clear. We do not have a central register. We do not have an aggregated, or we are not proposing to have an aggregated database. So, the question from the Member suggests that that is the case. That is clearly not the case, Madam Speaker. If he will read the Exchange of Notes and the agreed Technical Protocol, it will be very clear, or should be very clear, to him, that we are not going to have aggregated data in the form of a central register in the context of what is agreed with that Exchange of Notes and the Technical Protocol.

Madam Speaker, the reference earlier that I made to 80-plus per cent supporting what we have was in the context of the public consultation that we did under the Action Plan that was agreed with the UK in 2013. That was in the context of whether we have a

central register or we do not have a central register. So, what I am saying is, and what I have said previously, is that better than 80 per cent of our industry and with other respondents, have said that there is no need for a central register from their perspective, and what we have in place works very well, very effectively.

Madam Speaker, the suggestion that somehow we have agreed to something that is going to potentially cause significant amounts of business to leave the jurisdiction is not one which holds any water from my perspective, no more so than existed when the Government of 2005 to 2009 was seeking to get a quid pro quo, meaning, get some sort of return benefit during the negotiations in respect of Tax Information Exchange Agreements.

At the time they were under significant pressure from the OECD [Organisation for Economic Cooperation and Development] to simply go along with the standard version of the Tax Information Exchange Agreements which they promulgated, which was very one-sided, recognised that there was little benefit to the Cayman Islands in a reciprocal arrangement because we don't have a tax system. This was all one way in terms of the sharing of information.

The new Government of 2009 to . . . I guess it would have been 2013, the first thing that was done in that context, Madam Speaker, was to simply go and start signing the agreements that were remaining outstanding, in order to meet the requirement of the OECD, so that there were 12 Exchange Agreements in place to meet their sort of arbitrary standard of 12 to avoid remaining on this Grey List which they proposed.

So, Madam Speaker, we didn't have a threat of a list in this case; but, clearly, what has developed is, and what has been proposed by the UK, is reflected in the G20 high-level principles, it is reflected in the FATF standards, and we have taken the lesser of the two options effectively that are set out in those two standards. That is, firstly, you will either have to have a central register or you have to have a similarly effective system. And we have taken the position that we have. We have adopted a similarly effective system. That gives us credibility around the world, Madam Speaker, in the same way that we have achieved a good reputation and credibility in a variety of other areas. What we have done to ensure that there is protection is that we have *not* created a central register. We have *not* aggregated the data and we are simply going to be accessing this information for law enforcement purposes, and tax authorities.

Madam Speaker, the reality today is that tax information is exchanged automatically with a variety of countries. It is something like 96 now under the common reporting standard, and certainly the FATCA agreement, the Financial Accounting Tax Compliance Act was committed to, prior to this Government being in place. These regimes, the on request, under the 36

Tax Information Exchange Agreements that we have today, and the new automatic exchange is very clear in respect of the sharing of information for tax purposes.

I have said before, Madam Speaker, that as a jurisdiction our business is not based on being able to hide or facilitate tax evasion. That is not what our business is about. So, clearly, this is not a disadvantage. We are sharing information for tax purposes.

Equally, Madam Speaker, and finally, no one can argue that this jurisdiction should not serve and act as a responsible jurisdiction within the global financial arena to help to put down the scourge of corruption and serious crime. That is another significant aspect of the rationale for the Exchange of Notes and the Technical Protocol which we have signed with the UK.

Madam Speaker, I will also add that there are lots of discussions which are now going beyond that. There is talk of having an automatic exchange of beneficial ownership information and they have something like 33 countries who have now committed to that as an initiative. So, I think the Premier has in his press conference, while I was away, announcing the Exchange of Notes, certainly indicated at that time that things were probably not going to stand still on this issue, and that was very prescient. That is the case, Madam Speaker. Shortly within two weeks of that the issue has moved on and now there is discussion about a different type of platform. That is something that we are considering, but Madam Speaker, where we are at now represents a good position for the Cayman Islands. All of our competitors have accepted the exact same position in terms of the Exchange of Notes. Granted, that doesn't include the US, but obviously the rules are different. You know, might is right. We cannot win that argument.

Thank you, Madam Speaker.

The Speaker: Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, the last question, and I thank you for your indulgence.

I am glad that the Member added on that little piece at the end, because he went from Europe to everywhere else, all of the competitors without addressing the American position. I don't know if he fully did that to give credibility to the understanding that they are not doing what they are asking everybody else to do, and there is no way that we seem to be concerned about it.

Anyway, Madam Speaker, just to enquire that when the Technical Protocol, the papers they signed, talked about beneficial ownership information in respect of corporate and legal entities incorporated in the Cayman Islands. And it says that the Government of the Cayman Islands will establish a centralised platform of beneficial ownership information to be main-

tained by the general registry of the Cayman Islands platform. This will provide time lapse as to adequate, accurate, and current beneficial ownership information on corporate and legal entities as specifically defined in the fourth money laundering directive [SOUNDS LIKE] compared to the Cayman Islands.

Just to declare, Madam Speaker, we are well aware of all the regulations and all the efforts that various governments have put in place to help Cayman reach the point where, if 80 per cent say there's not going to be any problems, well that is a good thing. We are concerned, though, if the 80 per cent goes the other way.

So, in this particular part of the Technical Protocol, is he saying that what he is talking about that we don't have this centralised system, you have a centralised platform—instead of a “registry” it is called a “platform.” Is that what you were saying?

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: That is what you are saying?

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: So, you don't think that a rose by any other name is still a rose; right? in this instance. And we say those phrases, but meaning that they will get out of this centralised platform exactly what they wanted to get out of the registry.

The Speaker: Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Madam Speaker, I think I have made it very clear that this, what we are proposing under the Exchange of Notes and the Technical Protocol is *not* a central register. It is simply a platform for the access of information which is maintained, as it has been for 15 years now, by our corporate service providers.

Madam Speaker, the general registry maintains, or the companies' registry maintains a system which is referred to as “CORIS” which is Company Online Registry Information System. This is a system which facilitates the connection of various corporate service providers who sign up to the system with the General Registry Office. It is a two-way pipeline, effectively, Madam Speaker. They can file documents and they can also receive documents from the General Registry.

In the same way, Madam Speaker, what is likely going to happen with this mechanism that is contemplated, this access platform which is contemplated under the Exchange of Notes and the Technical Protocol is that there will simply be an add-on component to CORIS which facilitates the flow of in-

formation from the corporate service providers that is maintained by them in their database. They will clearly have their protocols. They will clearly have their firewalls set up to ensure that only the proper access is provided through General Registry through this CORIS component. And, similarly, Madam Speaker, there will be controls around the access to CORIS, or to this element of CORIS, certainly, by anyone external. As I said, one of our major concerns is to ensure that this is only accessed locally by our own law enforcement people and not externally at all.

Thank you.

The Speaker: Madam Clerk.

QUESTION NO. 51— COMMERCIAL MARINA REQUIREMENTS FOR CO

The Speaker: I recognise the Honourable Member from the District of North Side.

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

Madam Speaker, I beg to ask the Honourable Minister of Planning, Lands, Agriculture, Housing and Infrastructure the following question standing in my name: Can the Honourable Minister say if a “certificate of occupancy” is required for a commercial marina?

The Speaker: Honourable Minister for Planning.

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

Madam Speaker, if the marina includes any buildings, then a “certificate of fitness for occupancy” is required for the buildings. If no buildings are proposed, then the marina would require a “certificate of completion.”

The Speaker: If there are no supplementaries, we will move to the next question.

QUESTION NO. 52— COMMERCIAL MARINA REQUIREMENTS FOR PLANNING PERMISSION

The Speaker: I recognise the Honourable Member for North Side.

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

I beg to ask the Honourable Minister of Planning, Lands, Agriculture, Housing and Infrastructure: Can the Honourable Minister say if planning permission is required to construct a commercial marina, if so, what are the requirements, and do these require-

ments include dockside water, electricity and sewage disposal?

The Speaker: Honourable Minister for Planning.

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

Madam Speaker, yes, Planning permission is required in order to construct a commercial marina. The requirements for obtaining Planning permission are settled in the Development and Planning Regulations. The Regulations and the Building Code do not require a marina to have dockside water, electricity, and sewage disposal; however, should the applicant choose to have these features, then they would be reviewed for compliance with the relevant provisions of the Regulations and the Building Code.

The Speaker: If there are no supplementaries, we will move on to the next question.

Do we have a supplementary, Member for North Side? Please proceed.

SUPPLEMENTARIES

Mr. D. Ezzard Miller: Madam Speaker, would the Minister undertake to ensure that commercial marinas in the future will include dockside water, electricity, and sewage disposal?

The Speaker: Honourable Minister responsible for Planning.

Hon. D. Kurt Tibbetts: Madam Speaker, the Member from North Side speaks with a wonderful world of experience. I am bemused by the way he crafted his supplementary question. He used the word “ensure.” But what I will answer him and say—and say very candidly—is: I understand the concerns very well. There are regulations which I hope to get here shortly, and there is the new Building Code which we are working on to adopt. I certainly will . . . in fact, I have already asked the Director of Planning and the Deputy Chief Officer to be looking to see how that could be achieved without setting standards that are overly cumbersome and onerous. But I take his point very well.

The Speaker: I recognise the Member for East End.

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

Madam Speaker, in those regulations that the Minister says is coming, will there be provisions in those for liveaboard boats, as well, along canals? This is a subject that was thoroughly vetted in 2001 and nothing has happened since.

The Speaker: Honourable Minister for Planning.

[Pause]

Hon. D. Kurt Tibbetts: Madam Speaker, there is a line drawn for Planning Regulations and a boat, although it is liveaboard in the water. The view at present is that it is not within the jurisdiction of Planning Regulations. But just like the Member for North Side's point, the Member for East End's point is also well taken. Because I remember myself bringing the issue about discharging effluent, and all of that, in the canals, and I still feel very strongly about that. So resurrected it has been!

But I am careful with the answer because it may have to be regulations elsewhere than in the Planning Regulations, but I do agree that there should be some statute which dictates—

[Inaudible interjections]

Hon. D. Kurt Tibbetts: I am being told that the National Conservation Law speaks to it. I don't know what the details are, but so that it is not construed by any means that the question is being sidestepped, my undertaking is to find out exactly where it suits best, and I agree, totally, that there should be some regulations because I know—and this is not today—that from a long time ago there were such creatures dockside in canals and their effluent was simply being disposed.

The Speaker: Member for East End.

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

Madam Speaker, on Friday, I believe, we had a lengthy discussion in here surrounding passage in canals and whether or not they required Planning permission to build docks.

Can the Minister say when docks are being built, they get Planning approval, and since it is not on the Queen's Bottom, and it is a construction, are there—especially when a house is not built there—are there provisions made in those approvals for those docks to say that it is a liveaboard boat that they must make provision for sewage?

The Speaker: Honourable Minister for Planning.

[Pause]

The Speaker: Honourable Minister for Planning.

Hon. D. Kurt Tibbetts: Madam Speaker, my understanding is that if there is no structure on the property and it is a canal lot, and there is an application for a dock, that the Central Planning Authority [CPA] attaches conditions on to the Planning approval which speaks about commercial activities, and we will also ensure that the business of effluent is addressed with those Planning permissions. But, I think back to the

original question, we need it via some statute, not just the CPA making it conditional. So I, again, give the undertaking that we will determine where it is.

You see, as I understand the Member for East End's question, Madam Speaker, is that there is a dock that has to be applied for that gets Planning approval, but a boat, you can't. . . if the dock is being applied for, the liveaboard section of it as twisted and turned as it may seem, because it is in the water, calls for what I am not sure about. So, I don't want to commit to where it is going to be, is all I am saying, it might seem easy to you, but from what I hearing, all I am really saying is that wherever the statute should be placed correctly, I think we can undertake to ensure that it is done. What I don't want to say to you is that it will be in Planning Regulations. If that is where it can work best, then that is fine. That is all I am saying. So I am not trying to say no. I am just—

[Inaudible interjections]

Hon. D. Kurt Tibbetts: Because the Port Authority may be involved, I mean, it is just that there may be other agencies involved. No matter what is said, or no matter what is asked, it is going to come back to what I just said. That is all I am saying.

The Speaker: Member for East End, do you have a follow-up?

Mr. V. Arden McLean: Yes, Madam Speaker. I am wondering if the Minister, having recognised and agreed that when a dock is applied for, there are conditions attached, because the Planning Law allows the Authority to attach conditions other than those in the Planning Law, based on the circumstances. And when those conditions are applied for effluents, do we follow-up on it like we have enforcement officers in Planning? Do they follow-up on it because, Madam Speaker, there are a number of these boats, people just come in on them, and live on them, 10 or 12 years, and it goes straight into the canals? Certainly, we must have some control over living conditions?

Yes, some boats, Madam Speaker, have toilets, but the fact is they do not have a holding tank. And if [they have a] holding tank, it is probably for a day or two, which is what is expected to be in port, and they are pumped out. So, Madam Speaker, I am wondering if we follow-up on these things to see if those conditions are being adhered to.

The Speaker: Honourable Minister of Planning.

Hon. D. Kurt Tibbetts: Madam Speaker, as I said before, it comes back to what I am saying now. The conditions of the CPA—what I didn't say was that CPA now does it. We are saying that the Director of Planning will be discussing the matter with the CPA to ensure that those conditions are placed there.

But I personally don't believe that that is enough for belt and braces. Even if the conditions are placed there and the enforcement officers are checking on it, I am saying that I believe that there should be some statute which specifically speaks to liveaboards and the conditions under which a person is allowed to tie-up alongside a dock and have such vessels as a liveaboard, because it might not just be effluent that we are looking at. There may be . . . I mean—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Well, exactly my point.

So that is why I am saying, that I hear all that is being said, but just simply having the CPA place conditions, in my view, is not enough. I am saying we need a specific statute with all of the various things thought through properly and that should be in place so that anyone who intends to utilise a liveaboard for that purpose, knows full well exactly what conditions under which they can live there.

The Speaker: If there are no further . . . Member for North Side.

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

I wonder if the Minister could say if the most recent commercial marina built for the Port Authority by a private developer had Planning permission and has in fact obtained his certificate of occupancy for the building and a certificate of completion, as given in a previous answer, for that marina.

The Speaker: Honourable Minister responsible for Planning.

[Pause]

The Speaker: Honourable Minister for Planning.

Hon. D. Kurt Tibbetts: So, Madam Speaker, because there was a building involved, a certificate of fitness for occupancy was issued on 28 April 2014. When you issue a certificate of fitness for occupancy, it is for the entire project. But once you issue a certificate of fitness for occupancy, there is no requirement for the certificate of completion.

The certificate of completion comes before certificate of occupancy. In other words, you could have a marina which did not have a building, and all that would require would be a certificate of completion. The fact that this one had the building, it required a certificate of fitness for occupancy which it received on 28 April 2014.

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker, can the Minister say when the CPA was granting the

certificate of occupancy for the building, whether any consideration was given for the people who were going to use the marina side which doesn't have a certificate of completion (and he says that that is not necessary once you get occupancy for the building), by people who need to meet the Port Authority regulations of holding tanks, and the Port Authority is building a marina itself and providing no facility to pump out the holding tanks that it requires?

The Speaker: Honourable Minister for Planning.

[Pause]

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

This supplementary comes back to the same original point of because there is no statute which requires them to do so, it wasn't done. But I will stand here and say, and the Minister who is in charge of the Port Authority is to my left, sitting very quietly, but I know he is anticipating . . . I am saying that such a location should and must have a lifting station in order for those boats to be able to pump their effluence.

So, I am certain that the Minister will be looking at that in order to ensure that it is done. It was unfortunate, but I have to be truthful, until the Member just brought it up I didn't know because I again remember being over there when they were talking about this years and years ago, saying, *Make sure that that is included in it.*

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I wonder if the Minister would commit in the process of seeking the help of the Minister responsible for the Port Authority, to retrofit the sewage disposal, if he would also ask him to retrofit water and electricity, because if you go down there it is like a snake yard, with hoses running from the building. The boat owners have to run a hose from the building which has water to it, to different sections of the top to get water. And it really reduces the ambiance, the effectiveness of the marina, and it is a total waste of the existing conditions.

The Speaker: Honourable Minister.

Hon. D. Kurt Tibbetts: Madam Speaker, the Minister, the Honourable Deputy Premier who is sitting to my left, I am sure has very good hearing. I am sure he has heard—

[Inaudible interjections]

Hon. D. Kurt Tibbetts: —what the . . . I understand the process. I am sure he heard what the Member for North Side has said.

What I will say about that, with the little bit that I know, is there is always a question of who is going to

pay for usage. So, I am sure once those matters can be sorted out, that that can be done also, but notwithstanding anything else, a lifting station is of paramount importance. And I am certain the Minister will be looking at it to see how best . . . I have heard on more than one occasion the talk about that, Member for North Side. I don't want to say things that I am not 100 per cent sure of, but I am sure this will revive the talks again.

Thank you.

The Speaker: Madam Clerk, next question.

**QUESTION NO. 53—
WHARTON-SMITH
CONTRACT**

The Speaker: I recognise the Honourable Member for North Side.

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

I beg to ask the Honourable Minister of Planning, Lands, Agriculture, Housing and Infrastructure the following question standing in my name: Can the Honourable Minister confirm that the company Wharton-Smith contracted by the Water Authority to repair the sewage lines has been allowed to import heavy equipment such as excavators, rollers and front-end loaders to work on the job?

The Speaker: Honourable Minister responsible for Infrastructure.

Hon. D. Kurt Tibbetts: Madam Speaker, I am absolutely certain that the Member for North Side is going to be listening very carefully to the answer.

It is correct that Wharton-Smith Inc. has brought in equipment for this project, but . . . and let me preface my answer by saying this is information that we have received from the Water Authority. But this is specialised equipment to ensure the work can be completed in a timely manner. And the reason for that, Madam Speaker, is any disruption to traffic flow and roads and such the like. Progress to date has proven this and it is anticipated that the entire project can be completed at least one month ahead of schedule, significantly reducing the inconvenience to the residents along the pipeline. The excavator has an extended boom to assist with the pipe installation. The front-end loader is dual purpose bucket and forks to assist with moving long (that is in excess of 200 feet) lengths of fused 24-inch diameter HDPE pipe into the trench.

The Water Authority typically follows the procedure as outlined by the Department of Vehicle and Drivers Licensing [DVDL] for importation of heavy equipment into the Cayman Islands where it relates to permanent importation. The application form is completed and submitted with a processing fee to DVDL

after which it is processed by the Ministry of PLAHI. The situation for contracts with overseas contractors is slightly different. Although the overall majority of the contracts that have been awarded by the Water Authority have been to local contractors, there are certain specialised contracts for which overseas expertise is required.

With respect to the importation of specialised equipment, the Water Authority writes to the Custom's Department advising that a contract has been awarded and that the contractor will need to import various pieces of equipment and materials for the sole purpose of facilitating this project. The Water Authority then requests the Custom's Department to allow the contractor to temporarily import the necessary equipment for the duration of the project, without the payment of import duty or the requirement to obtain a Custom's Bond, as this equipment will be re-exported upon completion of the work. Once the waiver has been received from Custom's, the equipment is temporarily imported.

The Water Authority was not aware that DVDL and/or Ministry of PLAHI needed to give approval for the temporary importation of heavy equipment. The procedure has been followed for at least the last 15 years. It must be noted that the contractor's decision to bring in their own equipment is based on practical and economic considerations. And those are: Is the equipment necessary to complete the job in an efficient manner readily available on-Island? Is the cost using the contractor's own equipment, including the resources needed to complete the paperwork, et cetera, less than the cost of hiring locally available equipment, taking into account the expenditure related to the shipping of the contractor's equipment to and from the Cayman Islands, and the unavailability of the same equipment for other projects during the shipping period which includes a significant time at the respective ports?

Overseas contractors are also advised that they must comply with all applicable Cayman Islands' laws relating to employment, including the Labour Law (latest revision) and the Immigration Law (latest revision). On this contract, Wharton-Smith has taken all reasonable steps to ensure that local labour is utilised wherever possible. They currently have employed four staff through Billy McLaughin's East End Labour; two to operate equipment, one for general labour, and one for traffic control. The contractor has also employed two local dump trucks with drivers to haul material to and from the site.

Additionally, during the crossing on Esterley Tibbetts Highway, on Sunday, 7th of February, a locally sourced excavator was onsite throughout the day as a standby.

The Speaker: I recognise the Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker, can the Minister say—

[Inaudible interjections]

The Speaker: This is an appropriate time for the morning break.

Proceedings suspended at 11:52 am

Proceedings are resumed at 12:17

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF CABINET

[Continuation thereof]

The Speaker: Proceedings are resumed.
I recognise the Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I suggest we move on to the next item of business.

[Inaudible interjection]

Mr. D. Ezzard Miller: In that case I have a supplementary.

The Speaker: I recognise the Member for North Side.

QUESTION NO. 53— WHARTON-SMITH CONTRACT

[Continuation thereof]

SUPPLEMENTARIES

Mr. D. Ezzard Miller: Through you, Madam Speaker, can the Minister say what kind of survey was done by the Water Authority to determine that this specialised equipment was not available on the Island and idle at the time?

The Speaker: Honourable Minister for Infrastructure, the Member for North Side wants to find out what type of survey was done for the specialised equipment.

Hon. D. Kurt Tibbetts: Madam Speaker, the simple answer, and the truthful answer, is I do not know. The fact of the matter is that I knew nothing about this situation until the question was asked because no application had come through the Ministry for the importation. The Water Authority has said out of ignorance, they did not know they had to apply because this equipment was being . . . in other words it was a tem-

porary importation and it was being sent back. That is what I understand.

I also understand at this point in time, Madam Speaker, that there are those within these halls who are of a firm view that such equipment is available locally. So I have already instructed two things to the Deputy Chief Officer. First of all to send around to all of the agencies advising them that even when it is temporary importation of any heavy equipment, that they must apply to the Ministry with accompanying justification so that the Ministry can check it out. In this instance the Ministry simply did not know.

The other thing that I want to find out, Madam Speaker, and I am not jumping to any conclusions, but the other thing that I want to find out is based on the answer which was given through the Ministry by the Water Authority, what would make them . . . what would cause them to make clear statements that no such equipment was available if, indeed, equipment of this nature is available locally. I give an undertaking to find that out and then certainly we will have to deal with it afterwards.

Unfortunately I cannot say any more at present because, in fact, I think just about everything is done and over with right now. So, I cannot undo what has been done, but I certainly intend to find out and what we really need to do is to ensure that the agencies know what equipment is available locally so when they are sending out their tenders, all of the local heavy equipment operators will have an opportunity to bid on whatever the project is. And that is not limited to the Water Authority, but including the Water Authority.

The Speaker: If there are no supplementaries . . . Honourable Member for North Side and then the Leader of the Opposition.

Honourable Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, can the Minister tell us if he is available as to what period of time the equipment was imported for? Was it three months? Was it six months? Was it the length of time of doing the work? And whether the equipment, if the work is finished, if the equipment is still here on the Island?

The Speaker: Honourable Minister?

Hon. D. Kurt Tibbetts: Madam Speaker, all of that is being found out. But I did not know. And the answer only says that this equipment would allow the job to be finished a month ahead of schedule, if I remember correctly what I read. But as regards to the specific timing, that I do not know, but that is being found out as we speak.

And what I can do is I will undertake to give to Members an answer in writing about all of these things that we just talked about so that we will know

exactly what has happened and we can make a clear determination.

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

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

Can the Minister . . . I do not think he said it in the substantive question, what is the totality . . . the total amount of the contract?

The Speaker: Honourable Minister for Planning.

Hon. D. Kurt Tibbetts: I do not know that either, Madam Speaker, but I will find that out.

The Speaker: The Leader of the Opposition.

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

It seems that this is a very extensive contract, so it has got to be in the millions of dollars. And the Minister did not get . . . was not informed about this process? They did not say to the Minister that in doing this contract *we have to have equipment that is not here and so we have to allow the equipment in?* He was not informed as the Minister?

The Speaker: Honourable Minister for Infrastructure.

Hon. D. Kurt Tibbetts: Madam Speaker, for the third time this morning, the answer to that is no. I was not informed before the fact.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: I was informed after the fact when the question was sent to the Ministry and the Ministry sent it on to the Water Authority asking them to fill us in so that we could answer the question properly.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, just—

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition:—just to say to the Minister that it is the third time he said so, I wanted to have it really solid in the answer that that does take place, not just in this administration, but in the other administrations when they were on this side and somebody else was on that side too.

The Speaker: Member for East End.

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

Madam Speaker, first a comment to the Minister just to assist him. We have excavators in this country, from backyard excavators up to at least 2 450's, that are capable of lifting . . . those 450 John Deeres are capable of lifting up to 120,000 pounds 40 feet away from them. And, at least one of them has a 6500 pound counterweight which doubles that almost.

Anyway, Madam Speaker, I am . . . and then we have loaders with forklift capabilities, we have sky tracks . . . Madam Speaker, the Minister, unfortunately can only say what he has received. Is it not the fact that . . . is it so that this equipment will be sent back off the Island?

The Speaker: Honourable Minister for Infrastructure. I think you alluded to that already, but you can—

Hon. D. Kurt Tibbetts: Madam Speaker, I did say that in the substantive answer because that is what I was informed by the Authority. But I can tell the Member for East End that if the equipment has not left yet it will not be long.

The Speaker: If there are no further supplementaries, we will move on to next item of business.

Madam Clerk, just one minute please, sorry, my apologies.

I recognise the Honourable Premier. He is now in possession of the promised answer to a supplementary.

Honourable Premier.

This was dealing with the Conditional Release Law and the DCR¹, for the benefit of Members.

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

Madam Speaker, on Friday I asked leave to defer an answer to a supplementary question with respect to the Conditional Release Law because I needed to ensure that the answer that I was giving was correct and I now have the requested information.

Madam Speaker, there was a statement I made, in which I said that the Conditional Release Law only applied to persons who were convicted since the law. That answer is not entirely correct. And when I say that, as I read, I think Members will understand the reason for the confusion.

Section 3(1) of the Conditional Release Law [2014] says that the "**Law applies to all prisoners regardless of when they were convicted or sentenced,**" but the difference is that it does not apply in the same way, uniformly, is what I mean.

"Prisoners serving a term of imprisonment exceeding one year"—except those serving life—must serve 60 per cent of their sentence before they are eligible to be considered for release by the Conditional Release Board.

But prisoners sentenced prior to the onset of the Conditional Release Law and Regulations remain subject to the provisions of the Prisons Law 1975, in that if their earliest date of release as specified therein is earlier than the date at which they would become eligible for release on licence under the Conditional Release Law, the Prisons Law shall apply.

However, the Conditional Release Board as established under the Conditional Release Law considers all cases, including those coming forward as a result of the provisions of the Prisons Law 1975.

Both systems run side by side in order to ensure that all persons leaving prison have an equal opportunity to be placed on licence for the purpose of community-based supervision after release from prison.

As the Conditional Release Law enables the Board to meet monthly, the Department of Community Rehabilitation is currently working with other stakeholder agencies, including the Prison Service, in order to prepare the following number of offenders for the Board's consideration:

- April 2016 (last month) four inmates;
- May, six inmates;
- June, four inmates; and
- July, two inmates.

Of these 16 inmates, 1 is eligible under the Conditional Release Law and the other 15 are eligible under the Prisons Law 1975.

The Speaker: I recognise the Member for East End.

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

Madam Speaker, without the benefit of having the statement—

The Speaker: The Serjeant is making copies, Member for East End.

Mr. V. Arden McLean: Okay, all right.

And just for the Premier to clarify, when we are saying that these two laws are running parallel, is it that we do not . . . so that we do not get in contravention . . . I believe at first it was five-eighths . . . five-ninths . . . and then this one says 60 per cent, I believe, right?

[Inaudible interjection]

Mr. V. Arden McLean: Right. Is it . . . they are running parallel for that purpose, but not for the purpose of supervision. The supervision prior to this Law coming into effect was at best ad hoc; but now that we have an actual Release Law it is mandated how it will be done with the Board and the supervision and the management thereof. So with those two, three laws it appears . . . the Prison Law 1975 said once . . . I think it is minimum periods of incarceration, I think it is on

¹ Parliamentary Question No. 46, 29 April 2016

there . . . and this one is a little different, I think it says 60 per cent.

The Premier, Hon. Alden McLaughlin: Yes, that's right.

Mr. V. Arden McLean: Madam Speaker, the other one was five-ninths or something. So, I am wondering if it is only that because it still means that this one applies entirely to the supervision thereof.

The Speaker: Honourable Premier.

The Premier, Hon. Alden M. McLaughlin: Yes, Madam Speaker, the Member has got it right.

There are actually three different periods. There is the five-ninths, there is the one-third, and then there is the 60 per cent now created by the Conditional Release Law. But they are all now subject, once they are actually released, they are now subject to the provisions of the Conditional Release Law with respect to their supervision, rehabilitation and so forth.

The Speaker: Madam Clerk, next item.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I recognise the Honourable Minister responsible for Community Affairs.

CHILD MONTH

Hon. Osbourne V. Bodden, Minister of Community Affairs, Youth and Sports: Thank you, Madam Speaker.

Madam Speaker, the 1 May, 2016, marks the first day of our annual Child Month celebrations here in the Cayman Islands. Therefore, it is my honour to stand before my esteemed colleagues today in order to talk about the activities that are planned to encourage families to reconnect, as well as raise awareness about the issues surrounding the safety and well-being of our children.

Children, Madam Speaker, are the most precious gifts on earth and for the month of May we celebrate them. This is, in fact, our 20th Annual Child Month which truly shows the commitment our country has made to putting children and the issues they face at the forefront; most admirable, Madam Speaker—20 years for the Cayman Islands.

Proverbs 22 verse six says: "Train a child in the way he should go, and when he is old he will not turn from it." Madam Speaker, this verse reminds us of the critical role that both parents and the community play in shaping a child. Indeed, it sums up this year's

Child Month theme which is "Shaping Our Children's Future."

I believe that if we invest in and promote our children today, they will grow to be caring, responsible people tomorrow. I stand firm in my belief that every child deserves to be protected from abuse and neglect; to be given the opportunity to develop skills to equip them for adulthood; to be involved and make positive contributions to our Islands; and to be prepared to meet difficulties and uncertainties head-on, so that they can reach their full potential.

Hence Madam Speaker, throughout this month-long observance, the Ministry in partnership with the Department of Children and Family Services will focus on the social, emotional, physical and spiritual development of each child in our community.

The Department of Children and Family Services, alongside other partnering agencies, will host a variety of events in celebration of Child Month, with a focus on the important role the family and extended community play in ensuring these outcomes are a reality for our future. I have asked, Madam Speaker, that when the Members receive this copy that the month's calendar of events be attached to it as well for the assistance to Members.

Madam Speaker, a strong emphasis will also be placed on child protection with a special panel discussion set to air on CIG-TV. Other events include a prayer breakfast that will offer spiritual guidance for children and families. There will also be activities, such as a games and movie night, sure to bring out the child in each of us.

Madam Speaker, the work of raising a child does not lie in the hands of parents alone, it takes a village. When I think back to my own early years, the whole community, including parents, grandparents, aunts, uncles and neighbours, took part in child-rearing. So, let us take a cue from yesteryear, and make a pledge to have everyone in the community step up, and do their part in shaping the future generation. Together we can continue to strengthen, and where necessary, support families.

Finally, Madam Speaker, as Child Month begins, let us once again express our appreciation for God's most precious gifts and honour our future leaders, today, tomorrow and for many years to come.

Thank you, Madam Speaker.

PERSONAL EXPLANATIONS

The Speaker: None.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

GOVERNMENT BUSINESS

BILL

SECOND READING

STANDARDS IN PUBLIC LIFE (AMENDMENT) BILL, 2016

The Speaker: I recognise the Honourable Deputy Governor.

Oh, I beg your pardon; that was my information.

I recognise the Honourable Premier.

[Inaudible interjections]

The Speaker: Order!

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

Madam Speaker, I beg to move a Bill for a law to amend the Standards in Public Life Law, 2014, Law 3 of 2014, to clarify the extent to which a person in public life is required to declare matters that relate to other persons and for incidental and connected purposes, shortly entitled the Standards in Public Life (Amendment) Bill, 2016.

The Speaker: The Bill has been duly moved.

Does the Honourable Premier wish to speak to the Bill?

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

Madam Speaker, the Bill which I have just moved seeks to make amendments to the Standards in Public Life Law, 2016—sorry—2014, which was passed by the Legislative Assembly on the 31 January 2014.

Madam Speaker, the Law has still not been brought into effect principally because of concerns expressed by members of the public who serve on government boards, commissions, committees and so on. These concerns surround the content of the declarations as it relates to connected persons, specifically, the inclusion of employees as this was regarded by many of those persons whom we rely upon in our system of government administration to serve on boards, committees, statutory authorities, as being too broad.

The requirement to declare membership in associations and organisations and the lack of clarity in what circumstances a member of a board, committee, must include content in their declaration.

As such, the Standards in Public Life (Amendment) Bill, 2016, seeks to amend the Standards in Public Life Law, 2014, in order to clarify details about who is required to file a declaration and what those persons are required to declare.

The amendments include the definition of “connected persons” to now include those persons in the declarant’s immediate family and remove the reference to any employees of the declarant. This amendment serves to ensure the concerns expressed by members of boards, commissions, committees and others concerned that they would have to include in their declarations information relating to their employees are alleviated.

The required details provided by a person in public life when filing their declaration:

- Persons in public life will now only provide details relating to themselves and any member of their immediate family. This has changed from the requirement to provide details relating to themselves and any connected person, and has also led to the inclusion of a definition of the term “immediate family” in the Bill. “‘Immediate family’ means a spouse, a dependent or such other person as may be prescribed by Cabinet by regulations.”
- A clarification that a person in public life now only provides details in a declaration related to a connected person when they hold property or manage anything on behalf of a connected person or if a connected person holds property or manages anything on their behalf.
- A clarification that as persons in public life, members of boards, commissions, committees and such will complete declaration forms annually. However, they will only need to include in a declaration any interest, income, assets and liabilities where there is a possible or perceived conflict with their functions on the entity to which they are appointed. Any question regarding a possible or perceived conflict shall be determined by the Commission. This means that persons in public life who serve on different boards, commissions, committees, et cetera will be required to complete separate declarations which may provide different information depending on the board or commission they are on and whatever businesses or interests they may have which have the potential to conflict with their duties on that board or commission as the case may be.
- The deleting of the requirement for any person in public life to declare their connection with any political, trade, professional, fraternal, or charitable organisation registered or unregistered.

Madam Speaker, other sections have been amended to ensure clarification such as:

- the ability of members of the public to inspect the register during normal working hours;
- the retention of the power of the Governor to appoint persons to those boards, committees, et cetera, which fall under her purview as set out in section 55 of the Constitution;
- the provision of flexibility to Cabinet to determine the initial terms of appointments of persons to boards, as the current law allows them during the reappointment process; and
- the protection of parliamentary privilege.

Madam Speaker, I look forward to receiving the support of Members of this honourable House for the proposed amendments and look forward to the debate.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

Does any other Member wish to speak?

Last call—does any other Member wish to speak?

I recognise the Member for East End.

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

Madam Speaker, to say that I am confused is an understatement. Because when we did this Bill in 2014, I think it was, I, in my memory may have faded in some places here, but I recall us at the time talking about the extent to which someone serving would have to declare interests and the like . . . perceived interests, and that the complaint was that people were talking about their employees and they have no control over their employees in their private life. And I see where now the Government has taken that out. But I also see where there will be no requirement to declare any of that interest unless it is perceived.

[Inaudible interjection]

Mr. V. Arden McLean: The public life—not us, yet—board members and the like.

Now with the definition of “connected person” having been changed now to—

[Inaudible interjection]

Mr. V. Arden McLean: —pardon me?

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, it is more limited—removing “employee” at least and inserting “a member of the immediate family” and then “immediate family” being defined as “a spouse or a dependent.”

Now, Madam Speaker, my argument was then, that while there may be some need to consider removing “employees” because of the . . . from people

who would go on boards, that that was not the end in all. I believe that most people would have been satisfied with it not being made public—a public document—because we are now saying that upon application by any member of the public they may inspect the register.

I believe that most people were, while they were concerned about their employees . . . and I think we have made reference to some people who are in the construction industry and on the Planning Board or suppliers of construction material and would not know what their employees were doing, so we were pressing the envelope to say the least to try and expect people to have control over their employees as well.

But I believe, having said that, that people were more concerned about these things being made public. Now we have gone to the extreme of saying that if it is not “perceived” as a conflict with that particular board or position that they hold, then they need not do it.

Madam Speaker, that runs counter to what I believe us in public life should be, what we need to be. Because it does not necessarily mean that your interests are not elsewhere and because of your position on that particular board it can be influenced. That is where I tend to diverge from what the Government is doing.

Because, Madam Speaker, then when it comes to the MLA's we are required to do all of it. Yes, we are influential in all aspects of all boards and all walks of life and we are required to do it. And I do not try to stop that or defend or object thereto, but Madam Speaker, certainly, a public officer, which would include civil servants and the likes, would still be . . . if it is not perceived, then you do not have to do it. That runs counter, in my view, to what being a conflict of interest really means, especially if you are in public life. I have my concerns about that.

The fact that, Madam Speaker, someone . . . we are going to run ourselves in problems in that regard because . . . and Madam Speaker, a simple example, for us to find our . . . we are of limited resources—human resources—and knowledge and abilities when it comes to specific things. Let us look at the financial industry and what you want is someone who has had knowledge in that financial industry to go on CIMA. And that must be perceived, so what do we do? How do we find someone to go on CIMA? How do we find someone—

[Inaudible interjection]

Mr. V. Arden McLean: —I understand declaring their interests, but—

[Inaudible interjection]

Mr. V. Arden McLean: —no, and I understand that, that it does not mean they cannot go, it would mean that we do not qualify for the Legislative Assembly too if it . . . exactly, I totally agree with that. But in the same token, I do not have a problem with people declaring it, I am just wondering if it is absolutely necessary for it to be a public knowledge. Now, if the Commission keeps it and if the subject arises, then it is available. That is where I take a divergent path from what this is because I am sure people are prepared to do that. And I am not saying that you don't have to declare it, declare it, but do not make it a public declaration with these people on the boards. With MLAs, yes; with civil servants, I totally agree, it needs to be up on websites. In this day and age of technology, I have called for the Register of Interest here in the Legislative Assembly to be made public instead of coming in here and someone has to go in the back room and someone is watching you like a hawk over it that you do not take anything or you do not take pictures or you do not take copies of it. What is wrong with putting it up on the website that all and sundry can see it? You had no business coming into politics . . . nobody holding a gun to your head . . . get out. Get out! That is my view.

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, but I am coming to us . . . old cousin . . . cousin . . . no, no, I am not calling you cousin, anyone else but you.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, I shall resist.

The Speaker: The response or the love?

Mr. V. Arden McLean: I must respond to love? You never heard that song by Tina Turner?

[Laughter]

Mr. V. Arden McLean: *What's Love Got to do With It?*

[Laughter]

Mr. V. Arden McLean: Madam Speaker, I do not mean to be disruptive, but I then look at section 33. AG, follow me, please. I have got more laws here than a Philadelphia lawyer.

Madam Speaker, under Part 7—Members of the Legislative Assembly, which I questioned at the time as well:

“Where a member contravenes this Law, such contravention shall constitute a contempt of the Legislative Assembly for which the Assembly may order the Member’s suspension from sitting

and voting in the Assembly for such period as the Assembly may determine.”

Madam Speaker, at the time when this was done I questioned that as to why that had to be put into law because immediately we are talking about suspension and *we may suspend*. Very seldom have privileges been encroached upon under the Westminster System that we have ever done that. There is no need to put it there because we have a committee here, an Ethics Committee, who will hear that and the Legislature under the leadership of the Chair will determine what penalties are applied.

And Madam Speaker, I am student of Erskine May as well, and you will find that it has been sparingly used—apologies or the punishment, public apologies or apologies to the Legislature. House of Commons are more acceptable. I know the Immunities Powers and Privileges Law needs to be updated as well, Madam Speaker. That is in woeful need of update. But certainly, I did not see any need then to repeat it in there, but I can see things being said in the law like, *it shall be dealt with under the Immunities and Privileges Law* or something of that nature, which has a committee . . . the Legislature have a committee to deal with that.

It sends the wrong message here, that that is the only means of penalty that can be meted out by this Legislature. Because what we do is say that we cannot make mandatory stuff. And I know it says “may,” Mr. Premier, but it is in the wrong place. If we want to know what kind of penalties for conflicts and contraventions of the laws in this country as a Member of Parliament and under the rules of this Legislature, then, you need only look at the Privileges Law. And this one—

[Inaudible interjection]

Mr. V. Arden McLean: No, it may constitute.

Madam Speaker, it is really not the Assembly that does it, it is a committee of the Assembly that does that.

[Inaudible interjection]

Mr. V. Arden McLean: Well, I guess . . . no, we have a standing committee that deals with ethics.

[Inaudible interjection]

Mr. V. Arden McLean: But that is true, we need to vote on it, do we not? You are correct.

[Inaudible interjection]

Mr. V. Arden McLean: Well, Madam Speaker, I have my own concerns about that.

But then, Madam Speaker, where I do have further concerns is . . . I think it is 12 or 13, where

Members of the Legislative Assembly have to declare for their dependents—interests and the likes for their dependents. I do not know why that is. I can understand spouse, because all companies that I know, especially those in the business where there may be conflicts and in compliance with laws of a country, it extends to spouses.

Time for him to get out now at 24.

[Laughter]

Mr. V. Arden McLean: Yeah, well, I understand Madam Speaker that the . . . I think the Insurance Law, it says, 23 or until school is over or something of that nature, but that dictates “school” . . . that the child is still in school and there should be really no conflicts there now, as a dependent.

I do not know, and it would be interesting to hear what the intent of “dependents” declaring anything that may have. I cannot comprehend how that would work and if the Attorney General has anything to enlighten us with that, then I would be more than happy to . . . because, Madam Speaker, the obvious thing is if you have bought a little piece of land or something, I do not know if you can . . . a dependent under the age of 18 can even . . . that can be in their name even. It has to be—

[Inaudible interjection]

Mr. V. Arden McLean: It has to be in trust, yeah.

In some way your name is on it or willed to them or something of that nature prior . . . and then when they become 18 . . . because I know it happened to me when I bought shares, when I was given shares into CUC. I put my two children as the beneficiaries. At the time I still had control, but now they are over 18, poor old Arden getting knocked right out that. Because it is no longer a dependent, it is theirs now.

So it would be interesting to hear how the Attorney General or the Premier explains those few areas where I have concern.

Madam Speaker, I still do not see why everything . . . we do not trust ourselves. Are we afraid that we are going to have conflicts? The Governor this and the Governor that and the Governor that and—

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, but . . . on their responsibility, yes; but it is the appointment of other stuff that has to still be done by the Governor. Who appoints the boards?

An Hon. Member: Cabinet.

Mr. V. Arden McLean: I know Cabinet appoints the boards, but . . . I do not know.

[Inaudible interjection]

Mr. V. Arden McLean: Yes, we have got to operate but we can press the envelope a little bit too, it is time now that we take up some responsibility instead of blaming everybody else for what we are supposed to do. I don't know how we are going to slowly take over our country or speedily, I do not know.

But anyway, Madam Speaker, those few things if the Premier would satisfy my curiosity on it, I would be most grateful.

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 Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, just a brief intervention if you will.

The honourable Member spoke about clause 9 which deals with section 33 and the issue of contempt . . . sanction of contempt where a Member is found in breach of the law.

The whole idea here, Madam Speaker, is that initially the law says “shall” and it was recognised that the use of the mandatory term “shall” was, in fact, encroaching on the privileges of this House. So it might very well be that there is an allegation that there is a breach of the Standard in Public Life Law, but it still falls to this House to make that determination as to in fact whether or not the person is in fact guilty of such breaches.

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Yes, that is right.

And having found that it constitutes contempt, the House may do one of two things, but of course the extreme is to order a suspension. But certainly, the House is entitled to impose a lesser sanction on the Member. So because it says that they “may” suspend a Member, it does not follow, Madam Speaker, that that is the only option open to the House; that is suspension. A lesser penalty might be employed.

Madam Speaker, I think the honourable Member . . . I am not so sure whether he missed the point about the perceived conflict. That is clause 12 of the Bill, registrants “**shall not be required to include in a declaration any interest referred to in or prescribed under subsection (1) unless there is a possible or perceived conflict . . .**”

Madam Speaker, the language there has always been the same, we are not changing that. It has always been whether there is a perception of a conflict. So, this Bill has not changed that really. All the Bill is doing really is to restrict, if you will—

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Yes, the word “interest” is in the Constitution. We just lifted the language from the Constitution. So that is where the word “interest” comes into it.

So hopefully I have been able to clarify that for the Honourable Member.

The other point you mentioned was . . . what is the other point?

The Speaker: Is this an appropriate time for the luncheon break?

We will now take the luncheon break and reconvene at 2:30 pm.

Proceedings suspended at 1:10 pm

Proceedings resumed at 3:13 pm

The Speaker: Please be seated. Proceedings are resumed.

I recognise the Honourable Attorney General with the continuation of his debate.

BILL

SECOND READING

STANDARDS IN PUBLIC LIFE (AMENDMENT) BILL, 2016

[Continuation thereof]

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

Madam Speaker, just to quickly wind-up my contribution. Just before the break, I was trying to clarify a couple of matters raised by the Member for East End. And I point out, Madam Speaker, that in respect of clause 3 of the Bill, what we are attempting to do here is that in section 11 of the law, as it now stands, which is the section dealing with the Declaration of Interest in the Register of Interests, the law as it currently stands says that a person in public life shall declare his “income, assets and liabilities.” What we are attempting to do is to correct that wording, Madam Speaker, and include in it the word “interest.” So, it would read that a person who is a candidate or a person in public life, otherwise, shall within 90 days or in as the case may be in section 12, declare their “interests, income, assets and liabilities.” And those words, Madam Speaker, are lifted from section 121(1) of the Constitution which speaks to the Register of Interests, where it says:

“(1) There shall be for the Cayman Islands a Register of Interests, which shall be maintained by the Commission for Standards in Public Life.

“(2) It shall be the duty of any person to whom this section applies to declare to the

Commission for Standards in Public Life, for entry in the Register of Interests, such interests, assets, income and liabilities of that person, or of any other person connected with him or her, as may be prescribed by law.”

So, basically, just lifting the words from section 121 of the Constitution and inserting it in clause 3 of the Bill to clarify that it’s not just “income and assets,” but “interests” as well needs to be included in there.

Madam Speaker, I think the only other point I wish to clarify was the one mentioned about the removal of the word “children” and substituting it with “dependent.” I think the Member had some concerns about the use of the word “dependent” as opposed to “children.”

Madam Speaker, I think the word “dependent” is more appropriate here given that there are persons in public life who have children who are now adults and are independent and who are on their own and over whom we have no control. There are no other connections and so it would not be appropriate, simply because we are in public life to ask them to declare their interests, income, assets and liabilities when, in fact, they have no connection with Government at all. But, certainly, if the child remains a dependent of a person in public life, then we can understand why it would be appropriate to ask such a dependent, whether the declaration would apply to that person. And so, that really is the simple explanation, Madam Speaker. Dependent has more of a connection with persons who are required to make declarations, whereas a child or children may be persons who are now adults and have their own separate existence and no connection whatsoever, and so it wouldn’t be appropriate in those circumstances to require them to make a declaration.

I thank you.

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

I recognise the Fifth Elected Member from the District of George Town.

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

I rise to just add one slight observation or, I guess, suggestion. We were chatting through the break and my concerns as expressed to me by my constituents were in large part addressed in the proposed changes in the Bill in that the web was too wide before and it would have turned some very able and capable people away from serving.

That being said, Madam Speaker, in terms of the Public Register, and I would ask the Government to consider this: the Register, in my mind, should take the same avenue as what we have been doing with

the beneficial ownership in that we should have a private register for anyone who is serving on boards or in public office, including civil servants, which upon substantiated proof of any allegations or some corroborating evidence that this Register then can be accessed by the courts from whatever central repository its being held in, and when an investigation is being undertaken.

Likewise, Madam Speaker, it should be one of these things where if someone were to try to abuse the Register by leaking information on Members, then, that should also have some sort of penalty because we don't want phishing expeditions. We don't want to have people feel that if they are going to serve the public then, everything that they have is going to be possibly used against them. And something that is easily accessible in the public that can be FOI'd, that can be gone after by every interested party, even if that interested party is therefore reasons that are not just. That is definitely a deterrent for public service.

So, Madam Speaker, I have spoken during the break to the Attorney General and others and I would just like to put that into the Hansard and see if that is something that we could consider, because it would go a long way in having people feel better about the process.

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 will call on the honourable mover, if he wishes to exercise the right of reply.

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

Madam Speaker, I wish to thank all Honourable Members who have contributed to the debate on this Bill. Most of the issues which were raised by my friend, the Member for East End, have been dealt with by the Honourable Attorney General and I don't know that I need to go over much of that ground.

The point just raised by the Fifth Elected Member for George Town with respect to his proposal that the declaration about Members, et cetera, be kept confidential, is a point that we have discussed at some length because we know in this day and age that a great deal of mischief abounds and there are constant challenges and cynicism and criticism of those who seek to do the public's work.

The great challenge we have had with this Bill is trying to strike the right balance between ensuring that certainly, as elected Members, it is clear what our interests are and what assets we have, and so forth, because it is important that those of us who have assumed this office voluntarily and with the support of the public understand that the public is entitled what it is we have, what interests we have, what investments we have so they can determine with respect to the

decisions we make whether or not they are in any way influenced by those sorts of things. So that really hasn't been the great issue.

The great issue has been how we deal with people who serve on boards, and statutory authorities, and commissions, and so forth, who are performing a real critically important public service, but who certainly don't intend or wish to become elected Members and subject to the same sort of regimen and level of scrutiny that elected Members put themselves through by seeking and then accepting the office. I think it is important that everybody understands that our system of administration depends upon, to a large extent, us having a ready set of individuals, public-minded, civic-minded individuals who are prepared to give of themselves, their expertise, and their time to ensuring the proper operation of various boards, commissions, statutory authorities, and that if we wind up with requirements which are so onerous and that people are unwilling to volunteer for these positions, then we shall have to completely revamp the system of administration that we have to not include as part of it, a system of boards, commissions, statutory authorities and the like.

So, we need to continue to strive, which is what we have done to get that balance right so there is proper declaration of interests where that is appropriate so that everyone can be comfortable that decisions aren't being taken on the basis of undue influence or decisions that are motivated by personal interests. But at the same time, not wind-up with a system so onerous that no one is willing to participate in it.

And so, the point raised just now by the Fifth Elected Member from George Town is a factor in trying to decide that. But we believe on this side that on balance, we need to make the Register public. Because if we don't, there are going to be abiding concerns and suspicions that somehow there is information there that is being kept from the public because it would demonstrate a conflict of interest or a personal interest, or something like that. We should, as I said on balance, leave the provision as it is, which is, that the inspection of the Register will be open to any member of the public during normal working hours, so they can have access to the information.

Madam Speaker, the other point that I think the Member from East End raised, and it may have been covered by the Honourable Attorney General, but the bit about the word "interests", the use of that term is because section 121(2) of the Constitution mandates that "it shall be the duty of any person to whom this section applies to declare. . . such interests, assets, income and liabilities of that person . . ." In the original draft of the law, the word "interests" was inadvertently misspelled. But it is a constitutional requirement; hence, we are making sure that it is now inserted in the law.

Madam Speaker, I hope that has covered, with what the Attorney General said, that that has covered the issues which have been raised by Members and that Members are clear as to why the changes are being made and the basis, in the last instance, of why we believe we should continue with the provision which says that the Register should be public. We believe that we have sufficiently circumscribed the definitions of "connected person" and "immediate family" and having excluded employees from that, we have sufficiently circumscribed the category of persons who are affected by this, that those who are board members and members of commissions and authorities should, we believe, be reasonably happy that what they are being asked to disclose is not unduly burdensome. We have, indeed, canvassed the board members; certainly, those who had initially raised concerns about it have been satisfied with these new provisions.

It has taken us two years to get back here. I hope that this time when the Bill is actually passed by this House, and the Governor assents to these amendments, that we will actually be able to bring the Standards in Public Life Law into force. It was an important commitment of this Administration. Certainly, as far as the Progressives are concerned, it is something that we undertook to do in our manifesto. It is part of our overall platform of good governance, principles being enshrined in legislation because we believe that is in the best interest of this country and its people, and it is an important factor in the overall reputation for integrity which we want to ensure that the Cayman Islands Government continues to have.

Thank you very much, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled the Standards in Public Life (Amendment) Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Standards in Public Life (Amendment) Bill, 2016, given a second reading.

BILL

SECOND READING

JUDGES' EMOLUMENTS AND ALLOWANCES (AMENDMENT) BILL, 2016

The Speaker: I recognise the Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, thank you.

I beg to move the second reading of a Bill entitled the Judges' Emoluments and Allowances (Amendment) Bill, 2016.

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

The Deputy Governor, Hon. Franz I. Manderson: Yes, thank you, Madam Speaker.

Madam Speaker, I rise to present the Judges' Emoluments and Allowances (Amendment) Bill, 2016. By way of background, the Judges' Emoluments and Allowances Law governs the salary and pension benefits of our judiciary, which has been narrowly defined in the past to include judges of the Grand Court and the Chief Justice, but has excluded magistrates of the Summary Courts. However, pursuant to section 106 of the Constitution, magistrates are appointed by Her Excellency the Governor who is required to seek the advice of the Judicial and Legal Services Commission.

The Constitution seeks to guarantee proper checks and balances for safeguarding judicial appointments and judicial pay, so to avoid the risk of improper influence by the Executive. The underlying purpose of these constitutional provisions is to balance the independence of our judiciary with the responsibilities of the Crown for good governance.

Madam Speaker, the 2013 report of the [Commonwealth Magistrates' and Judges' Association](#) recognised the need to ensure the independence of all members of our judiciary, including magistrates. The report identified among the key issues facing magistrates was the lack of adequate statutory protections and the seeming distinction in some quarters that magistrates are not members of the judiciary. As things stand, Madam Speaker, our current arrangements would seem to suggest such a distinction as well. This cannot continue.

Madam Speaker, historically, magistrates have been appointed as civil servants. In recognition of the fact that this treatment was incorrect, the Public Service Management Law was amended to exclude magistrates from the definition of a civil servant. However, the result is that while magistrates have been successfully excluded from the employment law governing the civil service, they have not been included within the statutory framework governing our judiciary. This creates an ambiguity. In order to fully establish independence over our judiciary at all levels, it is proposed that the Judges' Emoluments and Allowances Law be amended to include magistrates. This law will further allow for the appropriate terms and conditions applicable to our judiciary, such as leave entitlements to also enjoy statutory protection.

Madam Speaker, once this Bill has passed, Her Excellency the Governor will issue amendments to the Judges' Emoluments and Allowances Order to set out the specific terms and conditions for magistrates including their ability to participate in the defined contribution part of the Judicial Pension Plan, the applicable salary and related benefits, such as annual leave entitlements.

Madam Speaker, this is an important step in securing the independence of all members of our judiciary and addressing a significant deficiency in the employment framework applicable to magistrates.

I humbly invite all Members of the Honourable House to lend their support to this Bill, and in doing so, to further strengthen the proper independence of our judiciary.

Thank you, Madam Speaker.

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

I recognise the Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin:

Madam Speaker, I just rise to briefly support the Bill presented by the Honourable Deputy Governor and to underscore his observation that this move certainly will help to strengthen the independence of the judicial officers.

Madam Speaker, it is an anomaly that has existed for years, not just in the Cayman Islands, but throughout the English speaking Caribbean where magistrates—

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: —

although they are the first port of call, so to speak, for matters that go to the court. And I dare say although they deal with the bulk of these matters that appear before the court, for some reasons they enjoy less security of tenure than the High Court judges, call them Grand Court judges here and Supreme Court judges in other places. And so it is really sort of a strange cut of a construct, if you will. Because one would have thought that because they interface with so many different matters so early in the proceedings, they themselves should have enjoyed security of tenure and be insulated from some of these influences that are potentially there.

Now, having said that, Madam Speaker, we are fortunate certainly here to be able to say that how our magistrates have conducted themselves quite appropriately, with commendable appropriateness in terms of how they handle matters. They have always managed to stay above the fray. We have managed to attract excellent candidates as magistrates and they continue to perform an excellent job.

But, Madam Speaker, it is time that they be brought into the fold, so to speak, and enjoy the same

degree of security of tenure as the Grand Court judges, and that process began when the 2009 Constitution was promulgated. You will see that section 106 provides them with certain safeguards already in terms of the appointment, and so on. I am aware that certainly a couple of appointments that have been made, those magistrates have been given appointments up to retirement age. So, of course, they don't have to be renewed every five years or every three years, as the case may be. So, in spirit, that was being done already and the Bill now being brought by the Honourable Deputy Governor is a further confirmation of the commitment of this jurisdiction to ensure that all magistrates enjoy their rightful place and be recognised as an important player in the administration of justice.

And so, Madam Speaker, I certainly support the Bill. Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Member from the district of East End.

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

Madam Speaker, I rise to support it too. There is only one little spot in it that I may have some question. I note that the Attorney General was quick to rise to separate the judges and magistrates under the tenets of separation of powers, but—

[Inaudible interjections]

Mr. V. Arden McLean: What is he saying now?

Madam Speaker, I trust that the two official Members will be as quick to release the legislature from the confines of the Executive, which is currently under review—an absolute release. I trust that that will be forthcoming because not only does this legislature know what my position is on it, the Commonwealth knows what my position is on that one. I have discussed that extensively throughout the Commonwealth. So, I trust that we can get a little closer home with the separation of powers in the same manner that the judges are, that the staff here should be treated no less than the separation that would affect the judges and magistrates.

But, Madam Speaker, the little issue that I have is in clause 3, where it amends section 2 of the 2006 Revision, by repealing subsection (1) and substituting the following subsection. “**(1) The Chief [Justice], other Judges of the Grand Court, The Chief Magistrate and other Magistrates of the Summary Court, shall be paid annual salaries, pensions, other allowances, emoluments and benefits from such other ancillary terms and conditions of employment as may be agreed, from dates specified, and in accordance with scales to be prescribed, from time to time, by Order by the Governor. . .**”

I understand, Madam Speaker, acting in his or her discretion. I understand there is always going to be overlapping of the Executive, because the Executive controls the resources, the financial resources of the country. So no country is going to be entirely independent. The separation of powers, there will never entirely be separation because they would have to raise their own money and the likes, and what have you. If we recognise that, how do we allow the Governor to set those wages at his or her own discretion when this legislature is responsible for the distribution of the resources? Financial resources, that is.

I have a serious concern—a concern with it—whether it is serious or not, because that means the Governor could set any wage and this legislature has to rubber stamp it? No Governor should have that kind of authority, Madam Speaker, absolute, unto themselves, authority to set wages, unless their reserved powers are being utilised here. If we recognise, Madam Speaker, that there is always going to be an overlapping with the financial aspect of it. . . I don't like that one; that the Governor can decide what kind of wages judges have to make.

Seeing that there is a, what has evolved over the last couple of weeks with the other aspects of the separation of powers . . . Madam Speaker, maybe there is some explanation for that, but I don't know if that is the absolute right place to do it. Because the Attorney General, Madam Speaker, unlike the Deputy Governor, the Attorney General has witnessed blow-by-blow a particular Governor who in his infinite wisdom got the Constitution in one conundrum now with that separation.

I accuse no one, Madam Speaker, I am just saying, we cannot legislate based on the goodness of individuals. It needs to be done . . . we need to legislate on institutions. Neither can we leave the operation of institutions entirely up to individuals, because the human being—I don't care where you come from, whether you are a glorified civil servant from somewhere across the pond, or you are from somewhere else—we all have our own failings and our own leanings, whether it is for our good or good, bad, or indifferent.

That is where I have a fundamental departure from this, Madam Speaker. It must be institutions. We cannot name individuals as institutions and give them absolute power to control institutions. That is my view. My view does not go very far, but at least they may want to respond to it. Because if we are going to separation of powers, then, the next thing the Governor in his or her own absolute discretion, will be setting the wages for MLAs too. I am concerned about that. That should not be, Madam Speaker, that the Governor can set wages for judges. They have their likes and dislikes too, you know. But we only think it is us that have likes and dislikes.

Madam Speaker, I still believe that should be done based on—even if we want to say on “advice”

from the Chief Justice or the . . . I don't know; the Commission, or whatever the case may be. But, certainly, we should leave qualifications and that kind of stuff up to them. But here we are saying that a Governor can determine the wages of a judge or a magistrate, whatever they are, in their sole discretion. It just doesn't all go well with separation of powers.

So, Madam Speaker, I think that the Government needs to look at that a little more critically.

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

If not, I will call on the Honourable Deputy Governor to reply.

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

Just to comment on the points made by the Honourable Minister for East End, of course, section 55 of the Constitution gives the Governor wide powers in terms of appointments, but Madam Speaker, I want to look at also section 95[5] of the Constitution that talks about, “**The emoluments and allowances of a judge of the Grand Court shall be prescribed by law and shall be charged on the revenues of the Cayman Islands, and the emoluments and allowances of a judge shall not, without his or her consent, be reduced during his or her continuance in office.**” So, Madam Speaker, that makes it clear that we should have a law that sets out the emoluments for judges. We do have the law, which is the law that we are amending right now. It sets out who will be setting those salaries, and it is the Governor.

But, Madam Speaker, the point made by the Honourable Member for East End is correct in that there will be wide consultation with the Chief Justice to ensure that what we are doing is consistent with his wishes. This is a joined-up approach. This is not a situation where Her Excellency will sit by herself and make these decisions.

Mr. V. Arden McLean: I ain't talking about Her Excellency; I'm talking about “a Governor”.

Hon. Franz I. Manderson: Okay.

So, Madam Speaker, with those few words I just want to thank everyone for their support. Thank you.

[Inaudible interjection]

The Speaker: The question is that Judges' Emoluments and Allowances (Amendment) Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Judges' Emoluments and Allowances (Amendment) Bill, 2016, given a second reading.

BILL

SECOND READING

JUSTICE PROTECTION (AMENDMENT) BILL, 2016

The Speaker: I recognise the Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin:

Madam Speaker, I beg the leave of this House to move the Second Reading of a Bill, the long title which is: "A Bill for law to amend the Justice Protection Law, 2008, (Law 16 of 2008) to make provision for increased efficiency and effectiveness of the implementation of the Witness Protection Programme in the Cayman Islands, by merging some agencies; transferring to the Cabinet powers previously exercisable by the Governor in Cabinet, as a consequence of the Cayman Islands Constitution Order, 2009, clarifying rights and responsibilities of various parties to agreements under the programme; and for incidental and connected purposes." Quite a long title.

The Speaker: The Bill has been duly moved. Does the Honourable mover thereto?

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

Madam Speaker, as I said, I seek leave of this House to move the Second Reading of this Bill for a law which would finally provide some sort of a statutory underpinning to the protection of witnesses who testify in our courts in the Cayman Islands. Also, to clarify, among other things, the duties of various agencies and persons involved in the Witness Protection Programme, as it now informally exists.

Madam Speaker, the principal Law was enacted in 2008 by this House. When it was enacted it was envisaged then that all the Caribbean Overseas Territories and Bermuda would have agreed to establish a Witness Protection Programme and to enact what we call "harmonized" legislation, Madam Speaker, to facilitate the cooperation between these Territories. However, Madam Speaker, after some other Territories enacted their legislation, Cayman being one of them, there were issues raised by some of the Caribbean Overseas Territories. Some of these issues relate to funding and the operational framework under which the programme was supposed to be conducted. And so, Madam Speaker, as a result of these misgivings by some of these Territories, the initiative stalled (if I might put it that way). It was not pursued. Certain-

ly, that was a sort of a joint effort among the OTs and Bermuda.

Madam Speaker, what transpired then, was that each Territory had to revisit the issue and were forced to enact legislation that was more domestic oriented, although it was envisaged, and it still is envisaged, that there would still be appropriate bilateral agreements, of course, where appropriate, to facilitate cooperation in witness protections.

So, Madam Speaker, even though we are moving away from the sort of harmonised bespoke piece of legislation for each Territory, it is now contemplated that even though this legislation is more domestic oriented, we will still have the facility to enter into bilateral agreement with all the Territories to facilitate witness protection.

Madam Speaker, the Justice Protection (Amendment) Bill, 2016, therefore, reflects Cayman's effort to now tweak the principal Law, the 2008 law to, among other things, consolidate some of the agencies under that law when it was enacted first, and to now establish what we will call an Administrative Agency. Madam Speaker, that Administrative Agency will be largely managed from the Office of the Director of Public Prosecutions [DPP] who will appoint a dedicated director from among her staff. And there will also be, Madam Speaker, a companion Investigative and Protective Agency which will be administered by the Royal Cayman Islands Police Service [RCIPS], but will have the necessary synergy with that Administrative Agency out of the DPP's office.

Madam Speaker, if this Bill is passed, then, it is hoped that we will be able to bring not just this amendment, but also the principal Law into force. And to, Madam Speaker, provide greater comfort to those who choose to testify on behalf of the Crown are testifying really in criminal matters, especially where there are serious crimes being committed, and too, therefore, allay their fears that if they come forward and testify to witnessing any serious crime, that they will enjoy the necessary protection of the state.

Madam Speaker, as I said before, the Bill will seek to combine what we will call the Justice Protection Investigative Agency, and a Justice Protection Protective Agency which will fall under the RCIPS. The amalgamation of these two agencies already informally operates out of the RCIPS. And then, there will be the Administrative Agency, Madam Speaker, which will operate from the office of the Director of Public Prosecution.

Madam Speaker, one of the changes resulting from the Cayman Islands Constitution Order, 2009, is that some of those responsibilities previously carried out by the Attorney General under the 2008 Law, will now be transferred to the Director of Public Prosecutions who now has constitutional responsibility for prosecution of our criminal matters. So she will have the remit for the Justice Protection Administrative Agency and will be responsible for, among other

things, for vetting prospective participants to be admitted into the Witness Protection Programme and for ensuring that the procedure under that law is carried out in respect of any entry into, or removal from that programme. Madam Speaker, this will include issues such as the signing of any Memorandum of Agreements between the participants under the programme and clarifying their rights and obligations once they are part of the Witness Protection Programme.

Madam Speaker, the Bill is also aimed at bringing about some changes that the current Memorandum of Agreements that is scheduled to the 2008 Law, that is a Memorandum of Agreement between various jurisdictions that I mentioned earlier on, the various Caribbean OTs and Bermuda. And when that Memorandum of Agreement was inserted into the law at a time when it was anticipated, Madam Speaker, that there will be this sort of participation among all the Territories and Bermuda to have one, sort of, big broad Witness Protection Programme, would harmonize legislation and video link evidence to be able to facilitate witnesses giving evidence from various Territories without having to be traveling back and forth in order to do some of that, Madam Speaker.

The Memorandum [of Agreement] will be now amended and what is contemplated under the new iterations, Madam Speaker, will be an arrangement whereby each Territory will be allowed to enter into separate bilateral agreements with the sister Territory, on a case-by-case basis to facilitate the witness being located in one Territory at the request of another Territory.

So, just to run through the Bill very quickly, Madam Speaker, of course, clause 1, as usual, contains the commencement provision.

Clause 2 will be amending section 2 of the law, by deleting and substituting various definitions.

Clause 3 will amend section 3 of the law by allowing for the establishment of the Justice Protection Administrative Centre under the Office of the DPP, as I mentioned earlier. And it will also provide for the combined agency to be known as the Justice Protection Investigative Agency and the Justice Protection Protective Agency to be handled by the Royal Cayman Islands Police.

Clause 4 will amend section 4 of the principal Law to make provision for the DPP to appoint one of her officers as the person who is designated the Director of the Witness Protection Programme that falls under that office, Madam Speaker.

There is also a provision in clause 7 which will amend section 7 of the current law to require a person who wants to participate in the programme to disclose details as to any restrictions that might prevent that person from entering any jurisdiction. For example, if there are criminal convictions that would lead to issues with immigration concerns for persons who wish to be located in another jurisdiction.

Madam Speaker, clause 8 also amends section 8 of the [principal] law by clarifying that an application that is to be completed in the prescribed form by the prospective applicant is in relation to the applicant's inclusion into the Witness Protection Programme, Madam Speaker. That will be a requirement. They will have to be a prescribed form that is filled out with all the required details by a prospective applicant into the programme.

Madam Speaker, clause 11 amends section 11 of the law to provide that in preparation of the Memorandum of Understanding and other relevant documents, that this will no longer require the approval of the Solicitor General, as this programme will no longer be administered out of the Attorney General's Chambers or the Portfolio of Legal Affairs, but rather will be now part of the remit of the Director of Public Prosecutions, and an aspect of it with the police.

I mentioned earlier, Madam Speaker, about the bilateral agreement. Clause 12 repeals and substitutes Part VII of the principal Law, and thereby enabling the bilateral Memorandum of Agreement executed between the Cayman Islands and any other Territory, with a view to giving effect to the purposes of the principal Law, and which would then form the basis of cooperation between the Cayman and the other Territory in order to fulfil the objectives of a Witness Protection Programme.

Madam Speaker, clause 13 amends sections 17 and 18 of the principal Law to enable a participant whose protection has been terminated under the Programme or whose former identity is to be restored, to apply to the DPP instead of the Attorney General for a review of the relevant decision made by the Director of the Centre.

Madam Speaker, clause 22 will amend Schedule 2 of the principal Law to specify additional offences which may give rise to protection under the Justice Protection Programme. These additional offences include assaults endangering life and health, arson, criminal damage to property, and so on. And I must add here, Madam Speaker, that I am hoping to bring a Committee Stage Amendment to this particular clause to add corruption offences, which are offences under the Corruption Law, I think it is sections 10 to 19 under the Corruption Law. So those offences will be covered and will attract witness protection, where you have witnesses who are prepared to testify in respect of such offences.

Madam Speaker, clause 26 amends some miscellaneous provisions of the principal Law by providing, for example, for substitutions of various phrases, such as changing "Governor in Cabinet" to "Cabinet," and changing some of the agencies to the new Justice Protection Investigative and Protective Agency, and so on; a bit of tidying up arrangement there, Madam Speaker.

Madam Speaker, what is anticipated here is that once the law comes into effect, along with these

amendments that the management of the programme will be on an ongoing basis and will be persons who will be admitted into the programme on a case-by-case basis, and depending on the testimony they give, the risk assessment that is done, these witnesses could be in the programme for an unspecified duration. Of course, there will be an ongoing review and it might very well be, Madam Speaker, that, a degree of risk or harm faced by a particular participant will diminish over a period time. And at some stage will then allow for a witness to demit the programme.

So, Madam Speaker, in closing, it is true that we passed this Law in 2008 and it was expected that we would have had it in place by now. Those of us who will recall is that the period leading up to 2008, there were considerable anxiety in our society where crime was spiking from time to time and persons were afraid of coming forward to testify out of fear of reprisals. As I mentioned, Madam Speaker, there were concerns about removing witnesses to countries far away, relocating them far away without any possibility of any access to their family or any sort of supporting mechanism. What was explored in the 2008 initiative was to have an arrangement where all the Overseas Territories and Bermuda would agree to have a programme among ourselves, with harmonized legislation, and the various facilities being in place by way of technology, to facilitate the giving of evidence without the witnesses having to be traveling back and forth.

Some countries experienced change of government during that period and new governments came in, and there was also changes of personnel as well in some of the Territories, new DPP, new Attorney Generals, and there was some reservations about the funding of the programme and other structural issues. And so the whole initiative faltered; never got off the ground. Countries were then forced to rethink how to deal with the Witness Protection Programme. And certain places like Bermuda moved ahead, revisited their legislation that they had passed, and made it more domestic based. And so they have their Witness Protection Programme that is now underpinned by legislation.

We continued, in the meanwhile, Madam Speaker, to have a Witness Protection Regime that is still not underpinned by legislation. It is quite informal, but it does work well. I have to give credit to the RCIPS for maintaining this informal programme with great effectiveness, Madam Speaker. I know that at times it has become quite stressful, but they have managed to persevere. You will recall I also passed the [Criminal Evidence] (Witness Anonymity) Law, which allows witnesses to give testimony without their identity being disclosed. That was part of a package, Madam Speaker, of initiatives, a suite, or raft, of legislation that were put in place at the time to combat some of the rise in antisocial behaviour that this jurisdiction was experiencing at the time, and in some instances still continues to experience.

So, that informal arrangement has served us well, but we now have a Bill of Rights, people are becoming far more litigious and there is a need for a far more structured arrangement, and this piece of legislation it is hoped, once it is passed and the principal Law, together with the amendment, is brought into effect and will provide the necessary legislative framework for having a structured Witness Protection Programme,

So, Madam Speaker, I certainly commend this Justice Protection (Amendment) Bill, 2016, otherwise known as the Witness Protection Amendment Bill to Members of 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?

I recognise the Honourable Attorney General for his right of reply.

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

Madam Speaker, I am certainly grateful to all Honourable Members for their obvious support of this Bill.

Thank you very much.

The Speaker: The question is that the Justice Protection (Amendment) Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Justice Protection (Amendment) Bill, 2016, given a second reading.

BILL

SECOND READING

ANTI-CORRUPTION (AMENDMENT) BILL, 2016

The Speaker: I recognise the Honourable Attorney General.

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

Madam Speaker, I seek the leave of this House to move the Second Reading of a Bill, the long title of which is: A Bill for a law to amend the Anti-Corruption Law (2014 Revision); and for incidental and connected purposes.

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

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

Madam Speaker, the Anti-Corruption (Amendment) Bill, 2016 seeks to amend the Anti-Corruption Law, (2014 Revision) in order to, among other things, enhance its operation and further enhance the independence of the Anti-Corruption Commission.

Madam Speaker, this Law has been effect for some time now. We, therefore, have had the opportunity to observe its workings. Certainly, those practitioners who have to interface with this law, the police and the prosecutors, have been able to observe some of the weaknesses (if you will) of the law and have been able to observe other areas which we think improvements can be made to further enhance the effectiveness of our anti-corruption regime and hence, the various amendments as outlined in this Bill before this House this afternoon.

Madam Speaker, the Bill seeks to provide some clarity. It seeks to ensure some inclusivity. And it seeks to put in place certain new definitions, one of which, Madam Speaker, is a definition of "government entity" and "public officer." It is proposing to have a new definition which would be now that at a public function, which is a much broader definition for the purposes of this law, and that broader definition is now reflected in clause 2 of the Bill.

Clause 2(c) now defines "public function" as **"may include any activity performed a single time or continually, whether or not payment is received therefor, which is carried out by— (a) a person for, or on behalf of or under the direction of a government entity; or (b) a body, whether a government entity or a private body, providing services to the public."**

Madam Speaker, it further seeks to clarify some of the definitions to be found in section 19 of the Law, and that's the definition dealing with conflicts of interest. So, the current Bill, Madam Speaker, seeks to expand that definition and so that will allow for a clearer understanding of those persons who should be subject to the law and to those functions which are to be caught, if you will, by the provision of this law.

Madam Speaker, it is believed that the work and independence of the Anti-Corruption Commission will be greatly enhanced through the provision of a manager, a dedicated manager, and such other public officers, including investigating officers as the Governor thinks necessary for the carrying out of the proper function of the Commission. So it is contemplated by this Bill that the investigating officers will be independent officers, independent from the RCIPS, that is, but will have similar powers including powers of arrest for corruption offences, and related offences, and that in carrying out their duty they will enjoy similar immunities as police constables. Madam Speaker, one notable exception is, of course, that they will not be allowed to carry firearms in the course of their duty.

Madam Speaker, I mentioned before that the law will now provide for a dedicated manager of the Commission. And that person will have a number of functions, including the ability to co-opt experts, appoint experts to assist with the work of the Commission on a needs basis.

Madam Speaker, in order to further enhance its effectiveness, the Bill contemplates that the Commission will be able to enter into agreements or arrangements with local law enforcement authorities, such as the Royal Cayman Islands Police Service, where necessary. Aspects of its function, Madam Speaker, may be delegated again, where necessary. It all has to do with the availability of expertise and arrangements such as being able to hold people in custody on behalf of the Commission by the investigators for the Commission. The Commission will not have, for example, separate cells where persons are to be retained in custody. So, they will certainly have to use the police facilities for that.

Madam Speaker, one of the important changes being made by this Bill, again, to further enhance its independence is to change the current composition of the Anti-Corruption Commission, as it exists in the law. So, the Bill contemplates, Madam Speaker, a broadening of the categories from which members may be chosen and to also change the current arrangement whereby public officers will no longer be serving as members of the Commission. Madam Speaker, this particular issue has been an ongoing one for many years. When we first enacted this law, I recall having correspondence from the Law Society then, and other members of the legal profession who expressed a preference for a Commission without any public officers thereon.

I must say, Madam Speaker, at the time we were enacting the law, it was a new venture (so to speak) and there were issues about resources and wanting to make sure that we were able to get it off the ground. So, at the time we examined various models in terms of the composition of the Commission and the model that we now have was considered the most appropriate, certainly, for starting up purposes.

I want to say that although this Bill is now seeking to change that construct, Madam Speaker, it would be remiss of me not to praise the work of the Commission as it is now constituted. They have managed to get the Commission off the ground, did excellent investigations, prosecutions, and continue to do a good job, and in recognition of that, the Bill, even though it is changing the composition and there won't be any public officers added, the law will still allow for certain expertise to be co-opted if necessary. So, the new Commission, for example, if successfully passed, will be allowed to, where necessary, probably call on the expertise of the Commissioner of Police or the Auditor General to assist the Commission in their particular areas of expertise. But they will not be able to vote, Madam Speaker, as members of the Commis-

sion. They really will just be able to co-opt them as expertise on a needs basis. But they won't be members of the Commission or certainly won't be able to vote on any decision to be taken by the Commission.

So, Madam Speaker, I really want to thank them for their continuing service and the excellent job they have done over the years since the inception of this law when it came into effect in 2010. So, Madam Speaker, under the new arrangement, the Commission will now consist of not less than five members, drawing from a wider cross-section of persons, including retired judges, retired police officers, retired justices of the peace, our magistrates, accountants, attorneys at law, and any other person who may be considered suitable to serve on the Commission. So, it provides a much broader, sort of, flexibility for the appointment of members to the Commission. As I mentioned before, one of the noticeable things is that there won't be any more public officers on the Commission going forward.

Madam Speaker, the Chairman of the Commission will now be appointed by the Governor from the membership of the Commission instead of the current arrangement where the law provides that the Commissioner of Police shall be the Chair.

Another feature of the Bill, Madam Speaker, is that the tenure of members will be revisited and so allow them more flexibility in terms of their period of tenure of appointment. So whereas now, they are appointed and required to serve for five years, some members have expressed the view that whereas they don't really mind serving on the Commission, it is a bit onerous having to serve for five years. And so they would like to be able to serve for less. So, Madam Speaker, the Bill now provides substituting five years and providing for appointment of three years or less, and also to provide for a one-time renewal of the appointment.

So, members who are appointed will not now be locked in, so to speak, for five years in the appointment. Madam Speaker, of course, there is a transition provision in the law which will ensure that cases that are currently, or investigations that are currently ongoing, will continue to be dealt with in a seamless way and will not in any way be prejudiced or otherwise interrupted by any changes to this law when the amendments come into effect.

So, Madam Speaker, as I mentioned, the amendments are fairly short, but in some instances quite profound and they are really aimed at tweaking the law to provide even greater efficiency and effectiveness in the Cayman Islands fight against corruption and to deal with the whole issue of integrity in public life. I therefore will certainly wish, Madam Speaker, to commend this amendment Bill to the Honourable Members of this House and to urge its safe passage.

Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Member for the District of North Side.

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

I rise to support the Bill for a law to amend Anti-Corruption Law (2014 Revision) and for incidental and connected purposes. I only have a few concerns to raise with the mover of the Bill—

Moment of interruption—4:30 pm

The Speaker: Member for North Side, if you would allow me, we have reached our hour of interruption.

I would like to call on the Honourable Attorney General [*sic*] to move the suspension of Standing Order 10(2).

SUSPENSION OF STANDING ORDER 10(2)

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

I beg to move the suspension of Standing Order 10(2) to allow business of this House to continue beyond the hour of interruption.

The Speaker: Sorry. I think I probably had Freudian slip, did I say "Attorney General"? I actually meant Premier, I beg your pardon.

The question is that Standing Order 10(2) be suspended in order to allow the business of the House to continue proceedings beyond the hour of 4:30 pm.

Before I finish putting the question, do we have an indication as to when, time-wise, Honourable Premier?

The Premier, Hon. Alden M. McLaughlin: Madam Speaker, we had agreed with some of the Members on the other side that we try to work until 7:00 pm, I don't think we will need to. I would like to work through to complete to the Cadet Corps Bill and then we just have two Government Bills and the Government Motions and whatever questions there are, plus the Private Members' Motions to complete the business, so. I think we are making good progress.

[Inaudible interjections]

The Speaker: The question is that Standing Order 10(2) be suspended.

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

AYES and one audible No.

The Speaker: I believe the Ayes have it.

Agreed: Standing Order 10(2) suspended.

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

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

Madam Speaker, in clause 3, the new clause 3A says: **“The Governor shall, appoint and employ at such remuneration and on such terms and conditions as are provided by law. . .”** is that this law, or is that the Public Service Management Law? Because I believe the Public Service Management Law needs to be referenced there.

And I would also look at where it says, **“. . . and such other public officers as the Governor thinks are necessary for the proper carrying out of the provisions of this Law.”** I would hope that somewhere here we can put in that the Commission will have some input into the number of officers that the Manager has to work with, and not just leave it to the Governor.

Then in clause 5 it says . . . and I am happy that they are taking the Chief of Police off of the Anti-Corruption [Commission] and particularly removing him as chairman. But then clause 4A says, **“4A. (1) The Commission may delegate any of its powers, duties and functions under this Law to the Commissioner of Police in accordance with this section.”**

And in subclause (2) it says **“The Commissioner of Police may sub-delegate a power, duty or function delegated under subsection (1) but only in accordance with the terms and conditions of a delegation. . . .”**

Is it possible to delegate the authority if that is what “power” is meant to mean here? I mean, I can understand a delegation of certain duties and functions, but if “power” is meant to delegate the authority of the Commission then I would question it.

And in clause 3D (2), it says, **“After making an arrest, the investigating officer shall deliver the person arrested to the custody of the Police Service to be further dealt with according to law.”** Why are we requiring the police to take over the preparation of the case to invest further investigation for the DPP to prosecute, if we have investigating officers under. . .? having them responsible for the custody, I don't see a problem with that. But I think that if they are then going to take over any further investigations and all of that, then, I think that I don't have a problem with that.

Madam Speaker, in clause 20(a)1.(1) it says: **“The Commission shall consist of not less than five members appointed by the Governor and such members—”** (I agree with subclause (a)) **“shall be persons who, in the opinion of the Governor, are of high integrity and are able to exercise competence, diligence and sound judgement in fulfilling their responsibilities under this Law.”** I also like this part- **“(b) shall be residents of the Islands;”**

But why do we need (c)? Are those people listed under (c) going to be persons who have some other qualities other than what is listed in (a)? Or are they not required to have the qualities in (a)? I know the lawyers should be really upset in that they have to have 10 years PQE, but the accountants are not required any.

In [clause] 20 (a)1.(3), it says: **“A person shall not be qualified to hold office as a member of the Commission if he is a public officer or such other category of person as may be prescribed by Order of the Governor.”** Or should it say Cabinet?

[Inaudible interjections]

Mr. D. Ezzard Miller: I don't think it should be given to Governor, personally. I would be much happier if the “Governor” was changed to “Cabinet.”

[Inaudible interjections]

Mr. D. Ezzard Miller: Well, I don't see why we need to give them the freedom to eliminate certain categories of our people, as long as they have [subclause] (a), and as long as they have the qualities spelled out in [subclause] (a).

So, Madam Speaker, with those few questions I support the changes to the Anti-Corruption Law. I would also—one other caveat though, Madam Speaker. I hope now that this is not going to be another instance where we are providing in law, the ability to appoint people and to appoint staff, but they are going to be curtailed by the absence of the necessary resources to do it with. In other words, unless we have built into the 2016/17 Budget these positions, then, it is a waste of time to amend the law.

I also wonder if we should not put in minimum numbers of investigators because somehow we have to find a way that when we make these legislations, there is some requirement of any government to provide the resources to allow these kinds of important bodies to function.

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 will call on the mover to exercise his right of reply.

[Pause]

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

Madam Speaker, let me first thank the honourable Member for North Side for his, as usual, very insightful contribution to the debate.

Madam Speaker, clause 3, the appointment of staff by the Governor, I think what is contemplated

here is that either the Governor will do the appointment, which is really what the constitutional position is now, or it will be delegated down, as the Governor has the power to do and has done in most appointments. But, Madam Speaker, when we discussed this, it was agreed that the appointments to the Commission, certainly in terms of staffing, will be done in conjunction with the Manager of the Commission and the Commission itself in terms of a needs assessment and to make sure that all of those factors are taken into account, and that the Commission is adequately resourced. So, Madam Speaker, it will be in consultation with those who are (if I might call them that) the person who will be doing the actual work to ensure there is adequate staff in there.

Madam Speaker, in terms of the delegation, the functions of the Commissioner of Police, and so on, this is really a sort of a belt and braces approach. It is contemplated that there certainly might be instances where, for any number of reasons, there are certain functions that cannot be carried out by the Commission. I am thinking here now that if there needs to be a raid or something like that, where you are required a certain amount of resources and, sort of, back-up support, rather than these investigators who are not themselves, allowed to carry firearms, being able to do these things. It might very well be that in those kinds of define circumstances they might have to delegate those functions to the Police Commissioner to deal with that aspect, and, of course, whilst those are out of the way, then the delegation will be revoked and the investigations carried out by the staff of the Commission itself.

The point about allowing persons to be handed over to the police and for them to take over the investigation, Madam Speaker, this is not what is contemplated. What is really contemplated here is that if persons are arrested—because as I mentioned earlier, the Commission would not have, say for example, a separate holding facilities—then, it is contemplated that person would be handed over the RCIPS to be kept at a police station in a way not dissimilar sometime to what happened with the Immigration Department when persons being housed at the police station on their behalf.

The Honourable Minister mentioned about clause 20(a)1.(3), I think he mentioned. **“A person shall not be qualified to hold office as a member of the Commission if he is a public officer or such other category of person as may be prescribed by Order of the Governor.”** The intent here, Madam Speaker, is that there might be persons who, as time goes on, might be considered not suitable or desirable in any event, to be considered for appointment on the Commission. We have public officers, but we have also persons—I think we have some JPs. We have other categories here that are enlisted or enumerated here. And although I don't really see this provision being utilised, I think it was really just put there out of

abundance of caution to allow for persons to be disqualified, so to speak, from serving on the Commission where necessary, or a certain group of persons being disqualified.

But, Madam Speaker, we also have to admit that under, not just this Law, but under section 55 of the Constitution, the powers to make appointment to any public office, including these offices, under this Law, are reserved to His Excellency the Governor, or to “a” Governor, not just this Governor, but to the Governor of the day. So this is not really a fundamental departure in terms of the remit as to who can and cannot be appointed to the Commission.

Madam Speaker, I just enquired from the Manager, and she told me that they have at least four investigators on staff. There are sums earmarked in the budget. Now, I am not sure exactly how much that is going forward, but it is anticipated, Madam Speaker, that once this new construct is rolled out, that certainly, in the medium term, there will be adequate resources to ensure the proper functioning of the law. Of course, all of that will have to be assessed and reviewed going forward. Certainly for now, it is anticipated, Madam Speaker, that the Commission will be somewhat adequately resourced, once this new dispensation is put into effect and the necessary assessment and adjustments will be made going forward in terms of additional resources for the Commission.

[Inaudible interjections]

The Attorney General, Hon. Samuel W. Bulgin: I am taking my instructions from her. Thank you.

Madam Speaker, I hope I have addressed the honourable Member's observations. We certainly . . . I think there is a provision in the law which allows for it to be reviewed from time to time, going forward. So it might very well be that in the not too distant future, we might have to come back here to do some other tweaking to the Law. But certainly for now, this is some well-needed amendments to this Law, and I certainly commend it to honourable Members of this House.

The Speaker: The question is that the Anti-Corruption (Amendment) Bill, 2016 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Anti-Corruption (Amendment) Bill, 2016, has been given a second reading.

BILL

SECOND READING

STATISTICS (AMENDMENT) BILL, 2016

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

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

Madam Speaker, I beg to move the second reading of a Bill entitled the Statistics (Amendment) Bill, 2016.

The Speaker: The Member has moved the Bill. Does the Member wish to speak to it?

Hon. Marco S. Archer: Thank you, Madam Speaker.

Madam Speaker, I rise to present the Statistics (Amendment) Bill, 2016 on behalf of the Government. By way of background, the Statistics Law (2011 Revision) is the governing legislation for the system of collection, compilation, analysis, and publication of statistics on the socioeconomic profile and performance of the Cayman Islands. Madam Speaker, the production of National Statistics is of great importance to the Islands for many reasons, and those including, but are not limited to:

1. Providing data to inform capital investments by both the Government and the private sector;
2. Contribute to the development of strategic plans;
3. Provide the data to analysis the effect or impact on the Cayman Islands of various domestic or international events;
4. Allow for benchmarking and international comparisons with other countries;
5. Create a valuable, historical record of our socioeconomic development.

Madam Speaker, these are but just a few of the benefits that arise from having a robust system for the production and maintenance of national statistics.

The Bill incorporates feedback and comments received during the public consultation period from various industry associations and groups such as Cayman Finance, the Cayman Islands Chamber of Commerce, Cayman Islands Institute of Public Accountants, representatives from the Law Society and the Caymanian Bar Association, as well as several large retailers of capital and consumer goods.

The Bill seeks to amend the Statistics Law (2011 Revision) in order to improve the effectiveness of the ESO, that being the Economics and Statistics Office, in relation to the collection of statistical information. It also seeks to effect other consequential changes to the law for incidental and connected purposes. The specific amendments being proposed in

this Bill seek to enhance the overall statistical system, those being:

1. Expanding the types of business entities operating within the Cayman Islands which are surveyed;
2. Strengthening the system for the protection and confidentiality of data collected by the ESO;
3. Permitting the ESO to charge fees for special requests from individuals and non-core Government agencies.

Madam Speaker, with respect to expanding the types of business entities operating within the Cayman Islands which are surveyed, section 7 of the current Statistics Law (2011 Revision), mandates the collection of statistical information for the System of National Accounts (or the SNA) and the Balance of Payments (or the BOP). The SNA is the basis for calculating the contribution of all productive economic sectors in the Cayman Islands to the Gross Domestic Products (or the GDP) which is the value of all goods and services produced in the country. The BOP calculates the sum total of all economic and financial transactions of the Cayman Islands residents, or domiciled entities with the rest of the world.

In its current form, section 7 excludes from any survey activity, all companies exempted under section 164, the Companies Law (2013 Revision) or any trust exempted under section 70(1) of the Trusts Law. As a consequence, exempt companies that have business operations within the Cayman Islands are not currently included in the calculation of the country's GDP and BOP. This Bill seeks to authorise the ESO to conduct surveys among exempt companies with business operations in the Cayman Islands; however, in order to preserve the Cayman exempt company business model, participation in the survey will be voluntary and dependent solely on their willingness, unlike other companies where participation is compulsory as currently mandated in the law. Examples of such companies, Madam Speaker, where the participation would be on a voluntary basis, include those that are in the Cayman Enterprise City Special Economic Zone. All provisions of the law with regard to confidentiality of information will be extended to such voluntary participants.

Madam Speaker, with respect to strengthening the system for the protection and confidentiality of data collected by the ESO, in its current form, section 19 of the law provides that any person who hinders or obstructs a survey, refuses or neglects to provide information, destroys or defaces a form or related documents, commits an offence. However, the law does not provide the administrative mechanism for determining when any of the above has been committed. The Bill seeks to address this gap by specifying administrative requirements that the ESO must under-

take in order to facilitate an unambiguous, transparent, and easier enforcement mechanism.

In addition, the Bill seeks to clarify restrictions on the disclosure of data collected and held by the Economics and Statistics Office to ensure all individual data collected under the principal Law is clearly excluded from application of the Freedom of Information Law. The Bill also increases the penalty for ESO employees who commit an offence by the unlawful disclosure of information under section 18 of the principal Law to be equal of that prescribed for respondents in section 19 of the principal Law.

Madam Speaker, with respect to permitting the ESO to charge fees for special requests, the ESO receives a number of requests from private businesses, consultants, and statutory authorities for statistical services, such as a selection of samples for households or business surveys. The specific data sets, other than published data sets, are also requested from time to time. Currently the ESO has no legal basis for charging for these services, despite the staff time and other resources used in producing them. The Bill seeks to grant the ESO the authority to determine a cost and collect revenue for these services.

Turning now to the detailed clauses of the Bill, Madam Speaker, the detailed provisions in the Bill before this Honourable House are:

Clause 1 of the Bill sets out the short title of the intended law.

Clause 2 amends section 2 of the principal Law to define the term “director” to mean the officer of the Economics and Statistics Office appointed by the Governor to be responsible for the gathering and collation of statistics. The clause also deletes the definition of the word “Governor” and inserts a definition of the word “authorized officer.”

Clause 3 amends section 7 of the principal Law to authorise the conduct of voluntary surveys among certain companies that are exempted under section 164 of the Companies Law (2013 Revision).

Clause 4 of the Bill amends section 8 of the principal Law to provide that the Freedom of Information Law, [2007 Revision], does not apply to individual data collected by the Economics and Statistics Office for statistical compilation.

Clause 5 of the Bill repeals and substitutes section 11 of the principal Law to require persons who have to supply information, to do so within a period specified by the Director.

Clause 6 amends section 14 of the principal Law to require persons who have to supply answers to questions, to do so within a period specified by the Director.

Clause 7 amends section 18 of the principal Law to increase the penalties for breach of confidentiality by employees of the Economics and Statistics Office.

Clause 8 amends section 19 of the principal Law to make it an offence for a person to fail to com-

plete and return a questionnaire within the period specified by the Director or to knowingly provide information that is false in a material matter.

Clause 9 of the Bill amends section 21 of the principal Law to enable regulations to be made prescribing fees, tariffs or charges for any customized statistical service provided on request under the principal Law.

Clause 10 amends miscellaneous sections of the principal Law to empower the Cabinet (instead of the Governor in Cabinet) to carry out various functions under the principal Law, for example, Madam Speaker, (a) direct the taking of a census; (b) make regulations for the purposes of a census; and (c) issue directions to the Director in relation to the preparation of documents for a census.

Madam Speaker, these amendments are timely and seek to enhance the overall system of statistical collection in the Cayman Islands and improve the overall quality of statistical reports produced by the Economics and Statistics Office.

I respectfully urge all Honourable Members of this House to support the Statistics (Amendment) Bill, 2016.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Fourth Elected Member from the District of Bodden Town.

Mr. Alva H. Suckoo, Jr., Fourth Elected Member for Bodden Town: Thank you, Madam Speaker.

Madam Speaker, I will be brief. I only have a few observations. In the amendment [clause 6] to section 14, the use of the word—well, I will read the replacement phrase. [In new section] “**14(1) For the purposes of this Law, the Director or an authorized officer may, either orally or in writing, request a person to answer a question that is necessary to obtain any statistical information in relation to any matter referred to in section 7.**” I just have an issue with the use of the word “orally.” You would think that under circumstances such as this, Madam Speaker, these things would be done in writing. That was just one quick observation. I don’t know if the Minister would like to address that when he winds up.

Just looking at the amendment to section 19, I understand the rationale behind trying to get things done administratively, and I do understand the need for this information and why the Government needs it, Madam Speaker, but what I would have liked to have seen would have been more of a carrot approach to this, rather than leaving, basically, the punishment for not completing a survey or providing any requested information could be a fine of up to \$10,000 and three years in prison. Madam Speaker, I don’t think that this would pass the proportionality test in terms of what the Government is asking for and what the punish-

ment is in exchange for failure to comply with the law. But maybe in his winding up, Madam Speaker, the Minister can explain why the Government hasn't sought to provide more of a carrot approach. I would think that some sort of incentive system would be better to encourage businesses to participate willingly rather than seek to punish those that don't.

I think, Madam Speaker, what we have to consider is the impact on, especially, small businesses. These sorts of penalties could cripple or pretty much destroy a small business. I think we need to bear that in mind, as small businesses are the largest employer of Caymanians. I think, Madam Speaker, in looking at this you have to make sure that the punishment does suit the crime.

I think everyone understands the importance of why the Government needs this information and this data. But we have to, I think, spend a little bit more time looking at the impact and how it will affect businesses. It would be, I think, a travesty if we heard about a small business owner being put in Northward Prison for up to three years for not filling out a survey. Hopefully the Minister can address why he feels the penalty has to be so severe, when he winds up.

It was just those two observations, Madam Speaker. Thank you very much.

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 Finance to reply.

Hon. Marco S. Archer: Thank you, Madam Speaker, and thanks to the honourable Member for his comments and queries—sorry, the Fourth Elected Member for the District of Bodden Town for his comments and queries.

Madam Speaker, I shall address those. With respect to the provision there where it speaks of orally or in writing, in all of the years the survey within the Statistics Office have been conducted, there are times when a telephone call to a survey respondent is sufficient to enable them to complete the survey and perhaps a discussion over the telephone. It may be a simple query or something that has to be clarified. So, I think in this case the orally or in writing provision, Madam Speaker, will suffice. Certainly, if it can't be done orally, it is probably more expedient to telephone someone and say, *Please assist us in doing what the law requires as opposed to the passage of time required to draft correspondence, either e-mail that or send it through the post, whatever the case may be.* I would respectfully argue, Madam Speaker, that the orally there does have some merit to it.

Madam Speaker, on the other issue of the carrot and stick approach, with respect to the examples that the Fourth Elected Member from the district of Bodden Town used, I don't see—well, first of all,

Madam Speaker, again, no one has ever been prosecuted for not completing a survey questionnaire. But, Madam Speaker, as the surveys have gone on, the response rates have improved and that has been due to the dialogue between the Economics and Statistics Office and the business community. We have embarked upon a series of informative meetings, and, Madam Speaker, we are now at a stage where we are providing training to not just the small businesses, but also the large businesses as well.

In a few weeks Members of Cayman Finance will have some of their staff trained as to what the survey questionnaires are looking for and how to complete those. And then, the invitation is also extended to the Chamber of Commerce to Cayman Islands Institute of Professional Accountants, and so on and so forth, Madam Speaker. So, the opportunity for training has been extended for quite some time and we will continue again this year. I know that for the small businesses, Madam Speaker, they are given even more hands-on training as to how to complete the survey questionnaire, than the other larger enterprises.

So, Madam Speaker, as with all laws, the provisions are there, but that is not to say that they will have to be used. If the ESO is able to do its job effectively and communicate the need for this information, as they have been doing, Madam Speaker, and I must say, that in conversations with the various representative bodies that I have mentioned here today, people have now come to appreciate and are willing to assist in providing information that the country needs under the ESO request.

I know that three years and \$10,000 seems like a stiff penalty, but it has never been used and I doubt very much, Madam Speaker, that it will be used. But just to say that in doing so, Madam Speaker, we also increase the penalty for the ESO staff at the insistence of the business community. They were of the view that if they are required to provide this information, then, it was a one-sided environment, so to speak, in that they were penalised, but the ESO staff were not. There was no penalty for breach of confidentiality. Now, Madam Speaker, I have to say that I agree with that totally.

If you are put in a position of trust and you are asked to maintain information that is confidential, and the willingness of people to provide that information for the benefit of the country is dependent upon their confidence in you to keep that confidential, then you ought to be held to that standard. The ESO staff were in the room when the question was asked and, Madam Speaker, I must say, they have all been there for quite some time and none of them thought that it was something overly burdensome, onerous, or in any way insulting. They thought it was fair, and therefore it is on this basis, Madam Speaker, that the legislation progressed through the public consultation phase,

progressed through the Cabinet phase, and is now here for presentation before this Honourable House.

With those comments, Madam Speaker, I thank you.

The Speaker: The question is that the Statistics (Amendment) Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Statistics (Amendment) Bill, 2016, given a second reading.

The Speaker: I propose to take the 15-minute afternoon break at this time.

Proceedings suspended at 5:16 pm

Proceedings resumed at 5:55 pm

The Speaker: Please be seated. Proceedings are resumed.

GOVERNMENT BUSINESS

BILL

SECOND READING

INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY (AMENDMENT) BILL, 2016

The Clerk: The Information and Communications Technology Authority (Amendment) Bill, 2016.

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

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

I beg to move the second reading of a Bill entitled the Information and Communications Technology Authority (Amendment) Bill, 2016.

The Speaker: The Bill has been duly moved.

Does the Honourable Minister wish to speak to it?

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

Madam Speaker, for quite some time now the ICTA and its Board have been gathering information and as a result have put a case forward to the Ministry whereby several of the licensees treat decisions of the Board almost with disdain.

Madam Speaker, they go through the various hoops which the Law calls for when it comes to any penalties which need to be levied on these licensees and after all is said and done, it is like they . . . the common way to explain it is to simply say they pay them no mind.

Madam Speaker, the Law as it is has various sections which outline penalties and the procedures for these penalties. The accepted norm in the industry is for the vast majority of these penalties to go through a process, not only of natural justice, but to use summary court and, I guess, in specific cases where the licensees may choose to go higher, in order to enact—not enact—but in order to utilise the Law to where these licensees should fall in line whenever they fall foul of the ICTA Board.

The ICTA Board's responsibility, outside of making sure that the Law is followed to the letter, is also to the consumers, Madam Speaker, to make sure that what the licensees are called upon to do and their performance to provide the services to their customers to make sure they are compliant.

Section 58 of the Law, Madam Speaker, speaks to administrative fines. And I will not bore the House with all of the various subsections in section 58, but suffice it to say that section 58 deals with administrative fines.

Part X also, Madam Speaker, beginning with section 81 deals with all of the various offences which can be committed under this Law and it speaks to what the various penalties are.

This amending Bill that is being proposed, Madam Speaker, is fairly simply.

Madam Speaker, if we take a look at the—

[Phone whistles]

Hon. D. Kurt Tibbetts: —Memorandum of Objects we will find—

[Laughter]

Hon. D. Kurt Tibbetts: —we will find . . . I know I am old fashioned, Madam Speaker, you will forgive me.

You will find, as I was saying, Madam Speaker, in the Memorandum of Objects and Reasons that what is proposed in clause 6, which proposes the amendment to section 58 is:

“To increase the amount of the fine applicable where, among other things, a licensee has failed to comply with or has contravened the terms of a licence or directive. The clause also provides that where a licensee's failure or contravention continues after a determination has been made, the Authority may impose a fine of up to twenty-five thousand dollars in respect of each day on which a licensee fails to comply or the contravention continues.”

This, Madam Speaker, is exactly what is missing from the Law now because whenever there is a fine as it is, and the licensee decides to do what I said earlier, pay you no mind, there is nothing in the Law now which creates the ongoing penalty as long as the infringement is unattended to or left alone.

This section, Madam Speaker, is what the IC-TA and the ICTA Board believe firmly will get the attention of the licensees. Because whenever they go through the whole process that the Law calls for and they are told what the infringement is, what the corrective measures are that they have to take, this will then allow for a fine of up to \$25,000 per day to be levied once they are found guilty of that offence whereas that is not the case now.

So this is intended, Madam Speaker, to ensure that the licensees comply with what they should comply with or face such fines as long as they do not comply.

On the advice of the Attorney General, Madam Speaker, we also chose this opportunity to correct certain sections by way of deleting references to "Governor in Cabinet" and as the constitutional requirement is now it should be the "Cabinet" rather than "Governor in Cabinet."

There is also one section in Schedule 2 which seeks to delete the reference to "Governor in Cabinet" and substituting in its place the word "Governor." That is simply to bring this existing legislation in line with the present constitutional arrangements.

So in essence, Madam Speaker, the ICTA and its Board are desirous of having this tool to cause the licensees to be more compliant with the various requirements with regard to their service to the customers.

Madam Speaker, the House will recall that on a previous occasion, in fact, at the last meeting that we had, I spoke to these fines and that we were seeking legal drafting to get them ready. We now have these now. There are other matters that are being looked at, but we did not want to wait because the ICTA and the Board of the ICTA considered this a matter of urgency to get this done so that they could perform their duties better.

So, Madam Speaker, without going on anymore I think it is clear the intent of the Bill. I trust that Members will see it fit to support the Bill and I certainly commend it to this honourable House.

Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Fourth Elected Member from the district of Bodden Town.

Mr. Alva H. Suckoo, Jr.: Thank you, Madam Speaker.

Madam Speaker, I rise to offer my support for this Bill. I have noticed, Madam Speaker, that there is

definitely a change in attitude at the ICTA now and that the Authority seems to no longer be just of drifting along, it does seem to have a good sense of purpose and direction. I have to give credit to the new managing director and Board members for that improvement.

I do have a few short observations, Madam Speaker, that I would like to talk about and hopefully the Minister in his winding up will also address those or respond to those.

The amendment to section 58, Madam Speaker, I note that we are setting a blanket maximum penalty and I was wondering if it would not be more appropriate to maybe implement a schedule of various offences with prescribed penalties. Because what I fear, Madam Speaker, is that with these very large blanket fines is that a provider may choose to maybe not ignore the directions of the Authority now, but maybe seek to appeal through the courts and continue to tie up the Authority and make the administrative process of handing out fines a bit more convoluted and prolonged.

In my mind, it might be better to have a series of smaller fines, depending on the infraction, and then administratively these fines can be handed out to the offending providers. And because they are smaller and maybe only related to one offence or two offences, the likelihood of the provider complying and paying the penalty, I think, is higher. I just would not want to see us go down the road of doing all this work and still end up in a situation where licensees are not complying and not paying penalties.

Madam Speaker, I fully support increasing the penalties for providers who violate their licence agreements, but I just get concerned, Madam Speaker, about creating potentially more red tape.

I am also concerned, Madam Speaker, with . . . and I think that the Minister is doing what he can to address the non-compliance because I can refer to, I think, it was the 29th of October or round about that time that the ICTA actually modified all licenses, in particular those that relate to 911 service. And I will not go into detail of the modifications, but the long and short of it is that the ICTA, Madam Speaker, had understood that a lot of the 911 failures were not due to infrastructure problems here on Island, but could have been related to failures as far away as Jamaica.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr.: Were

I think that is, Madam Speaker, a real concern for us. When our infrastructure that we have here in place on these Islands is working but we are relying on infrastructures that are completely out of our control. And when you have failures such as 911 outages, we all know what could be the potential consequences of those.

I dare say, Madam Speaker, providers are relocating core infrastructure off island to jurisdictions

where they can probably enhance their bottom line, but we do have to really examine the level of redundancy and reliability built into those networks.

Madam Speaker, we are a global financial centre and I am sure the Minister for Financial Services will agree with me that financial services are our bread and butter. And if we do not have a reliable and an effective communications infrastructure in place, that can cascade down into the level of service we can offer in other areas. And I am glad to see that the Minister is making some attempt to remedy this, but it has come to my understanding that even though the ICTA has given a direction and amended licenses, Madam Speaker, the provider still has not complied with that.

We have to make these providers know that we do depend on them heavily and we do appreciate what they do for us on a daily basis, but in terms of complying with their licence agreements and not presenting a threat to our safety and security, they do have an obligation and they have to be made to understand that we cannot accept anything less.

Likewise, Madam Speaker, I do not believe that we have seen an improvement in the level of service offered when we see frontline support being hosted off-island. And I think some of these providers, again, are taking advantage of lower wages and cost savings elsewhere. But it has become almost ridiculous, Madam Speaker, when someone in Cayman has a telecom issue and they pick up the phone to call their provider for assistance and we end up talking to someone in India who is working on a problem in Jamaica that affects the problem here in Cayman.

Not to mention, Madam Speaker, the language barriers. I do not know how many times I have called my provider for assistance and just in frustration hung up the phone. And it is ridiculous when they start to argue with me, not knowing my IT background, but telling me pure foolishness of what they think the problem is and what has to be done to correct it. I have to question whether or not these people are even certified technicians in some cases.

Madam Speaker, I respect the right of any business to earn a profit and operate, but we really cannot do it at the expense of paying customers here in these Islands. We cannot allow these providers to continue to cheapen the service that they provide because, as I said, that is going to cascade into the other services that depend on them. And I am happy to see that the Minister is taking action.

We are, according to the ICTA, the Cayman Islands are no longer just being affected by cyber-attacks—we are now targets. We know that there are individuals and organisations throughout the world that are looking to target our businesses, our government, our citizens and we know that we have to do more to protect us from these attacks. And I would hope, Madam Speaker, that in very short order we will see a coordinated effort in place that involves not only

the ICTA, but CIMA, the Police, Home Affairs and any other entity out there that plays a role in protecting us from these attacks.

I think the Government has a duty and responsibility to ensure that our businesses and citizens are protected and I cannot stress, Madam Speaker, how serious this is. These individuals are not just doing this for fun anymore or to disrupt business. They are stealing personal information, business information and selling it. And if they cannot get to that, they try to steal your money.

So, I would like to hear a little bit more from the Minister when he winds up, Madam Speaker, on what is being done to prevent . . . maybe not prevent, but to protect us from these increasing cyber-attacks because I know that there are individuals involved at the ICTA who are very concerned according to the latest press release and they should be.

Another area, Madam Speaker, which I would like to address, is the number of telecom mergers and business deals that are taking place that involve these telecom providers.

Madam Speaker, when we first liberalised the market we went from what was a very costly but reliable Cable & Wireless to a liberalised telecom environment that was slightly less expensive but, in my mind, it is still overpriced. And Madam Speaker, we have seen a number of providers come and go. And we have seen quite a number of the local players get involved in international mergers and acquisitions. But I am getting concerned that as these corporations grow through the process of mergers (and these are designed for rapid growth and expansion) that we have gone from being maybe the bread winner for one provider to just a line item on their income statement after the merger. And there is the danger that we could drop in or become lower in priority for some of these companies because they operate in so many different jurisdictions and have such a very wide customer base and rely on a very high volume to sustain their bottom line.

What I have not seen in the ICTA Law (and maybe I have missed it) is any sort of mechanism in there, Madam Speaker, that will give the Authority more of a say in how these acquisitions operate, what the end result will be. What I would like to see is that the ICTA have the ability to be more involved in how some of these acquisitions and mergers operate and how they are structured, what the end result will be. My fear is that at the end of some of these business deals, we become so obscure and unimportant in the big scheme of things that there is no real incentive to invest further here and to make improvements here. Hopefully, there is something coming or there is something that I may have missed in the Law that I have not seen, but that is, I think, a major concern for me.

The Liberty acquisition that recently took place, I think, is a good example of that because they

have such a broad customer base and they are operating in so many jurisdictions, that there is a slight danger there, Madam Speaker, we could become less important as far as their business model is concerned.

So we just need to, Madam Speaker, ensure that when these mergers and acquisitions take place that we preserve the level of service and customer care that we demand from our licensees. And I would hope that the Minister could also address that concern when he winds up.

That was really it for me, Madam Speaker. I support these amendments. I want to commend the Minister and the Government for bringing them forward and for moving our telecom industry forward. And I will wait to hear from the Minister.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

The Elected Member for East End.

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

Madam Speaker, I want to hope and believe that these new provisions will help. Madam Speaker, we currently have provisions for a \$25,000 fine and nothing has been done to collect those.

Now Madam Speaker, I think people believe ICT licences are merely for telephone and that is not true. Radio, television, people who put in lines—they have all got to be licensed.

I spoke to an old lady a few weeks ago (one of my constituents) and I said to her that I could not get her because we are having a problem with these carriers. She said *Carriers? They're not carriers, they're droppers*. Now that was the best I have ever heard it put. Droppers—drop the phone, drop the call.

Madam Speaker, there are so many things that we need in our services in this country. When this country started its upward mobility, especially so in the financial industry in the '60s, two things made us more competitive or capable of carrying on financial services in the Caribbean than anyone else, and those were telephony and electrification. Those two were to Cayman like Chevrolet is to America—the heartbeat of America. Those were the heartbeat of our success.

Madam Speaker, regardless of how whoever wants to say what they want about it, that was what made us what we are. Other Caribbean islands, no disrespect to them, electrification was dropping out every day—four or five times a day. It was a rare occurrence when electricity went off in this country island wide. Telephone—it was a rare occurrence when those law firms and accountant firms could not connect with someone overseas, even in the days when we had to use massive buildings to get the switch inside. Today it is on a laptop, technology has moved on so fast . . . the equipment that is needed now.

Now Madam Speaker, we have seen much happening in this country. We deregulated it to get competitors in. And Madam Speaker, I must say to you that it has gotten worse. They do as they please. We have a \$25,000 provision for fines in the current Law. Madam Speaker, the ICTA is allowed to apply that \$25,000 fine to every contravention of the licence.

Now Madam Speaker, for a minute let us think that part of the licensee's responsibility is to provide a service at this level, at a particular level. That is part of their licence under, I think it is, 72 . . . no, it is . . . I think it is 72 of the Law—Service Standards and Data Protection.

Now Madam Speaker, one only needs to be able to apply that \$25,000. One only needs . . . because remember now part of this is they cannot advertise anything false either. One only needs to look at how they structure their systems for data delivery to one's house. And I am here to tell you, Madam Speaker, that we have around 50,000 liveable places in this country. And they will sell us 10 megabytes of data. And I would venture to say, Madam Speaker, that there are very few people in this country who get 10 megabytes of data available to them. For every one of those that they do not provide, they are in contravention of their licence. So we really do not need to get it up to \$500,000 because what we are doing is legislating morality and hoping that they will do it and it will frighten them.

Madam Speaker, one of the things when I took office as a Minister, this had just been deregulated, and they were supposed to roll out a whole new system, all of the new entrants and Cable & Wireless, that were here. Madam Speaker, to this day it has not been rolled out.

Madam Speaker, I live in Savannah and it is still hardwired, it is not fibre optic.

[Inaudible interjection]

Mr. V. Arden McLean: There is nothing in East End and North Side!

Mr. D. Ezzard Miller: Every time it rains, everything gone.

Mr. V. Arden McLean: Madam Speaker, it really, it really . . . it is really unheard of. It is really ridiculous in a day when technology is changing every year or 18 months or thereabouts, and it is so available and these people sit there and do nothing. And I am saying to the Minister, Madam Speaker, that that \$25,000 that was there, could have been applied 10,000 times in one day on every one of them. Now, if he believes that \$500,000 is going to assist us, then I welcome it, providing we apply it! If we had put \$25,000 on them then, after all these years, they would have had outstanding fines on them now. It just does not make

sense to put the provision and then you are not using it. We have to use it.

Madam Speaker, I welcome . . . and Madam Speaker, I do not know too much about this. They advertise and they tell us that they are providing for those little cell phones 4G. I wonder how many people have got 4G on their phones.

[Inaudible interjection]

Mr. V. Arden McLean: How many of us right in here have 4G?

Madam Speaker, they cannot falsely advertise to gain customers, and that is what they are doing.

Madam Speaker, now that we are on the telephones, let me stay on that a little longer. I want to ask the Minister to look into this. Every minute of the day I am getting texts and it comes from 426-3: *Are you a winner? Text RIO to 426-3 to find out. You could win a dream trip for two to the Olympics plus other great prizes, \$1 per SMS.*

Madam Speaker, they need to stop it. ICTA needs to tell these people it is not a matter of me opting as to whether or not I get text advertisements, it is a matter of people who want them opting to go and do it.

Madam Speaker, I have a contract with my provider and they have no business using my equipment to send me any message. Whether it is for charity or not, I do not want it and I did not sign up for it. But they do as they please. And here I am, I cannot even make a telephone call and I am paying through my ears for the service and not getting it! I want to know how this \$500,000 is going to be applied. I hope it is on my phone because mine is dropping out every minute.

[Inaudible interjection]

Mr. V. Arden McLean: It is up to \$500,000 and \$25,000 for every day that it continues. [INAUDIBLE] It was \$25,000 that it was before, yes?

[Inaudible interjection]

Mr. V. Arden McLean: I know, but ICTA was not doing it. I know it was there when I was there. But you know what I had to deal with too.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, it is sad that this country and its people are being taken advantage of and we are doing nothing about it—absolutely nothing. You could not hold a decent conversation on these carriers even if you had milk can and cord to the other person. That is not what we are paying for and they are making millions and millions and millions and millions of dollars in this country and they will not do

their roll out. They will not even change the equipment. They have no redundancy, like the Fourth Elected Member for Bodden Town said. If there is too much traffic, they need to drop some people off and that is where we call them the droppers, that is the dropper then. You are driving along on a conversation and, Madam Speaker, before you can finish that conversation—it could be a 911 emergency call you are on and they drop it. And as soon as you complain you are miserable.

Madam Speaker, every time I go pay for my telephone—*that's good money you know.* That is good money. You do not want to know what my phone bill is.

[Inaudible interjection]

Mr. V. Arden McLean: And since we are that one now, too, about the bill. Madam Speaker, some of these ICT providers they charge you for your bill—charge you \$3 for it. And then if you question the amount of your bill and they need to go back into the archives to print off the full activity sheet, they charge even higher for that. Every time, Madam Speaker, I go to Fosters they print out a thing telling me what was I bought, ya nah? Then, they tell you it is going to some environmental fund. When was the last time we got that? So you do not cut down any trees. Do you see us cutting down any trees for paper around here?

No, Madam Speaker, that needs to stop. I am talking about the television too.

Mr. D. Ezzard Miller: That's worse.

Mr. V. Arden McLean: Madam Speaker, you pay . . . how much for the whole thing? A hundred and thirty-odd dollars per month, whichever one of them, and you could be in the middle of the news and it goes *frump*—no access.

Madam Speaker, do you really think that is right? They are ICT providers, too, you know.

Madam Speaker, half the time it is not working. I do not know if they are not paying the providers and then they run out or something. We need to get better service.

Madam Speaker, you know every time the ICTA requires an ICTA provider to do anything . . . Madam Speaker, let me rephrase that—they cannot get the fees from them that they need to pay their annual fees for their licence, how are they going to get fines from them? That is a fact. Some of them do not even pay their fees. And remember I said radio stations are involved in this, too, Madam Speaker. They do not even pay the fees. How are you going to get the fine?

It does not make sense. We cannot do legislation morality wise, and hope they are going to do it. I am just dumbfounded that we have absolute control and we will not apply it.

Madam Speaker, I am telling you today, the Minister within a short period of time is going to come back to deal with this because the first fine that ICTA applies or issues of \$150,000, they are going out to that court house with you. They are going to find some reason to go out to the court house, they are going to lock you up in a court case out there, and they are going to lock you up in what is called mediation, they are going to lock you up in it and . . . that is the right word, right? Arbitration or mediation, whichever and then, that is going to last two, three, four years, and by that time they have contravened a million other things. Then you lose again.

[Inaudible interjection]

Mr. V. Arden McLean: You think they are worried about that?

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, it is sad. My son up in the UK is paying £17, am I right? Fifteen for 50 megabytes and the boy tells me he wants more, for what? *Daddy, the computer's slow.* Well, how many you got on it? He increased it by £9 maybe or £7 something like that, Madam Speaker, and he's gone up 120. And he tells me when he logs on and goes and looks at the properties to see, it is right there. He comes home and he beat me out of the house. *Son, I got 10* and he looks at it and he says, *You only got 2.2.*

Madam Speaker, it cannot be right. And my son is beating me every time he comes home that he cannot even talk to his friends and I am paying for 10?

[Inaudible interjection]

Mr. V. Arden McLean: I am paying more for 10 . . . what is . . .

Mr. D. Ezzard Miller: Forty.

Mr. V. Arden McLean: Fifty-something dollars? I do not know. I do not even know if . . . I forget about how much it is now.

Madam Speaker, it is wrong. By no stretch of the imagination can that be right. Then they give you the repeater—is that what it is called? They sell you that. That is another piece of equipment. And make sure . . .

[Inaudible interjection]

Mr. V. Arden McLean: Twenty-five?

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, yeah, the Wi-Fi, yeah, the repeater. Yeah, the sender, the extender, yeah, yeah, and make sure nah any wall in front of it, because it is not coming around the corner either. Come on, man. I see my son got one little thing like this extender and *Piff—you* must be can pick it up a half mile from the house. What, what, what, what . . . I mean they are making the equipment for us here in Cayman . . . some rogue company somewhere in wherever or what?

[Inaudible interjection]

Mr. V. Arden McLean: Or when it is redundant up there then they bring it down here.

Madam Speaker, we must demand more in this country because no other place, this size, provides the kind of money that we do for this supposedly good service. If we get 30 per cent of the service that we contract with these people to do we are getting plenty. Can you imagine, Madam Speaker, we would not know what to do with it if we get the full service. We would not know what to do with it. Those phones would be so fast that they would blind you.

Madam Speaker, the Member for Bodden Town spoke of it; you nah man to call 411 or 811.

Madam Speaker, I have never in my life heard more *chung-ling-fung-ting-chi-tu*. They do not know . . . Madam Speaker, something is wrong with that. And they say the reason is that it is cheaper to do it there, so they do it there but collect our money here for not providing a good service. You see the Catch 22 we are in? I do not know how our law firms can operate anymore unless they have got a switch inside there that is better than what it provides for us. I hope so. Because if our law firms and our accountant firms and our company registration management firms in this country is as bad as the domestic services, we could not survive two days.

Mr. D. Ezzard Miller: That is why the banks are so backwards.

Mr. V. Arden McLean: Madam Speaker, this thing for electronic transfers coming up and stuff like that, do you really think we will be able to get that?

Madam Speaker, I guarantee you from one bank to the next it is going to take six months to reach there. Right now it is three, four days before you clear your cheques. It is going to take six months. The economy is going to slow down even worse.

[Inaudible interjection]

Mr. V. Arden McLean: Internet speed? You go on about internet speed in Cayman. That boat you have got is faster than that.

No, Madam Speaker, I am just . . . I am aggravated that our bill can be \$500, \$600, \$700, \$800 a

month and you are paying for everything but not getting the service. That is not right. I hope the ICTA shut their eyes and starts applying fines. But I am encouraging the country—the people of this country—that every time . . . of course, their response is going to be *it's the equipment you're using, right?*

An Hon. Member: You need to buy a new one.

Mr. V. Arden McLean: You need to buy a new phone. Mind you they sell you that phone, you know.

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, they lock you in contracts that you cannot change and they do not give you any incentive to be in it. ICTA has a lot of work to do. I am sorry for the Minister.

[Inaudible interjection]

Mr. V. Arden McLean: You are paying an arm and a leg for the phone and within a short period of time it has gone down and you have to go and pay another arm and a leg.

Madam Speaker, I have got something called I-6 3G.

[Inaudible interjection]

Mr. V. Arden McLean: This is not compatible with 4G or what? I thought this was the latest thing on the market. I know they have got a success, but this has got to be the same thing compatible with 4G. They are not providing it for us! If you go to Miami as you get in there with AT&T, I believe?

Mr. D. Ezzard Miller: Yeah.

Mr. V. Arden McLean: It is 4G. But then, you have to watch out because of that roaming charge. You need to mortgage your children to pay for that when you get back here.

You are going to tell me in today's technological age . . . Madam Speaker, I just saw my son over in California using his British phone. And I said *son you're . . .* and he said, *Well, daddy, I don't pay for this.* I said, *What do you mean you do not pay for it, son?* He said, *but daddy, I don't pay for this; that is why I am using this and not using the Cayman one.* He does not transfer them, he waits until he comes home with that little pin, you know? He does not pay for it, Madam Speaker.

You nah man to go to Cayman Brac . . . you have roaming charge stuck on you. And it's worse if you go to Little Cayman.

Hon. W. McKeeva Bush, Leader of the Opposition: Charge you too?

Mr. V. Arden McLean: Charge you? They charge you double down in Little Cayman.

No, Madam Speaker, we as people cannot survive in this country. The economy in this country is bursting at the seams to keep up with the technology, when everywhere else has it for free. You go to America or you go to Europe, everybody is advertising . . . *come with me I'm going to give you free weekends, I'm going to give you free whatever.* Or they give you at least a couple of little calls free. Here? I do not know. The other thing is, Madam Speaker, I do not know if the voicemail . . . I do not know if when you call that . . . all of a sudden now they changed that and the recording on that is so slow and ten times slower . . . than . . . it used to be. *Now . . . touch . . . one . . . touch . . . two.* I wonder if you have got to pay for that because I know it used to be an add-on.

Madam Speaker, the ICTA has a lot of work. I hope this works. I really hope it works. But I am not . . . Madam Speaker, the providers in this country . . . it is a money-making exercise and they are killing us. People who are on fixed incomes cannot even talk to their children anymore because if they are at home and they have got a fixed line, they nah got the nerve to pick it up and go call their child on their cellular. You'll never pay for it. It is ridiculous!

And I am not blaming the Minister, I am not blaming the Government, Madam Speaker, but we have got to do something about it. Something needs to be done. Every minute they charge everything.

Madam Speaker, I guess it does not make sense for me to say anymore and—

[Inaudible interjection]

Mr. V. Arden McLean: What?

[Inaudible interjection]

Mr. V. Arden McLean: The Premier says I am repeating myself now. He does not need to talk this long to repeat himself, but anyway.

Madam Speaker, I support it, but my plea to the Minister is to pay a little closer attention to it. Please, on behalf of the people of this country. I tried. I tried my best, but that same said guy was there, Madam Speaker, and I could not do anything with him. Anyway, the Member for North Side dealt with that.

Anyway, Madam Speaker, 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?

I will call on the Honourable Minister to wind-up.

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

I want to thank those who spoke for their contributions and I certainly intend to answer the questions that have been asked. I certainly intend to make comments on what has been said with regard to the proposed amending Bill, but on instructions from the Premier I am told that—

The Speaker: So are you going to do the Adjournment motion now?

Hon. D. Kurt Tibbetts: No. No, I am not that brave, Madam Speaker. But I wanted to start my wind-up, but on the Premier's instructions, I will simply sit down because he is going to move the Adjournment Motion, Madam Speaker.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: I started my wind-up already.

[Laughter]

The Speaker: I recognise the Honourable Premier.

ADJOURNMENT

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

Madam Speaker, I move the adjournment of this honourable House until 10:00 am on Wednesday, 4th of May.

The Speaker: Thank you.

[Inaudible interjection]

The Premier, Hon. Alden M. McLaughlin: At 10:00 am.

[Inaudible interjection]

The Speaker: I recognise the Honourable [Leader of the Opposition]. He has obtained consent to deal with two issues on Adjournment.

The Honourable Leader of the Opposition.

MOTION ON THE ADJOURNMENT

[Standing Order 11(6)]

CAYMAN AIRWAYS, NEW AIRCRAFT

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

I want to ask the Minister responsible for Cayman Airways to bring Cayman Airways here for an in camera discussion with Members for information purposes. I wish to know about the new plan for the new aircraft and to be informed on the costs, how financing will be executed, et cetera. He can choose a

day and time, but I would hope for this week sometime, as soon as he can make an arrangement, Madam Speaker.

VENDORS ON PUBLIC BEACHES— LIABILITY INSURANCE

Hon. W. McKeeva Bush, Leader of the Opposition: Also, Madam Speaker, if he would have the unit responsible for the vendors on the public beaches—West Bay Jetty, et cetera—to come and talk to some of us that might want to talk to them about the situation. There are people who rent different things . . . I do not know if they rent boats, but they do rent chairs, I believe they rent jet-skis, and there are persons who sell Conch shells and trinkets. So, when it comes to insurance, which could be \$1,000 per annum, all, Madam Speaker, cannot be treated the same, as liability for renting jet-skis should not be the same as for selling a trinket, Conch shell, et cetera.

Those people, Madam Speaker, really live hand to mouth day to day. And where there are cases . . . and I have talked to the Councillor . . . there are cases that I know that they have to regulate. There has to be control. But there has also to be consideration of what is being done.

And so I am asking that if he could bring the unit and we could talk with either himself or the councillor and them to get an understanding exactly what it is they are trying to accomplish. As I said I know there are different kinds of people, different . . . when I say "kinds of people" . . . different persons and different selling and some are selling, some are renting, renting jet-skis—that is a real liability. But a trinket for \$1,000, those people might make \$20 a day, Madam Speaker. And so I would ask . . . and food, they are not doing a whole heap in food either.

So, I would ask that they would come and sit down and talk with us to see if we can find a solution, so that the Government gets the control that they need because I understand what and how some people can carry on, but not everybody is alike. And while the Government has to control and know what is and who is doing what on Government property, we need to really take into consideration those persons that are not making a whole heap of money. One thousand dollars per year for some of them is tough.

So again, to repeat myself, just to ask him to come with the unit and the Councillor if the Minister is not available at any point.

The Speaker: Honourable Deputy Premier?

The Deputy Premier, Hon. Moses I. Kirkconnell: Yes, Madam Speaker, thank you.

I would like to thank the Leader of the Opposition for the two questions and two requests. We are very happy to do everything we can to make sure the

information is put out to all Members of this honourable House.

Madam Speaker, I will address the last request first. We have had an increase in tourism of 400,000 people from the year 2013 to the end of 2015. Anytime you are that successful and you have that kind of percentage increase, that is 400,000 people, there are going to be opportunities and there are going to be issues with growth.

We did not want to immediately do anything that would allow the vendors hardships that were making a living from that. And if you look at what has happened in the last two years, the Pavilion by the Cricket grounds was built, and it was built for local entrepreneurs to be able to have booths and to sell some of their wares. So, we are also looking at the George Town Craft Market [and] how they could accommodate and take more people as well.

I personally, along with the councillors, we have been to the West Bay Beach. I have been to the beach by Calico Jacks and met with the people there and there is a major concern for us, but it is a concern that we understand and realise that we have to address and we have to manage and it will continue to be a concern as we continue to grow our tourism product.

So, we formed a committee that involved most of the areas that went across the ministries—DCI, Police, Immigration, Ministry of Tourism. And I think they have had success. Two weeks ago there was a raid there. There was involvement and understanding about how improvements to kiosks can be made. So, we will ask the chairperson and some of the members who have the full knowledge of all the things that they are coordinating there, to come and take input from Honourable Members.

[Inaudible interjection]

The Deputy Premier, Hon. Moses I. Kirkconnell: And look for a time that is convenient for everyone.

Also the Cayman Airways issue, Madam Speaker, I had already spoken to the Chairman actually about the presentation that was done, to ask them to come down in camera here in the House, find a convenient time to let them do the presentation as well and answer whatever questions all Honourable Members might have.

So, again, Madam Speaker, I thank the Leader of the Opposition for bringing this up and we are happy to accommodate it.

The Speaker: The question is that this honourable House be adjourned until Wednesday 10 am.

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

AYES.

The Speaker: The Ayes have it.

At 7:04 pm the House stood adjourned until 10:00 am, Wednesday, 4 May 2016.